

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY
RETAIL FACILITY POLICY

Except for Tourism Destinations¹ (as defined in section 862(2)(a) contained in Title 1 of Article 18-A of the New York General Municipal Law, as amended (the “Act”)), facilities owned or controlled by not-for-profit organizations and for facilities located in Highly Distressed Areas² (as defined in Section 854(18) of the Act), it is generally the policy of the Town of Hempstead Industrial Development Agency (the “Agency”) to not finance or provide financial benefits (including sales and use tax exemptions, mortgage recording tax exemptions or real property tax abatements) for Facilities which provide Retail Sales (as defined in Section 862(2)(a) of the Act and as such definition is further expanded by this Policy of the Agency (“Retail Facilities”), where such Facilities providing Retail Sales to persons who personally visit such Facility to purchase goods or receive services as the primary purpose of the Facility or exceed the restrictions on Retail Facilities set forth in Section 862(2) of the Act.

Retail Sales shall mean “(i) sales by a registered vendor under article twenty-eight of the tax law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the tax law; or (ii) sales of a service to such customers.” For purposes of the Agency’s Retail Facility Policy, Retail Facilities shall include retail stores, shops, restaurants, cafes, coffee shops, luncheonettes, optometry offices, doctors’ offices, dentists’ offices, registered physical therapists, occupational or mental health therapists or other health care providers, retail banking facilities, savings and loan associations or other retail lenders, retail tax preparers and other such Retail Facilities and shall include 100% of the space leased directly to such retail providers and the proportionate share of all common space of the Facility available to or to be used by the provider of Retail Sales, including hallways, restrooms, stairways, elevators, waiting rooms, reception areas, etc. For Facilities leased to accountants, lawyers, investment advisors, or other professionals where clients occasionally visit to receive services but such visits are ancillary to the primary use of the leased space, the retail space shall be considered only those portions of the leased space actually visited by such clients such as conference rooms and reception areas.

In order to ensure that any such Retail Facilities do not violate the Retail Facility restrictions in Section 862(2) of the Act and because it is not the policy of the Agency to generally provide benefits for Retail Facilities, no more than fifteen percent (15%) of the square footage of the Facility (including proportionate common areas) and no more than twenty-five (25%) of the total project costs will be used for such retail purposes.

The Agency’s Retail Facility Policy shall be incorporated in all Agency Leases, Agreements, Installment Sale Agreements, Tenant Agency Compliance Agreements and each Lessee and Sublessee shall certify as to compliance with respect to the Agency’s Retail Facility Policy.

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- ¹ “Tourism destination” shall mean a location or facility, which is likely to attract a significant number of visitors from outside the economic development region as established by section two hundred thirty of the economic development law, in which the project is located.
- ² “Highly distressed area” – shall mean (a) a census tract or tracts or block numbering areas or areas or such census tract or block numbering area contiguous thereto which, according to the most recent census data available, has:
- (i) a poverty rate of at least twenty percent for the year to which the data relates or at least twenty percent of households receiving public assistance; and
 - (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; or
- (b) a city, town, village or county within a city with a population of one million or more for which: (i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and (ii) the ratio of the income per resident; as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average; or
- (c) an area which was designated an economic development zone pursuant to article eighteen-B of this chapter.

Adopted: *May 23, 2023*
Ayes: *7*
Nays: *0*

Resolution Number: 025-2023

Chairman: *Horacio J. Manríquez*