

**RULES  
OF  
BUILDING FINANCE COMMITTEE  
TENNESSEE BOARD FOR ECONOMIC GROWTH**

**CHAPTER 0500-2-1**

**RULES FOR MAKING APPLICATION TO THE BUILDING FINANCE COMMITTEE FOR  
CERTIFICATE OF PUBLIC PURPOSE AND NECESSITY UNDER  
THE INDUSTRIAL PARK ACT OF 1959**

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**0500-2-1-.01 PURPOSE.**

- (1) By the provisions set forth in the Industrial Park Act of 1959, as amended, being Title 16, Chapter 13 of Tennessee Code Annotated, every municipality in this state which undertakes to develop an industrial park under the authority of the Industrial Park Act, TCA 13-16-201 et. seq., must apply for and receive from the Committee a Certificate of Public Purpose and Necessity.
- (2) Pursuant to above and to insure reasonable industrial development under the Industrial Park Act of 1959, and to adequately protect the taxpayers of the State of Tennessee, the Committee hereby establishes the following rules for making application to and obtaining from the Committee a Certificate of Public Purpose and Necessity.

*Authority:* TCA Section §§13-16-207. *Administrative History:* Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-1-.02 LIMITATIONS.**

- (1) The Committee will not approve applications for Certificates of Public Purpose and Necessity on any projects for which issues of both Revenue and General Obligation bonds are proposed.
- (2) Applications for Certificates will be refused on proposed projects for which (site) contractors and/or securities dealers have been granted commitments in advance by the municipality. The municipality, as the agency authorized to issue bonds and as owner of the property, shall have exclusive control of the project, subject to these rules.
- (3) A Certificate will not be granted authorizing a municipality to issue bonds for the purchase of industrial parks or sites, the improvements to which are to be constructed by a private or semi-private industrial group. After the facility is completed, however, a Certificate may be granted authorizing issuance of bonds for its purchase at a price based on appraisals by three (3) competent independent realty appraisers.

*Authority:* TCA Section §§13-16-207. *Administrative History:* Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-1-.03 PUBLIC SALE OF BONDS.**

- (1) Public sale of all General Obligation bonds authorized under provisions of the Industrial Park Act of 1959 must be advertised in a newspaper of general circulation published in the municipality and in THE BOND BUYER, at least fourteen (14) days prior to date of sale. In no case shall bonds be sold privately. All bonds must be sold after advertisement and at public sales held in the municipality issuing them.
- (2) All General Obligation bonds issued under the provisions of the Industrial Park Act of 1959 shall be sold under the conditions stated above. Copies of the bond sale resolution, advertisements and bond prospectus shall be filed with the Building Finance Committee and the Comptroller of the Treasury not later than fifteen (15) days prior to date of sale. After bonds are sold, the municipality shall file with the Building Finance Committee a report of such sale, including information on identity of bidders, buyer or buyers, interest rates and average interest rate.

*Authority:* TCA Section §§13-16-207. *Administrative History:* Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-1-.04 CONSTRUCTION CONTRACTS.**

- (1) Construction contracts shall be awarded on the basis of sealed bids opened and read publicly. Bids shall be solicited by advertisement at least two (2) weeks prior to opening in a newspaper of general circulation in the area in which the construction is proposed.
- (2) Contracts for construction shall be awarded in compliance with conditions stated above. Copies of the advertisement for bids, list of bidders with amount bid by each, name of concern to which contract is awarded and performance bond executed by the successful bidder shall be filed with the Building Finance Committee and the Comptroller of the Treasury.

*Authority:* TCA Section §§13-16-207. *Administrative History:* Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-1-.05 CONTRACTS FOR SERVICES - COPY OF CONTRACT TO BE FILED.**

When the services of engineers, architects, attorneys, fiscal agents, etc., have been engaged by the municipality, copies of such contracts shall be filed with the Committee.

