

CITY COMMISSION POLICY

GRAND RAPIDS  MICHIGAN	NUMBER: 900-45	HISTORY	
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	DEPARTMENT: Economic Development	85444	Feb 23, 2016

SUBJECT: NEIGHBORHOOD ENTERPRISE ZONES (NEZ)

PURPOSE: To define program goals and requirements for the designation of a neighborhood enterprise zone

POLICY:

I. Introduction

The Neighborhood Enterprise Zone Act (Act 147 of 1992, as amended)(the “Act) provides a tax incentive for a defined period of time for new construction or substantial rehabilitation of residential structures, and under certain circumstances, for rental market rate apartments. The stated purpose of the legislation is to: improve the housing stock in distressed or declining urban areas where little or no new construction is occurring and where housing is in need of repair. The legislation is intended to spur residential investment where it might not otherwise occur. Properties benefiting from a Neighborhood Enterprise Zone (NEZ) exemption must be located within an NEZ established by the City Commission. The Act provides for the establishment of Geographic NEZs or Project Specific NEZs.

II. NEZ Goals

The City’s goals in designating an area as a Neighborhood Enterprise Zone are to:

1. Revitalize existing neighborhoods and promote the creation of new residential areas;
2. Promote new construction and the rehabilitation of housing;
3. Encourage investment within the Community Development General Target Area;

4. Advance City strategies for homeownership, economic development, mixed income development, housing diversity, quality architecture and site design, utilization of public transit, sustainability, infill, and elimination of blight;
5. Utilize vacant and underutilized properties;
6. Increase the value of real property; and
7. Implement the Master Plan, Sustainability Plan, Economic Development and Community Development strategies, and achieve Downtown Grand Rapids, Inc. priorities, where applicable.

III. Qualification Criteria for Geographic NEZ Designations

1. Property Eligibility Criteria

- A. The property to be included in an NEZ shall be located in the City's General Target Area, and shall be determined by mutual agreement of the relevant Neighborhood Association(s) and City staff, and shall contain not less than ten contiguous platted parcels of land.
- B. For an area to be proposed to be included in a Geographic NEZ, a minimum of 25% of the platted parcels must contain residential structures that have a current estimated true cash value of less than \$80,000, or be vacant property with potential for residential development.
- C. Prior to designation of an NEZ, an area-specific plan or other plan must demonstrate the need for new housing construction and the substantial rehabilitation of residential structures to revitalize a geographic area. Need may be established by the identification of vacant and underutilized properties, housing code violations, property ownership or other means. The benefit of revitalizing the proposed area should be described. Benefits may be economic or social, such as a reduction in crime. The plan must also be consistent with NEZ requirements to provide housing for all persons, regardless of income.
- D. Geographic NEZs are intended to be independent from other geographically based tax incentive programs (e.g. Renaissance Zones and tax increment finance authority districts). Any proposed use of the NEZ program that overlaps with another geographically based tax increment finance authority shall require review by the board or committee providing oversight to the existing program and explicit approval of the City Commission.

2. Applicant Eligibility

- A. An application to establish a Geographic NEZ shall be filed by the relevant Neighborhood Association(s). Only where no Neighborhood Association exists, applications may be accepted from a Non-Profit Organization, or other community stakeholder group that has proven to the satisfaction of the City Commission their intent to improve the conditions of the neighborhood.

- B. Any applicant must be in good standing with the City, including any contractual relationships and must not be in default to the City on any obligations.
- C. The applicant must be able to commit to actively marketing the program. If the applicant is not able to make this commitment, neighborhood association, other community-based organization or development authority must be identified that is able to make that commitment.

3. Project Eligibility for NEZ Certificate

- A. Eligible properties shall be determined based on application of the Neighborhood Enterprise Zone Act (Act 147 of 1992, as amended) and City Ordinance.
- B. Rehabilitated structures may be owner or non-owner occupied, provided a specific minimum threshold investment is satisfied. Prior to rehabilitation, existing properties that have a primary residential use may not have a true cash value (T.C.V.) of more than \$80,000 per unit.
- C. Newly created units do not have a cap on their value. This definition and the following table *Summary of Improvement Requirements and Tax Abatements* may change from time to time, based on amendments to the Neighborhood Enterprise Zone Act (Act 147 of 1992, as amended).
- D. An application fee will be charged for each individual application for exemption within a Geographic NEZ. The amount of the fee will be established by resolution of the City Commission.

