

Village of Lake Isabella

1010 Clubhouse Drive  
Lake Isabella, MI, 48893

***Resolution 2010-08***  
***Public Act 198 Abatement Policy***

**WHEREAS;** the Village of Lake Isabella as a home rule unit of government is authorized to establish Industrial Development Districts and grant tax abatements for projects within such Industrial Development Districts; and,

**WHEREAS;** the Village of Lake Isabella desires to have an established procedure by which applications are received, reviewed, and approved regarding the establishment of districts and the granting of abatements; and

**WHEREAS;** the Village of Lake Isabella feels that granting abatements as allowed under PA 198 is in the best interest of the community in that it spurs economic development, enhances the overall tax base of the community, and is in general beneficial while not placing an unmet burden on the resources of the Village of Lake Isabella; and,

**WHEREAS;** establishing Industrial Development Districts and granting Industrial Facilities Exemption Certificates advance the following goals of the Village of Lake Isabella:

- Allows the Village to administer a program which is efficient, effective, business-supportive, and accountable;
- Encourages business growth, retention, and attraction;
- Long-term expansion of the Village's tax base; and
- Provides employment opportunities for residents of the community.

**NOW THEREFORE BE IT RESOLVED;**

The attached PA 198 Policy attached as *Exhibit A* is hereby adopted.

I, Jeffrey P. Grey, the duly qualified and acting Clerk of the Village of Lake Isabella, Isabella County, Michigan (the "Village") do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Village Council at a meeting held on April 20, 2010, the original of which is on file in the Village Office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267 of the Public Acts of Michigan of 1976, as amended.

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Date

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Jeffrey P. Grey  
Lake Isabella Village Clerk

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Timothy R. Wolff  
Lake Isabella Village Manager

*Resolution 2010-08 Exhibit A*

Village of Lake Isabella

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*Public Act 198 Tax Abatement Policy*

The following policies shall apply to the Village's consideration of requests to establish industrial development and plant rehabilitation districts and approve applications for industrial facilities exemption certificates pursuant to Act 198 of the Public Acts in 1974, as amended ("Act 198"):

- 1. Commencement of Process; Filing of Application; Definitions:** The applicant for an industrial facilities exemption certificate (an "IFT Certificate") shall file a complete Application for Industrial Facilities Exemption Certificate (Michigan Department of Treasury Form 1012, as amended) (an "Application") in conjunction with a written request to establish an industrial development district or plant rehabilitation district (a "District"). This Application must be accompanied by all applicable attachments (including a legal description and survey of the boundaries of the requested District) and supporting information and payment of the Fee Deposit required by Paragraph 10. The Village will not process or consider an Applicant's request to establish a District until the Village has received a properly completed Application (including all applicable attachments and exhibits) and fee.
- 2. Establishment and Boundary of a District:** Under the provisions of Public Act 198, a District must be established prior to the Application for an IFT Certificate. The District must be a legal description of the parcel of land on which the abatement is to take place. If a District currently exists on the property, the applicant may proceed directly to the Application of an IFT Certificate.
- 3. Limit on Term of District:** There will be no limit on the term of a District with an IFT Certificate. However, the Village shall consider any district void if an IFT Certificate has not been approved within 1 year of the establishment of the district.
- 4. Criteria for IFT Certificate Approval:** Criteria used in evaluating applications shall include the following:
  - The Village shall not consider a request to grant an IFT Certificate before the Village Planning Commission grants any required site plan approval for the project.
  - The facility must use a Lake Isabella local address.
  - There must be no delinquent taxes owed by the Applicant anywhere in Isabella County.
  - Permanent jobs will be created or retained as a result of the project.
  - There is no current, or pending, litigation against the Village by the applicant.