*Authority:* TCA Section §§13-16-207. *Administrative History:* Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-1-.06 APPLICATION FOR CERTIFICATE - FORM AND CONTENT.**

Applications for Certificate of Public Purpose and Necessity shall be submitted in twelve (12) copies and shall contain the below described statements and information. Each copy of the application shall be bound in a separate volume with an appropriate cover and the information and/or statements contained therein shall appear in the order as described below:

- (a) There shall be a letter addressed to the Building Finance Committee from the chief officer of the municipality, bearing the signature of such official and including the following:
  1. a statement requesting that the Building Finance Committee issue to the municipality a Certificate,
  2. a statement outlining the scope of the project for which the Certificate is sought and the reasons for its undertaking,
  3. a statement as to the aggregate cost of the project, sources and amounts of funding available for implementation of the project and sources and amounts of anticipated revenues to be derived from the project, and

(Rule 0500-2-1-.06, continued)

4. a statement as to the aggregate amount of General Obligation bonds the municipality is seeking authority to issue to finance the project.
- (b) Certified copies of all necessary and required resolutions and/or ordinances enacted or passed by the governing body of the municipality empowering it to undertake the project and make application to the Committee for a Certificate.
  - (c) An Expenditure vs. Funding Statement, such statement to contain, on a single page where possible, an itemized statement of all project expenditures tabulated in a single column on the left hand side of such page and an itemized statement of all funding for the project tabulated in a single column on the right hand side of such page. Each such column shall be totaled and the total amounts of each column shall equal one another.
1. Cost shall include all expenses to be incurred in undertaking the project including, but not limited to, land cost, construction cost, cost of the services of architects and engineers, legal and fiscal expenses and shall include interest accruing during the construction period and for six (6) months thereafter on money borrowed in conjunction with the project for which the petition is filed.
  2. Funds shall include all grants and/or loans from governmental agencies as well as monies to be derived from the sale of bonds, or to be borrowed from commercial institutions, or to be contributed from the general fund or any special fund of such municipality.
  3. There shall be included in the appendix to the application with reference to cost, the following:
    - (i) where fees or costs have been established by option, actual payment, invoice or contract, a copy of the document establishing the basis for the cost or fee,
    - (ii) where fees or costs have been established by estimate, the source of the estimate and sufficient additional information concerning the estimate to establish that the party making the estimate is well qualified and has sufficient experience and knowledge with respect to the subject of the estimate as to make the estimate reliable, and
    - (iii) in the case of land cost, there shall be provided, in addition to any option or contract establishing the purchase price, an independent appraisal of the property by a qualified real property appraiser.
  4. There shall be included in the appendix to the application, with reference to sources of funding the following:
    - (i) where the source of funding is to be provided by a governmental agency either by loan or grant, a copy of the application for such funding, copies of all necessary approvals required in obtaining such funds, including approvals by the development districts, state clearinghouse for Federal funding, etc., and a copy of or a letter from the Federal or State agency from which funds are elicited, indicating the status of the request and the probability of funding.
    - (ii) where the source of funds is to be a loan from a commercial lending institution, a copy of the loan agreement including a copy of any mortgages or security agreements to be effected by and between the municipality and the lending institution, in consideration for loan, and

(Rule 0500-2-1-.06, continued)