Summary of Improvement Requirements and Tax Abatements				
Abatement Type:	Ownership:	Improvement Type:	Minimum Investment:	Tax Abatement:*
New	Owner occupant	New construction or a portion of a new structure w/1 or 2 units	No Minimum	Taxed at the State-issued NEZ rate
New	Rental	New construction, mixed use	No Minimum	Taxed at the State-issued NEZ rate
Rehab	Owner occupant	Rehab of an existing structure with 1–8 units & T.C. V. of <\$80,000 per unit	> \$5,000 per unit (licensed contractor) or; > \$3,000 per unit (non-licensed contractor/owner)	Taxed at pre-rehab value at current rate
Rehab	Non-Owner Occupant	Rehab of an existing structure with 1-8 units & T.C.V. of <\$80,000 per unit	> \$7,500 per unit (licensed contractor) or; > \$4,500 per unit (non-licensed contractor/owner)	Taxed at pre-rehab rate

** The NEZ tax abatement applies to improvement only, land is still taxed at ad valorem rates. The effective date of the NEZ certificate is the first day of the tax year following the year in which the new facility or rehabilitated facility is substantially completed and, for a new facility, occupied by an owner as a principal residence. For a rehabilitated facility, a certificate that the improvements meet housing code requirements is needed.*

IV. Qualification Criteria for Project Specific NEZ Designations

1. Property Eligibility Criteria

- A. The proposed NEZ shall be located in a zone district which permits commercial use by right, or be in an area that has commercial use identified as the preferred future land use in the City's Master Plan.
- B. Where a neighborhood association exists, an applicant must obtain in writing the support of the neighborhood association for the designation of the property as an NEZ.

2. Applicant Eligibility

In order for the City Commission to consider an application for an NEZ district for a specific project, the applicant (defined as the individual(s) and/or the entity which owns or proposes to own the property) must meet the following criteria:

- A. The applicant must have a legal interest in the property for which an abatement is being sought, or must provide documentation evidencing its ability to acquire the property (i.e. binding purchase agreement).
- B. The applicant represents that the project would not have been considered without the exemption certificate.
- C. The applicant must be compliant with the City's income tax ordinance.
- D. The applicant must not be delinquent on any financial obligations to the City
- E. The applicant must not have any outstanding written orders or violations for any property under its control or ownership that is located in the City
- F. Before an application which has been approved by the City Commission will be forwarded to the State Tax Commission for approval, the applicant shall have filed a completed Michigan Department of Treasury Form 2766 – Property Transfer Affidavit L-4260 with the City Assessor related to its acquisition of the property. The Property Transfer Affidavit shall be considered incomplete if the purchase price of the real estate is not entered on the form.
- G. All applicants must enter into a Memorandum of Understanding with the City of Grand Rapids.

3. Project Eligibility Criteria

In order for the City Commission to consider a project for an NEZ abatement, the proposed project must meet the following criteria:

- A. The project must propose a mixed-use development with commercial space on the ground floor in conformance with any requirements of the zoning ordinance.

- B. The project must propose to contain a minimum of ten residential rental *facilities* (as defined in the Act).
- C. The project was not started prior to the City Commission's establishment of the NEZ District and filing of an NEZ Certificate application.
- D. There are no delinquent taxes on the facility or the structure being renovated.
- E. All projects must be in compliance with the zoning ordinance, have received the necessary approvals, or propose to come into compliance with the zoning ordinance as part of the project.
- F. Environmental Requirement: The City's Environmental Services Department will review the history of the property/applicant for environmental concerns and report the results to Economic Development.
- G. Fair Housing Practice: If the project is for commercial housing, the applicant must agree to the Fair Housing Practices and assure equal opportunity to all persons as described in Chapter 160 of the City Code.
- H. If the applicant's project exceeds \$600,000 or total employment upon completion of project is likely to equal or exceed fifteen (15) persons, then they must receive certification of equal opportunity practices from the City's Office of Diversity and Inclusion according to the following guidelines. If the project is below \$600,000 and employment is not likely to exceed 15, then the company is not required to be certified.
 - i. Documented statistical analysis of the applicant's workforce by Equal Employment Opportunity (EEO) job classifications, indicating the number of employees in each such classification by race and sex shall be submitted to the City's Office of Diversity and Inclusion. If such analysis demonstrates that the applicant has employed Minorities (African Americans, Hispanics, Asians, and Native Americans) and Women in "relative proportion" to their respective availability in the civilian workforce within the Grand Rapids/Muskegon/Holland Metropolitan Statistical Area (MSA), the applicant's commitment to equal opportunity employment practices shall be presumed. For purposes of this Policy, "relative proportion" shall mean employment by race and sex of at least 80% of the percentage of the respective available workforce, as certified by the City's Office of Diversity and Inclusion, or
 - ii. An applicant who is unable to demonstrate presumed commitment to equal opportunity employment based upon the statistical analysis of its workforce, as set forth in (i) above, shall provide clearly documented evidence which demonstrates that the applicant has utilized all reasonable good faith methods of recruitment, training and promotion of Minorities and Women for its workforce. Such evidence shall be for the previous five (5) years, or the length of time the applicant has been in business, whichever is shorter. The City's Office of Diversity and Inclusion shall review such evidence of good faith effort and report its findings and conclusions to the City Commission, or
 - iii. Applicants who are unable to demonstrate their past commitment to