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- 5. Maximum Term of Tax Abatement:** The maximum term of abatement granted by the Village in approving an IFT Certificate shall correspond to the Abatement Formula in *Attachment 1*.
- 6. Application Fee:** In order to cover costs incurred with staff review, publications, and compliance to this policy and Act 198, there shall be a fee of \$250 which shall accompany the application to create an Industrial Development District, and an additional fee of \$500 to accompany the application for an IFT Certificate. All fees shall be non-refundable.
- 7. Fee Affidavit:** There shall be attached to each IFT Certificate application, approved by the Village and filed with the State Tax Commission, an affidavit, signed by the Village President and by the applicant, which states that no payment of any kind in excess of the fee allowed by Section 5(3) of Act 198 has been made or promised in exchange for favorable consideration of the Applicant.
- 8. Agreement:** An IFT Certificate shall not be approved or issued unless a written agreement is entered into between the Village of Lake Isabella and the owner of the industrial facility and filed with the Michigan State Department of Treasury. A sample agreement is attached hereto as *Attachment 2*.
- 9. Revocation of Certificate:** The Village reserves the right to revoke an IFT Certificate in accordance with Section 15 of Act 198, the terms and conditions of the Tax Abatement Agreement or upon the failure of the Applicant/Owner/ Occupant of the facility to pay ad valorem and/pr industrial facilities taxes prior to the same becoming delinquent in accordance with applicable law.
- 10. Clawback:** An IFT Certificate shall not be approved or issued unless the applicant agrees that if during the term of the IFT Certificate, the applicant moves the jobs employed at the industrial facility to a location outside of the Village of Lake Isabella, the Village shall have the right to require a repayment equal to the total taxes abated by the Village under the IFT Certificate.
- 11. Variances:** The Village Council reserves the right to vary from these policies. Such variances shall only be considered by the Village Council on a very limited basis where the nature of the project in the sole judgment of the Village Council (as determined by the Village council in the exercise of its reasonable discretion) is so significant that it presents a unique opportunity for the Village and its residents.
- 12. Checklist of Procedures:** The Village shall develop a checklist of procedures to allocate the responsibilities for filing and processing an Application between the Village and the Applicant. It is intended that a copy of these policies and the checklist will be provided

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to each potential Applicant at the time the Applicant first contacts the Village to discuss a potential Application.

**13. Inconsistencies:** In the event of an inconsistency between the terms of these policies and Act 198, the provisions of Act 198 shall prevail.

**14. Schedule of Hearings:** The Village Manager is hereby authorized to schedule the required public hearings for the creation of the industrial development district and consideration of the application for tax abatement, and to arrange for giving notice of these hearings as required by law. In his discretion, the Village Manager may instead request that the Village Council approve the time and date of these public hearings.

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**ATTACHMENT 1**

**ABATEMENT FORMULA**

The term of the abatement approved in an IFT Certificate shall correspond to the whole number of the cumulative score of the criteria below added together, up to a period of 12 years.

<b>Scoring Factor</b>	<b>Points Awarded</b>
<b>Development:</b> The amount of proposed new development of buildings and personal property	Less than \$500,000..... No Points \$500,001 to \$750,000..... 1 Point \$750,001 to \$1,000,000..... 2 Points \$1,000,001 to \$1,250,000..... 3 Points \$1,250,001 to \$1,500,000..... 4 Points \$1,500,001 to \$1,750,000..... 5 Points \$1,750,001 to \$2,000,000..... 6 Points Over \$2,000,001..... 7 Points
<b>Quantity of Jobs:</b> Total number of jobs created or retained by the project	Total number of jobs created or retained is multiplied by a factor of 0.15 to factor the number of points awarded.
<b>Quality Jobs:</b> The total number of jobs created or retained by the project which will have an hourly wage rate equivalent to or exceeding 125% of the federal poverty income guidelines for a family of 3 if health insurance is provided for; or at least 150% of the federal poverty guidelines for a family of 3 without providing health insurance.	Total numbers of jobs created or retained is multiplied by a factor of 0.4 to factor the number of points awarded.
<b>New Economy Bonus:</b> In order to attract and retain a diverse representation of business and industry, and to promote building a sustainable local economy, the Village will award bonus points to projects in certain industries, and the research and office facilities of firms specializing in such fields.	High-Technology..... 6 Points Battery / Fuel Cells..... 6 Points Renewable Energy..... 4 Points Semiconductors..... 4 Points Medical Equipment Assembly..... 3 Points Aerospace / Defense..... 3 Points Pharmaceuticals..... 3 Points

**Abatement Example:** The following chart is to serve as an example of how the formula works.

<b>Criteria</b>	<b>Proposed Project</b>	<b>Points</b>
Development	\$1,100,000	3.00 Points
Quantity Jobs	25 x 0.15	3.75 Points
Quality Jobs	10 x 0.4	4.00 Points
New Economy Bonus	Paper Mill	0.00 Points
<b>Total Project Points</b>		<b>10.75 Points</b>

*This company would be granted a 10 year IFT Certificate, as its project has 10 full points.*

**ATTACHMENT 2**

**TAX ABATEMENT AGREEMENT**

As required by Section 22 of Act 198 of the Public Act of Michigan 1974, as amended (“Act198”), **ABC COMPANY (“ABC”)**, hereby enters into the following agreement with the Village of Lake Isabella (“the Village”), for the purpose of inducing the Village to grant an industrial facilities exemption certificate (“IFEC”) for new buildings and equipment described in an application that has been filed with the Village (the “Village”), pursuant to Act 198:

1. **ABC** hereby represents that it will, with respect to the Facility, subject to allowance for depreciation and decrease in market value during the entire period of the tax abatement approved by the Village:
  - a. Invest (or lease) and maintain not less than **[\$[Insert Amount of Real Property itemized in Application]** in land improvements and buildings in the Village; provided, however, that such amount shall be increased to an amount equal to the actual value of land improvements and building, if greater than **[\$[Insert Amount of Real Property itemized in Application];** and
  - b. Invest (or lease) and maintain not less than **[\$[Insert Amount of Personal Property itemized in Application]** in new equipment and furniture at the Facility; provided, however, that such amount shall be increased to an amount equal to the actual value of new equipment and furniture, if greater than **[\$[Insert Amount of Personal Property itemized in Application].** (the land improvements and building in 1(a) and the equipment and furniture in 1(b) shall be referred to as the “Property”)
2. **ABC** shall provide the Village with a written appraisal of the Property not later than 180 days following completion of the installation of the Property. **ABC** agrees that said appraisal shall be admissible as evidence, and **ABC** shall not contest such admissibility in any proceeding before the Board of Review, the Michigan Tax Tribunal, the State Tax Commission, or in any other proceeding intended to review and/or the valuation of the Property for tax purposes.
3. **ABC** further represents that it will, commencing not later than \_\_\_\_ years after the Facility is completed, provide and maintain employment for the equivalent of **[Insert total of existing and proposed employees from Application]** employees which will have an hourly wage rate equivalent to or exceeding 125% of the federal poverty income guidelines for a family of 3 if health insurance is provided for; or at least 150% of the federal poverty guidelines for a family of 3 without providing health insurance.
4. When hiring, **ABC** shall make a good faith effort to hire employees from the Village and immediately surrounding area, including advertising in a newspaper of general circulation within the Village and surrounding area. However, this section shall not require **ABC** to take any action in violation of applicable employment-related laws and

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**ABC** retains the right to hire the most qualified employees as permitted under applicable law without regard to geographical residence.

5. **ABC** commits to operate the Facility for which abatement has been requested for the entire period of the tax abatement. If, in the sole judgment of the Village, **ABC** has taken action which constitutes relocation of more than an insubstantial part of its Facility to another jurisdiction, or closes more than an insubstantial part of the Facility, prior to expiration of the tax abatement, then **ABC** shall reimburse all affected taxing units a portion of the difference between the taxes which were paid, and those which would have been paid but for the abatement.
6. If **ABC** does not repay the Village upon demand, the Village may collect the required abatement in the manner provided by Act 198 for the collection of delinquent industrial facilities taxes or in any other manner permitted by law.
7. If the Facility fails to meet the expectations, or to comply with the agreements set forth in paragraph 1 through 5 above, then the Village may, in its sole discretion, terminate or reduce the term of the industrial facilities exemption certificate granted to **ABC**.
8. The Village shall provide at least 15 days written notice to **ABC** if the Village intends to take action to enforce this Agreement, and shall permit **ABC** an opportunity to be heard concerning the matter at a special or regular meeting of the Village Council. The Village shall not require repayment, or revoke or reduce the term of the certificate, unless investment or employment are less than the commitments made in paragraphs 1,2 or 3 for a continuous period of more than 180 days.
9. Not later than 90 days following completion of the installation of the Property, **ABC** shall provide to the Village certification of all amounts spent on the Property in the Facility. **ABC** shall also, at that time, certify to the Village the number of full-time (over 35 hours per week) employees presently working at the Facility.
10. On October 15, [**Insert first calendar year IFEC is expected to be in effect**] and annually on each October 15 thereafter as long as the IFEC remains in effect, **ABC** shall certify to the Village the number of employees then employed in the Facility as described in paragraph 3 of this agreement. In addition, **ABC** shall provide such other information as is reasonably requested by the Village to verify continued compliance with this Agreement.
11. The remedies in this Agreement are in addition to the remedies proved by Act 198. This Agreement contains the entire agreement between the parties with regard to its subject matter and may be amended only in writing signed on behalf of **ABC** and approved by resolution of the Village Council.

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**12. ABC** acknowledges receipt of and agrees to be bound by the terms of the **Village P.A. 198 Property Tax Abatement Policies**.

**13.** In addition to the preceding statements, **ABC** and the Village do swear and affirm by the signatures below that “no payment of any kind in excess of the fee allowed by PA Act 198 of 1974, as amended by Public Act 323 of 1996, has been made or promised in exchange for favorable consideration of an exemption certificate application”.

**ABC COMPANY**

Dated: \_\_\_\_\_, 2\_\_\_\_\_ by (print name): \_\_\_\_\_  
Its: \_\_\_\_\_  
Signature: \_\_\_\_\_

**VILLAGE OF LAKE ISABELLA**

Dated: Dated: \_\_\_\_\_, 2\_\_\_\_\_ by (print name): \_\_\_\_\_  
Its: \_\_\_\_\_  
Signature: \_\_\_\_\_