


MEMORANDUM

CITY OF GRAND RAPIDS

DATE: November 14, 2017

TO: Gregory A. Sundstrom
City Manager

FROM: Kara L. Wood 
Managing Director, Economic Development Services

SUBJECT: Housing Advisory Committee Recommendation #4 - Modifications to City Commission Policy 900-45 (Neighborhood Enterprise Zones)

Attached is a modification to City Commission Policy 900-45 to (a) establish baseline qualification criteria beyond those required in PA 147 of 1992, (b) reduce the standard term of a Neighborhood Enterprise Zone exemption, and (c) modify the City Investment Criteria to focus on the highest priority criteria, eliminating lower priority criteria consistent with the recommendations of the Housing Advisory Committee.

In February, 2016, the City Commission approved amendments to the NEZ policy as a result of the *Great Housing Strategies: Addressing Current and Future Housing Needs* (the "Plan") which was adopted by the City Commission on December 8, 2015. The Plan included eight goals and thirty-five actions that provide a framework for addressing current and future housing needs in Grand Rapids.

One of the actions that was identified to support the goal was to modify City economic development programs and affordable housing tools and policies to accomplish the goal of mixed-income neighborhoods. As it relates to programs administered by the Economic Development Department, the policies governing the following three programs were amended:

- Neighborhood Enterprise Zone Program (NEZ - PA 147 of 1992)
- Obsolete Property Rehabilitation Act Program (OPRA – PA 146 of 2000)
- Brownfield Redevelopment Program (PA 381 of 1996)

The amendments established new qualification criteria for the programs by requiring a proposed project to contribute to City Investment Criteria in order to achieve increased financial incentives through any of the three programs. The City Investment Criteria included many different goals that have been identified in a variety of City plans.

Since February, when the NEZ policy was amended to include the City Investment Criteria, two (2) of three (3) approved NEZ projects included bonus years for achievement of City

Investment Criteria; however, only one of the bonuses was provided for activity that was not already part of the proposed project.

This suggested that in most instances, the financial benefit that could be obtained from the incentive bonus is insufficient to encourage modifications to projects to meet the City Investment Criteria, particularly those that are higher cost/higher impact. Further, it suggested that the 12 year “standard” NEZ exemption has been at least sufficient to allow developers to finance redevelopment projects.

As suggested by the Housing Advisory Committee, evaluation and modification of City Investment Criteria could focus on high priority items, such as affordable housing, and could eliminate those items that the majority of projects include by default (i.e. Type B accessible units).

Attached is a draft revised City Commission policy which incorporates amendments that suggests a reduced base level of financial incentive support at nine (9) years and allows for up to fifteen (15) years of total financial incentive under the program, if there is a commitment to affordable housing for the term of the NEZ, diversity in housing type, enhanced mobility and/or priority contracting. In addition, other City Investment Criteria including Sustainable Development, Architectural and Site Design and Public Access to the Grand River, were eliminated as those criteria only has one project request increased financial incentive for them and have been included in projects by default.


The proposed nine (9) year base NEZ certificate anticipates projects that are in need of financial incentives are stabilized after nine years and the increased incentive is achieved if one or more of the City Investment Criteria are committed. The nine year base policy modification was reviewed with investment bankers and developers and they suggested that the shortened term will still bring value to a project that can be included in the financing package, and that it would not inherently create significant barriers to project financing on a universal scale.

The draft revision has been reviewed by the City Attorney’s office.

KLW

Attachments

CITY COMMISSION POLICY

 GRAND RAPIDS MICHIGAN	NUMBER: 900-45	HISTORY	
	DATE: March 16, 2004	FILE #	DATE
	FILE NUMBER: 82923	82923	Nov 12, 2013
	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 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 type diversity, utilization of public transit and mobility focused initiatives, 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. 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.
 - a. The applicant firm must complete and include all information requested on Forms EEO 200 (Covenant of Non-discrimination with the City of Grand Rapids), EEO 201 (Permanent Workforce Data), and EEO 202 (Covenant of Non-participation in Wage Theft Activities). The Office of Diversity and Inclusion will review, maintain and analyze the information contained on the firm's reports and notify the firm and the Economic Development Department of the firm's compliance with this requirement.
 - i. Firms certified for NEZ purposes must submit a Form EEO 201 annually on or before the Commission approval anniversary date

for the duration of the tax abatement period. This updated report will be in addition with other reporting requirements that the firm must file with the City's Economic Development Department, but addressed to the attention of the Office of Diversity and Inclusion.