- (iii) where the source of funds is to be by the issuance of bonds, General Obligation and otherwise, a copy of all proposed recitals to become a part of the bonds, including bondholders remedies, lien rights, prepayment rights, penalties for delayed payments, and the estimated interest rates, and/or amortization schedule for the bonds.
- (d) A Payment vs. Revenue Statement, such statement to contain a tabulation of the estimated annual payments which will be required to meet any indebtedness incurred by the municipality in undertaking the project as well as a summary of anticipated revenues from the project including estimated amounts and dates of receipt of such revenues. There shall be included in the appendix to the application, with reference to Revenues, the following:
  - 1. where anticipated revenues are based on the sale of land, a detailed and thorough discussion of the projected sale price of the land used in establishing projected revenues and a discussion of the feasibility of the projected dates used in establishing the time at which such revenues shall become available, and
  - 2. there shall be included in the appendix to the application, with reference to payments, a complete amortization schedule for retiring the indebtedness incurred as a result of the project.
- (e) An Emergency Financing Statement, such statement to contain a thoroughly discussed plan showing where the municipality shall obtain any emergency funding needed to meet expenses in the event project revenues do not materialize on schedule.
- (f) Sworn Statements from the appropriate official to the municipality, such statements to contain:
  - 1. the total assessed value of property within the municipality by assessor of property (assessed value is the value of all property within the municipality to which the tax rate is applied),
  - 2. a general tabulation of all outstanding General Obligation bonds issued, by the chief fiscal officer of municipality, and
  - 3. a specific tabulation of all outstanding bonds issued under the authority of TCA 7-55-101 et. seq., and/ or TCA 13-16-201 et. seq., by the chief fiscal officer of municipality.
- (g) An Engineering Report, the engineering report shall contain the following information and/or address itself to the following items with respect to the site:
  - 1. topographic and/or terrain conditions at the site,
  - 2. location of the site with respect to access to highways, rail and/or water transportation facilities, including a discussion of any problems or inherent drawbacks to the use of the site occasioned by the location of the site, with respect to these various modes of transportation.,
  - 3. soil conditions at the site, including estimated quality of the soil with respect to industrial usage of the site, estimated depth to rock., probability of ground water and/or internal drainage problems with respect to site soil and any corrective measures to be taken with respect to site soil conditions.,
  - 4. site configuration and any problems associated with the configuration of the site, including the probability of wasted property,

(Rule 0500-2-1-.06, continued)

5. site drainage, including a discussion of the nature of site drainage, provisions to handle site drainage and any problems associated with site drainage. A discussion of flood conditions relative to the site shall be included in this section of the report,
6. provisions for serving the site with water, gas, electricity, and sewage collection:
  - (i) with respect to water, the report shall include sufficient information to establish that proposed water service to the site shall be adequate, including water for fire protection. The discussion shall include an analysis of water pressures and quantities, the basis for establishing storage capacities, basis for establishing consumptive demands as well as the basis for establishing fire demands,
  - (ii) with respect to sources of energy or power, a discussion of the manner and method of supplying needed energy or power to the park, including the type of energy sources available and to be supplied,
  - (iii) with respect to sewage collection, a discussion of the manner and method of collecting park waste and disposing of it. A discussion of estimated park waste and the basis for such estimate, a discussion of sewer hydraulics and a discussion of the capacity at the local treatment facility to handle the anticipated park waste,
  - (iv) in the event that any of the above services are not to be provided, the report should discuss in detail the impact on the park or site of not providing this service.
7. The engineering report shall contain sufficient maps to:
  - (i) delineate the location of the site., with respect to local modes of transportation, with respect to the municipality's business district and with respect to sources of labor,
  - (ii) to show all improvements proposed on the property,
  - (iii) to indicate anticipated subdivision of the property,
  - (iv) to show the present terrain features and topographic relief of the site (suggest a minimum 10' contour interval), and
  - (v) to show the nature and extent of any proposed alternations to the site topography.
- (h) A Statement by an Attorney of Law, to the effect that there are or are no problems associated with implementation of the project. In the event that legal complications do exist, the statement shall discuss such problems and their probable impact upon the project.
- (i) A Statement as to Available Sources of Labor within a twenty-five (25) mile radius of the site including a discussion of the basis of establishing available labor supplies.
- (j) A Discussion of any Environmental Problems anticipated and their effect upon the project.
- (k) A Plat and Legal Description of the Property.
- (l) An Appendix to the Application containing that information as requested by Section 0500-2-1-.06 (c); (d) and any other information with regard to the feasibility of the project that the municipality feels should be included or desires to place in the application.

(Rule 0500-2-1-.06, continued)

*Authority:* TCA Section §§13-16-207. *Administrative History:* Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-1-.07                      BONDS - PROCEEDS OF SALE.**

Proceeds from sale of bonds shall be paid to the proper official of the municipality and shall be disbursed and accounted for by such official (with respect to a county: county trustee, with respect to an incorporated city or town: its chief financial officer).

