

## **City of Fremont Process for Clean Technology and Biotechnology Business Tax Exemption:**

Effective Date: March 6, 2012

This ordinance provides a payroll tax exemption for businesses that engage in clean technology or biotechnology and employ a full time staff.

### **A. Definitions.**

“Clean energy” means energy produced by wind, solar energy, landfill gas, geothermal resources, tidal energy, wave energy, biomass, biofuels or hydrogen fuels derived from renewable sources. Clean energy does not include: any fossil fuel-based energy production, including, but not limited to, clean coal, clean diesel, natural gas and hydrogen from natural gas; any nuclear based energy production; waste-to-energy via combustion or incineration, or other technologies derived from nonrenewable resources.

"Clean technology business" means a business in which at least seventy-five percent of all business activities carried on during the tax year are directly related to one or more of the following activities:

(A) research and development and/or associated manufacturing applying scientific advances to the production, distribution or storage of clean energy produced by wind, solar energy, landfill gas, geothermal resources, ocean thermal energy conversion, quantifiable energy conservation measures, tidal energy, wave energy, biomass, biofuels, or hydrogen fuels derived from renewable sources;

(B) research and development and/or associated manufacturing applying scientific advances to prototype or commercially viable materials and products powered by clean energy, including but not limited to single passenger vehicles and fueling infrastructure;

(C) research and development and/or associated manufacturing applying scientific advances to prototype or commercially viable techniques, materials and products that materially improve energy efficiency, water conservation or air quality, or reduce the use of harmful chemicals through the use of clean chemistry solutions;

(D) research and development, and/or manufacture of solar panels.

Clean energy technology does not include:

- 1) the installation of clean energy technologies;
- 2) businesses based on gross receipts;
- 3) any fossil fuel based energy production, including but not limited to, clean coal, clean diesel, natural gas and hydrogen from natural gas;
- 4) any nuclear based energy production

- 5) waste to energy via combustion or incineration or other technologies derived from nonrenewable resources.

“Biotechnology” means research and development and/or associated manufacturing using DNA cells, and/or bioprocessing techniques, as well as the application thereof to the development of therapeutics, diagnostic products and/or devices to improve human or animal healthcare, and agriculture.

## **B. Initial Application Process for the Payroll Tax Exclusion for Qualified Clean Technology or Biotechnology Businesses.**

If the firm has not yet started operations in Fremont, they can apply for exempt status before their payroll taxes are due by completing the application and submitting it before beginning operations. An existing business can also apply for an exemption before the renewal of their business taxes.

1. An applicant for the exclusion ("Applicant") shall submit a completed application Form (Clean Technology/Biotechnology Business Tax Exemption) demonstrating eligibility to claim the payroll expense tax exclusion.
2. The exemption application form shall include the Business License Application and annual registration fee of \$30.
3. If the applicant is an existing Fremont business, they can apply for the payroll tax exemption at the time of the filing of their completed Annual Business Tax Renewal worksheet.

## **DETERMINATION PROCESS**

1. Upon receipt of completed application, the City's Review Team will arrange a meeting to consider the application.
2. Either the Applicant or the Review Team (Finance Dept., Economic Development Dept. and Community Development Dept.) may request an interview to discuss the details of the application.
3. The Review Team shall approve or disapprove the application within thirty (30) days based upon the criteria set forth in Section A of this process.
4. If the Review Team approves the application, the Finance Director shall issue an Exemption Certificate to the Applicant. If the Exemption Team disapproves the application, the Director shall provide the Applicant with a notice of disapproval, which shall state the reason or reasons therefore. Such disapproval shall act as a rejection of the Applicant's application.

5. If the initial application is rejected, the Applicant may submit an amended application within five (5) business days of receipt of the rejection. The Applicant may provide new or supplemental information for consideration along with the amended application.
6. If an amended application is submitted within the specified timeframe, the Review Team shall consider the amended application along with any supplemental information provided and approve or disapprove the application based upon the criteria set forth in Section D.

Within ten (10) business days of receiving an amended application the Review Team shall make a determination on the application and notify the Applicant of the decision. If the application is denied this second time, the applicant may follow the appeal process as set forth in the Code.

7. The Review Team shall review applications in the order they are received.

### **C. Renewal Procedure for Claiming the Payroll Tax Exclusion for Qualified Clean Energy Technology Businesses.**

1. Once the City's Review Team has certified a business as a qualifying clean energy technology or biotechnology business, every year thereafter (for up to five years for new companies and up to two years for existing companies) that business may file an annual renewal affidavit, on the form provided, with the Finance Department affirming that it continues to meet the eligibility criteria set forth in the Ordinance and this regulation. The "Renewal Form for the Clean Technology and Biotechnology Business Tax Exemption" will be sent annually with business tax forms.

A completed business tax renewal worksheet needs to be submitted with the renewal request. While payment is not required to be attached, if a determination is made that the exemption is denied, then full payment of Business Taxes will be due within 30 days. After 30 days full penalties and interest apply.

2. Either the Applicant or the Review Team may request an interview to discuss the annual renewal affidavit.

### **D. Criteria to be used in Evaluating Applications.**

The City's Review Team shall use the following criteria to evaluate applications for the payroll tax exclusion for clean energy technology businesses:

1. Completeness of the application. The application must be substantially complete. All questions on the application must be fully addressed and any additional substantiating documents requested by the Review Team must be provided in a

manner sufficient to allow the Exemption Team to properly evaluate the application.

2. The applicant must meet the definition of qualified clean energy technology business as set forth in the Ordinance.

For renewals, the business must be in possession of a current registration certificate pursuant to Fremont Municipal Code Title V, Chapter 1, Business and Tax Regulations Code and have all necessary permits and approvals to operate in Fremont.

#### **E. Forms.**

Application Form (“Application-Clean Technology / Biotechnology Business Tax Exemption)

Annual Renewal Form (“Renewal Form- Clean Technology / Biotechnology Business Tax Exemption)

Exemption Certificate

#### **F. Enforcement.**

The Finance Director may investigate any application form or annual renewal affidavit for compliance with the terms of the Ordinance and these regulations. If the Director finds that any application or any annual renewal affidavit or any attachment thereto contains false or misleading information, they will begin investigation and enforcement and may refer the matter to the City Attorney for further action.