equal opportunity employment under subparagraphs (i) and (ii) above, may demonstrate their present and future commitment to such employment through the adoption of a voluntary affirmative action plan structured to overcome manifest racial and gender imbalance in the composition of their workforce. Such affirmative action plan shall comply with Federal law. Such a plan must be in a form acceptable to the City's Office of Diversity and Inclusion, which Department will assist the applicant in developing such a plan if requested.

a. Federal Recognition of Affirmative Action Plan:

If an agency of the federal government has approved the affirmative action plan of the applicant firm within the previous twelve months, then the City shall accept said plan as approved for purposes hereunder provided the following conditions are met:

- 1) The applicant has submitted to the City a certification signed by a firm officer stating the federal approval.
- 2) The applicant firm submits to the City a copy of the federally approved affirmative action plan, providing the information required by the City's Office of Diversity and Inclusion, including a breakdown of the applicant's current workforce.

iv. The applicant's good faith compliance with such plan shall be monitored by the City on an annual basis throughout the duration of the tax abatement, or until the successful attainment of the plan's affirmative action goals, whichever first occurs. The City's Office of Diversity and Inclusion shall provide periodic compliance reports to the City Commission on all such affirmative action plans. Any firm, which has not evidenced good faith compliance with any such plan, shall not be eligible for further obsolete commercial property tax abatement.

v. Any application for an Obsolete Commercial Property Exemption Certificate shall be accompanied by a covenant of non-discrimination and commitment to equal employment opportunity executed by the applicant.

vi. Unless this Policy is waived as provided for hereunder, the City Commission shall act upon the application until the City's Office of Diversity and Inclusion has certified that such applicant is either exempt from this policy, or has complied with Sections (i) or (ii) or (iii) or (iv).

I. An application fee will be charged for each request to establish a Project Specific NEZ. In addition, an application fee will be charged for each application for an NEZ exemption certificate. The amounts of these fees will be established by City Commission resolution.

V. Term

The Act provides that the duration of an NEZ abatement can be from six to fifteen years at the discretion of the City. The City has established a 12-year term as the default for NEZ

exemptions. This 12-year standard NEZ exemption will be considered the base level of support for projects that meet the relevant Qualification Criteria (above) and the criteria contained in the Act.

The City Commission may increase the term of an NEZ exemption to 15 years, if the project meets one or more of the City Investment Criteria (below). If a project meets one of the City Investment Criteria, it will qualify for a 13-year NEZ exemption. If a project meets two of the City Investment Criteria, it will qualify for a 15-year NEZ exemption, as shown in the table below.

PROJECT EVALUATION	LEVEL OF INCENTIVE
<i>Base Level of Support (Does not meet any City Investment Criteria)</i>	<i>12 Year Exemption</i>
<i>Meets One City Investment Criteria</i>	<i>13 Year Exemption</i>
<i>Meets Two City Investment Criteria</i>	<i>15 Year Exemption</i>

VI. City Investment Criteria

The City Investment Criteria described below have been identified in various plans developed with input from the Grand Rapids community, and have been prioritized in this Policy in order to incentivize outcomes desired by the City and the Grand Rapids community.

In order for a project to be considered for a level of support in excess of the 10-year base level, the project must meet one or more of the following City Investment Criteria.

1. Sustainable Development

- A. Achieve LEED Certification, or Net-Zero Energy Certification*
- B. Where stormwater runoff has been identified as a concern by the City's stormwater division, achieve post-development stormwater runoff and drainage equivalent to pre-development conditions (no increase to runoff or flow as a result of development)

2. Income and Housing Diversity

- A. At least 20% of the units are affordable to individuals or families earning less than 80% of the Area Median Income (AMI). These units may be affordable due a financing mechanism (i.e. Low-Income Housing Tax Credits) or be "affordable by design" (which, for purposes of this policy, is defined as having total occupancy costs that are below 80% of Area Median Income rental limits according to the most recent rent limits published by the Michigan State Housing Development Authority for Kent County. Total occupancy costs include rent, plus the allowances for basic utilities included in the most recently published Allowances for Tenant-Furnished Utilities provided by the U.S. Department of Housing and Urban Development), this provision to be

construed in conformance with the Michigan Public Act 226 of 1988 (MCL 123.411)

- B. Provides a housing type (single-family attached, single-family detached, duplex, or multi-family) that is less than 20% of the existing housing in a census tract, according to the most recent decennial census, or if the census data is more than 5-years old, according to the most recent American Community Survey data.
- C. At least 25% of units are designed and constructed to meet the Type B requirements of the ANSI A117.1 standard (Zoning Ordinance 5.5.10.A.(2)).