*Authority:* TCA Section §§13-16-207.

**0500-2-1-.08                      AUDIT**

After completion of project for which bonds are issued, municipality must file with the Building Finance Committee and the Comptroller of the Treasury a certified audit of all disbursements of the bond proceeds, or the Comptroller of the Treasury may conduct his own audit of the disbursements.

*Authority:* TCA Section §§13-1307.

**0500-2-1-.09                      SALE OR LEASE OF PARK PROPERTY.**

Payments by purchasers or by lessees of the property within the park shall be made directly to the proper official of the municipality, who is responsible for the municipality's funds. Such funds shall be kept separately, as required by Section 13-16-207. Tennessee Code Annotated. (See TCA 7-55-112).

*Authority:* TCA Section §§13-16-207.

**0500-2-1-.10                      CERTIFICATE TO CONTAIN CONDITIONS FOR ISSUANCE.**

Each Certificate issued by the Building Finance Committee shall contain the conditions upon which it is issued.

*Authority:* TCA Section §§13-16-207.

**0500-2-1-.11                      SWORN STATEMENT.**

Upon completion of the project, the municipality shall file with the Building Finance Committee a sworn statement showing compliance with the conditions set forth in the Certificate.

*Authority:* TCA Section §§16-207.

**0500-2-1-.12                      PROCEDURE OF COMMITTEE IN REVIEWING APPLICATION AND ISSUING CERTIFICATE.**

- (1) Applications for Certificate of Public Purpose and Necessity (12 copies) must be received by the Building Finance Committee at least fifteen (15) days prior to the date on which the application is to be considered.
- (2) A copy of the application for Certificate of Public Purpose and Necessity will be submitted to the Attorney General and the Comptroller of the Treasury for analysis prior to the Committee meeting. The Industrial Site Engineer in the Department of Economic and Community Development shall review the project application and shall visit and inspect the proposed site prior to the Committee meeting wherein the application shall be heard and shall report his findings with respect to said project to the Committee prior to or at said meeting in writing or in person.

(Rule 0500-2-1-.12, continued)

- (4) At each hearing the Chairman of the Committee shall read or explain Section 13-16-207 of the Industrial Park Act of 1959, and the Rules and Regulations which the Committee has adopted, to representatives of the municipality.
- (5) The Comptroller of the Treasury or a member of his staff selected by him will be invited to attend each meeting as an advisor to the Committee.
- (6) The Committee will review all evidence and documents presented and on the basis of these facts, and before a Certificate is issued, must favorably find that the industrial park or site project:
  - (a) is well conceived and has a reasonable prospect of success,
  - (b) that there is good probability that the project will be self-sustaining from the sale and lease of land and fees and charges for services,
  - (c) will provide proper economic development of the municipality and will encourage industry to locate there.,
  - (d) will not likely become a burden upon the taxpayers, and
  - (e) that there are adequate property values and suitable financial conditions, so that the total bond indebtedness of the municipality, solely for the purpose authorized by this Chapter and by Sections 7-55-101 through 7-55-116, shall not exceed ten percent (10%) of the total assessed valuation of all property in the municipality ascertained by the last completed assessment at the time of the issuance of such bonds.
- (7) Before a Certificate is issued, the Committee must fix and determine:
  - (a) the extent and amount to which a municipality may issue bonds or make expenditures for such industrial park,
  - (b) what property may be acquired therefore,
  - (c) terms upon which such acquisition may be had,
  - (d) what expenditures may be made and for what purposes, and
  - (e) method of sale or lease of the property by said municipality.
- (8) The Committee may reject any application completely or may return same to the municipality with suggestions as to the changes required.
- (9) Copies of minutes of each meeting and each Certificate issued shall be mailed to all members of the Committee, whether present or not, as soon as possible after each meeting.

**Authority:** TCA Section §§13-16-207. **Administrative History:** Original Rule filed November 8, 1977, effective December 8, 1977.