- ii. The City reserves the right to request such records necessary to verify the information provided on the EEO 201 report. At the discretion of the City Manager, or his/her representative, examinations may be conducted as necessary to ensure compliance with this policy.
- b. The Applicant must demonstrate a commitment to equal opportunity and non-discrimination by providing clearly documented evidence which demonstrates that the applicant has utilized all reasonable good faith methods for equal opportunity and inclusion recruitment, training and promotion of employees in their workforce. The Diversity and Inclusion Office and/or the Economic Development Department may request that such evidence be submitted 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
- c. An applicant who is unable to demonstrate its past commitment to equal opportunity and non-discrimination under subparagraphs (i) and (ii) above, may demonstrate its present and future commitment to such employment through the adoption of a voluntary plan designed to develop and foster equal opportunity throughout its workforce. Such a plan shall comply with Federal, State and Local law and be in a form acceptable to the City's Office of Diversity and Inclusion, who will assist the applicant in developing such a plan if requested. Such plan must also be implemented in good faith during the duration of the NEZ exemption.
- d. The City's Office of Diversity and Inclusion shall provide updates to the City Commission on all such tax abatement plans and proposals.
- e. Unless this Policy is waived as provided for hereunder, the City Commission shall not 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) and (ii) or (iii).
- H. The applicant must comply with the City's EBO Policies including Micro-LBE Certification (Administrative Policy 04-01), Contract Compliance (City Commission Policy 600-10), EBO Construction (600-12) and EBO Goods and Services Policies (600-15).
- I. 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. 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 nine-year term as the default for NEZ exemptions. This nine-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 a maximum of fifteen (15) years, if the project meets one or more of the City Investment Criteria (below). Additional years will be added to the duration of the exemption as defined in the table below.

PROJECT EVALUATION	LEVEL OF INCENTIVE
<i>Base Level of Support (Does not meet any City Investment Criteria)</i>	<i>9 Year Exemption</i>
<i>Affordable Housing</i>	<i>+ 6 Years</i>
<i>Housing Type Diversity</i>	<i>+ 3 Years</i>
<i>Enhance Enhance Mobility</i>	<i>+ 3 Years</i>
<i>MLBE Contracting</i>	<i>+ 3 - 6 Years</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 nine-year base level, the project must meet one or more of the following City Investment Criteria.

1. Affordable Housing

- 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). Affordability must be maintained for the duration of the approved term of the exemption.

2. Housing Type Diversity

- A. 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.

3. Enhance Mobility

- 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.
- C. TOD Development or TMD Initiatives
 - i. Provide space for carpool/carshare
 - ii. Parking cash out
 - iii. Pedestrian, bike and transit accommodations
 - iv. Minimize Parking (consistent with TOD, screened behind building, or on-street)
 - v. Project located within Vital Streets Transit Corridors

4. Micro-LBE Participation

- a. Applicant submits a plan in a format provided by the City that indicates their strategy and intentions for contracting with Micro-Local Business Enterprises (as defined in the City's Administrative Guidelines 04-01)
 - i. Level One (+3 Years) Participant must identify aspirational goals of achieving 10% - 20% utilization of Micro-LBE's in their construction projects.
 - ii. Level Two (+6 Year) Participant must identify aspirational goals of achieving greater than 20% utilization of Micro-LBEs in their construction projects.
- b. Utilization of Micro-LBEs in NEZ and Economic Development projects will be incorporated into the Annual Report on EBO Construction presented and reported to the City Commission in March of each year.

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 MOA.
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.