3. Quality Architecture and Site Design

- A. Where not otherwise required, in mixed-use commercial zone districts, bring an existing building into compliance with the building element standards of the zoning ordinance.*
- B. Where not otherwise required, comply with the parking lot landscape requirements contained in the zoning ordinance.

4. Grand River Activation as a Recreational and Cultural Amenity, and Public Access

- A. Provides public access to and along the Grand River by permanent easement, and in conformance with Section 5.11.14 of the Zoning Ordinance (Urban Open Space).

5. Promote Utilization of Transit

- A. For projects located within ¼ mile of a Bus Rapid Transit Station, or within 500 feet of a permanent covered bus shelter, provide transit passes to each resident and employees for the first two years of project occupancy.
- B. Project provides land (by conveyance or easement) for, and/or finances improvements related to a Bus Rapid Transit Station or other covered/sheltered transit stop.*

6. An applicant may request that the City evaluate the financial feasibility of the project, in lieu of or in addition to the above criteria in order to determine whether additional City investment is justified. Economic Development staff may also evaluate a project's pro forma, financial structure and financing commitments in order to determine the feasibility of a project and may utilize this evaluation as another criteria for determining the City's level of support for a project. Due to development timelines, an accurate financial evaluation must typically be performed after all other approvals (i.e. planning/zoning and financing); therefore, this evaluation will only be performed if requested by a developer as an additional consideration for an increased level of financial incentive, and would align with other state agency support. Staff will provide a recommendation to the City Commission based upon this evaluation.

****Note:*** Items above that are marked with an asterisk may be considered as two investment criteria for purposes of recommending a level of incentive, based upon the financial investment required to achieve those criteria.

VII. Application and Review Process

1. Applications must be submitted electronically through the City of Grand Rapids' Citizen Access website.
2. Economic Development staff, with assistance from other City departments as necessary, will review the application for compliance with eligibility requirements and determine whether any City Investment Criteria are met.
3. If a project is within a tax increment financing authority district, staff will seek a recommendation from the authority's governing board.
4. Information regarding the project, including location, dollar amount of project, and employment impact will be published as part of the public hearing notice.
5. The application for an NEZ exemption certificate is not effective unless approved by the State Tax Commission.

VIII. Compliance

1. Reporting and compliance requirements will be detailed in the Memorandum of Agreement.
2. A developer will be required, at a minimum, to submit an annual report containing information requested by the City necessary to determine whether the project was completed as contemplated in the original application.
3. If the term of the NEZ exemption was determined based on an applicant's representation of certain aspects of the project (i.e. LEED certification), evidence of completion will be required and will be described in the MOU.
4. For projects containing residential rental housing, certification of compliance with Chapter 140 of Title VIII of the Code of the City is required for each residential unit.
5. The project must be operated and maintained in compliance with all other applicable City codes and ordinances.

IX. Termination of Tax Exemption

If a developer is found to be in default of the terms of the Agreement, in violation of any City code or ordinance related to the property, or with any eligibility requirement contained in the Act or this Policy, the NEZ exemption may be terminated at the City Commission's discretion. An NEZ exemption may also be terminated if rehabilitation of the property has not been completed within the time frame agreed upon by the applicant and the City, or the operation of the facility is not consistent with the original intent of Act 147, or the owner/operator is in violation of the Fair Housing Practices as described in Chapter 160 of the City Code.

Accompanying each application for an NEZ certificate located in a Project Specific NEZ, a signed and notarized request to revoke the NEZ exemption must be provided by the applicant to the City. Should the applicant be found in default as described in the preceding paragraph, the City shall notify the applicant of such default and will provide a 30 day period for the NEZ certificate holder to remedy the default.

In the event that the default is not or cannot be remedied, the City shall submit the letter requesting revocation to the State Tax Commission.

X. Evaluation

Staff shall provide the City Commission with a yearly report on the NEZ Program, which will include, at a minimum, the following:

1. List of projects approved
2. Projected and actual job and investment data
3. Estimated amount of property taxes abated and paid, and new City income tax generated
4. Quantitative analysis of projects achieving one or more City Investment Criteria

The City Commission will utilize this information to annually determine the effectiveness of the Policy in achieving the City's Investment Goals. The City Commission, at its sole discretion, shall determine whether modifications to this policy are necessary to increase the effectiveness of its NEZ program in achieving desired outcomes.

XI. Policy Waiver

The City Commissioner may waive this Policy, or any portion of it, when the Commission deems it in the best interest of the City.