

City Council
Agenda Memo



City Council
Meeting Date: October 7, 2013

TO: Larry D. Gilley, City Manager
FROM: Richard Burdine, Assistant City Manager
SUBJECT: Resolution Adopting Revised Tax Abatement Policy

GENERAL INFORMATION

A tax abatement is a local agreement between a taxpayer and a taxing unit that exempts all or part of the increase in the value of the real property and/or tangible personal property from taxation for a period not to exceed 10 years. Tax abatements are an economic development tool available to cities, counties and special districts to attract new industries and to encourage the retention and development of existing businesses through property tax exemptions or reductions. School districts may not enter into abatement agreements. The statutes governing tax abatements are located in chapter 312 of the Texas Tax Code. The abatement agreement must be conditioned on the property owner making specific improvements or repairs to the property and only the increase in the value of the property may be exempted.

SPECIAL CONSIDERATIONS

The revised Property Tax Abatement Policy sets out guidelines and criteria governing all tax abatement agreements executed by the City. If approved, the policy is effective for two years. It provides for the availability of tax abatement to both new facilities and structures and for the expansion and modernization of existing facilities and structures. The City retains the discretion to choose whether or not to enter into any particular abatement agreement.

The City of Abilene first adopted a tax abatement policy in 1989 and last revised it in September of 2009. Staff believes tax abatement should continue to be available as an incentive tool for use in recruiting new or expanded business to Abilene; however, it will be used sparingly in favor of other economic development tools available to accomplish this mission.

FUNDING/FISCAL IMPACT

The funding/fiscal impact will be determined on a case by case basis for any project applying for tax abatement under the revised policy.

STAFF RECOMMENDATION

Staff recommends City Council approve the attached resolution adopting a revised tax abatement policy for the City of Abilene.

ATTACHMENTS

Resolution
Revised tax abatement policy

Prepared by: Kim Tarrant	Item No. <u>7.1</u>	Disposition by City Council
Name: Richard Burdine		<input type="checkbox"/> Approved Ord/Res# _____
Title: Asst. City Manager for Economic Dev.		<input type="checkbox"/> Denied
		<input type="checkbox"/> Other
		_____ City Secretary

RESOLUTION NO. _____

A RESOLUTION DECLARING THE CITY COUNCIL OF THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, ELECTS TO ADOPT A REVISED PROPERTY TAX ABATEMENT POLICY SETTING OUT GUIDELINES AND CRITERIA IN ACCORDANCE WITH TEXAS TAX CODE ANN: §312.001 ET. SEQ., OTHERWISE KNOWN AS THE PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT ("ACT"), GOVERNING THE CREATION OF TAX ABATEMENT REINVESTMENT ZONES AND THE EXECUTION OF ALL TAX ABATEMENT AGREEMENTS BY THE CITY.

WHEREAS, A tax abatement is a local agreement between a taxpayer and a taxing unit that exempts all or part of the increase in the value of the real property and/or tangible personal property from taxation for a period not to exceed 10 years; and,

WHEREAS, tax abatements are an economic development tool available to cities, counties and special districts to attract new industries and to encourage the retention and development of existing businesses through property tax exemptions or reductions; and,

WHEREAS, on January 28, 1989, City Council first elected to offer tax abatement in accordance with the Act and adopted a tax abatement policy which outlined its guidelines and criteria; and,

WHEREAS, staff believes tax abatement should continue to be available as an incentive tool for use in recruiting new or expanded business to Abilene; however, it will be used sparingly in favor of other economic development tools available to accomplish this mission; and,

WHEREAS, the Act states that guidelines and criteria are effective for two years unless amended or repealed by a three-fourths vote of the governing body; and,

WHEREAS, City Council last adopted new guidelines and criteria in September of 2009, and the Act requires that City Council adopt new guidelines and criteria governing all tax abatement agreements entered into by the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, THAT:

PART 1. The revised guidelines and criteria outlined in Exhibit "A" of this resolution (the Property Tax Abatement Policy) which governs tax abatement agreements is hereby adopted by the City Council and shall remain in effect for two years from the date herein unless amended or repealed by a vote of three-fourths of the members of the City Council.

PART 2. That this resolution shall take effect immediately from and after its passage.

ADOPTED this 7th day of October, 2013.

ATTEST:

Danette Dunlap, City Secretary

Norm Archibald, Mayor

APPROVED:

City Attorney

PROPERTY TAX ABATEMENT POLICY CITY OF ABILENE, TEXAS

This revised policy adopted by the Abilene City Council on October 7, 2013

PHILOSOPHY

Tax abatement is an economic development tool to mitigate the heavy costs usually associated with the construction of a new facility or structure, or expansion and/or modernization of an existing facility or structure that enhances the economic or social base of the community. Because property tax revenue is a means to provide vital community services, it is the philosophy of the City of Abilene that tax abatement be utilized sparingly, and only after careful consideration of the economic impact for Abilene. Nothing herein shall imply or warrant that the City of Abilene is under any obligation to provide tax abatement to any applicant.

ELIGIBILITY

This policy document provides criteria for eligibility and aspects of implementation as adopted by the City Council of the City of Abilene, in accordance with Texas Tax Code, Chapter 312, otherwise known as the *Property Redevelopment and Tax Abatement Act (Act)*, governing property tax abatement agreements. All applications will be considered on a case-by-case basis.

The following types of enterprises are eligible to apply for tax abatement:

- Industrial
- Manufacturing
- Distribution
- Service
- Multi-family residential properties
- Hotels/motels

Eligible property upon which abatement may be granted includes real property and/or tangible personal property located on the real property other than that personal property that was located on the real property at any time before the abatement agreement is executed. **Excluded from eligible personal property are inventory and supplies.**

If any business is located or will locate within one of Abilene's state-designated enterprise zones, an additional 5-10% abatement may be available, as individually negotiated, with total abatement not to exceed 100%. A state-designated enterprise zone includes any census tract block group within the Abilene City Limits which according to the 2010 federal decennial census is a block group in which at least 20% of the residents have an income at or below 100% of the federal poverty level.

**INDUSTRIAL, MANUFACTURING, DISTRIBUTION
AND SERVICE BUSINESSES**

Tax abatement may be available to industrial, manufacturing, distribution and service businesses located anywhere within Abilene's city limits based on the following:

Level	Capital Expenditure		Possible Abatement	
	Min	Max	Years 1-5	Years 6-10
1	\$1,000,000	\$4,999,999	25%	15%
2	\$5,000,000	\$9,999,999	50%	25%
3	\$10,000,000	\$24,999,999	75%	50%
4	\$25,000,000	\$99,999,999	100%	75%
5	\$100,000,000	or more	100%	100%

MULTI-FAMILY RESIDENTIAL PROPERTIES

Tax abatement may be available to multi-family residential projects on land zoned Central Business District (CBD) and/or Pine Street Corridor Overlay as shown on the official zoning map of the City of Abilene. Each project will be considered on an individual basis with consideration being given for number of jobs created and/or the total amount of capital investment and/or the historic significance of the structure. Total abatement shall not exceed 100% and 10 years.

Tax abatement for real and personal property may also be available to multi-family residential projects that qualify under federal government guidelines established to address housing needs for low-moderate income individuals. Each project will be considered on a case-by-case basis with consideration being given for the location and amount of capital investment in the project. Total abatement shall not exceed 100% and 10 years.

HOTELS/MOTELS

Tax Abatement may be available to hotels/motels on land zoned Central Business District and/or Pine Street Corridor Overlay as shown on the official zoning map of the City of Abilene. Each project will be considered on an individual basis with consideration being given for the total amount of capital investment, the number of hotel/motel rooms involved, and the historic significance of the structure. Total abatement shall not exceed 100% for 10 years.

GUIDELINES

1. Tax abatement applies to increases in real and/or personal property due to the construction of new facilities and structures as well as the expansion or modernization of existing facilities and structures.

2. Tax abatement can apply to a leased facility; however, the agreement shall be executed only with the property owner.
3. *Tax abatement may be granted only for the additional value of eligible property improvements or repairs made and specified in an abatement agreement between the City and the property owner or lessee, subject to such limitations as the City may require.*

The additional value must exceed any reduction in the fair market value of other eligible property of the owner located within the City's jurisdiction. Change in appraised value does not qualify for abatement except in the instance where a previously vacant facility is utilized. Value added to the tax rolls must come from actual capital expenditures.

4. Real and/or personal property tax abatement may be granted only to the extent that the property value for each year of the agreement exceeds the property value for the year in which the agreement is executed. The value for the year in which the agreement is executed shall be referred to as the "base value" and shall be the January 1 valuation of the year in which the agreement is executed.
5. With the intent of avoiding any possible erosion of the existing tax base, the City reserves the right to determine the base value upon which abatement may be calculated if the applicant owns other property(ies) in town which may be affected by the granting of tax abatement.
6. A tax abatement agreement may not be executed unless the area for which tax abatement is requested meets the criteria for designation as a tax abatement reinvestment zone as set forth in the Act. Areas located in one of Abilene's state-designated enterprise zones meet the criteria without further designation. The City Council may adopt an ordinance designating a tax abatement reinvestment zone only after a public hearing has been held. In addition, the City Council will determine if the proposed improvements or repairs are feasible and practical and would be a benefit to the city after expiration of a tax abatement agreement.
7. No tax abatement agreement for industrial, manufacturing, distribution and service businesses shall exceed a term of 10 years from the date of execution.
8. Individual taxing units governing a reinvestment zone with the exception of a school district may choose to grant tax abatement to an owner or lessee, but according to the Act if granted, the terms of the agreement are not required to be identical to the agreement approved by the City.
9. At any time before expiration, any tax abatement agreement may be terminated or modified by the City if the property owner fails to comply with the terms of the agreement.
10. The City and property owner may agree to defer the commencement of the abatement period until a date that is subsequent to the agreement date; however, no abatement period may exceed 10 years.

CRITERIA

1. A tax abatement agreement must:

- list the kind, number, and location of all proposed improvements to the property;
- provide for City of Abilene employees to have access to and authority to conduct inspections of the eligible property to ensure that the improvements or repairs are made in accordance with the agreement and in compliance with all relevant local, state, and federal laws and regulations including, but not limited to Building, Plumbing, Water, Electrical, Mechanical, and Fire Codes;
- limit the uses of the eligible property to remain consistent with the general purpose of encouraging development or redevelopment of the zone during the term of the tax abatement agreement;
- provide for recapturing property tax revenue lost as a result of the agreement plus a penalty of 5% of the amount of lost revenue if the owner of the eligible property fails to:
 - Make the improvements or repairs as provided in the agreement, or
 - Meet any other performance criteria specified in the agreement.
- contain each term agreed to by the property owner;
- require the owner of the property to certify annually to the City of Abilene that the owner is in compliance with each applicable term of the agreement; and
- provide that the Abilene City Council may cancel or modify the agreement if the property owner fails to comply with the agreement.

2. The owner of eligible property requesting tax abatement within a tax abatement reinvestment zone or enterprise zone shall invest a minimum amount of capital as further defined herein.

3. If the minimum requirements are not met during the first three years of the agreement, the percentage of abatement shall be reduced to the level of abatement at which minimum requirements have been met, and any taxes abated before the adjustment may be recaptured by the City.

APPLICATION

For additional information on tax abatement or the Enterprise Zone program, contact the Department of Economic Development, City of Abilene, at (325) 676-6390.

Applicants requesting tax abatement must submit the following documents:

- 1. Last three fiscal year-end financial statements, or tax returns on the business (if applicable).**

2. Most current interim financial statement on the business.
3. Current financial statement on all owners of the business with ownership of 20% or more.
4. Narrative detailing the capital improvement project.

If applicant is a start-up business, the following items will be required at a minimum:

5. Projected balance sheet and income statement, Year One.
6. Monthly cash flow analysis for Year One.
7. Additional information as may be required.

ELIGIBILITY OF APPLICANTS

1. No member of the Abilene City Council, Abilene Planning & Zoning Commission, or persons related within the second degree by consanguinity or affinity shall be eligible to apply for tax abatement during his/her tenure or for six months thereafter.
2. No director or employee of the City Department of Economic Development, his/her supervisor, or person related to a director, employee or supervisor of the Department within the second degree by consanguinity or affinity shall be eligible to apply for tax abatement during his/her tenure or for six months thereafter.
3. All other City of Abilene employees and elected or appointed officers not specifically addressed above shall be eligible to apply for tax abatement; however, no special consideration shall be granted to such applicant.

In determining how and with whom tax abatement will be utilized, the City will examine the potential return on the public's investment, including net jobs created, jobs retained, wage levels, broadening of the tax base, expansion of the economic base and competitive impact upon existing industries. Approval is contingent upon final consideration and action by the Abilene City Council. To the extent permitted by law, information provided by an applicant in connection with a request for tax abatement is confidential and not subject to public disclosure until the tax abatement agreement is executed.

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