

RESOLUTION NO. 24-2001

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, the enhancement of the local economy is in the best interests of the citizens of Abilene; and,

WHEREAS, the creation of specified tax abatement reinvestment zones and the execution of tax abatement agreements will be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment that would be a benefit to the property and would contribute to the economic development of the City of Abilene; and,

WHEREAS, the Act requires cities to establish local guidelines and criteria for the creation of tax abatement reinvestment zones and the execution of tax abatement agreements; 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WHEREAS, the Act states that guidelines and criteria are effective for two years unless amended or repealed by a three-fourths vote of the governing body; and,

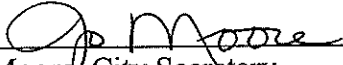
WHEREAS, City Council last adopted new guidelines and criteria on April 22, 1999, and the Act requires that City Council adopt new guidelines and criteria governing all tax abatement agreements entered into by the City.

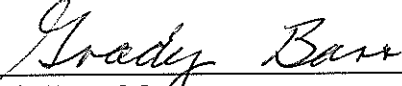
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, THAT:

- 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.

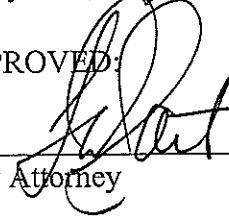
ADOPTED this 14th day of June, 2001.

ATTEST:

  
\_\_\_\_\_  
Jo Moore, City Secretary

  
\_\_\_\_\_  
Grady Barr, Mayor

APPROVED:

  
\_\_\_\_\_  
City Attorney

**PROPERTY TAX ABATEMENT POLICY  
CITY OF ABILENE, TEXAS**

This revised policy adopted by the Abilene City Council on June \_\_, 2001

**PHILOSOPHY**

Tax abatement is an economic development strategy to mitigate the heavy costs usually associated with the construction of a new or expansion of an existing facility that enhances the economic or social base of the community. Because property tax revenue is the means to provide vital community services, it is the philosophy of municipal government 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 facilities
- Retail operations located in an Enterprise Zone or designated development area
- Multi-family residential properties on a limited basis in a specific zone
- Properties subject to a voluntary cleanup agreement

Eligible property that abatement may be granted on includes non-residential 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 is inventory or supplies.

If any business (other than retail) is located or will locate within one of Abilene's three enterprise zones, an additional 5-10% abatement may be available, as individually negotiated, with total abatement not to exceed 100%.

**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 1:**

<b>Capital Expenditure</b>	<b>Jobs Created <sup>1</sup></b>	<b>Abatement</b>	<b>Years</b>
\$ 250,000	10	25%	1-5
\$ 500,000	7.5	15%	6-10
\$ 750,000	5		
\$1,000,000	2.5		
\$1,250,000 or more	0		

**LEVEL 2:**

<b>Capital Expenditure</b>	<b>Jobs Created<sup>1, 2</sup></b>	<b>Abatement</b>	<b>Years</b>
\$ 2,500,000	50	50%	1-5
to \$12,500,000 or more	0	25%	6-10

**LEVEL 3:**

<b>Capital Expenditure</b>	<b>Jobs Created<sup>1, 2</sup></b>	<b>Abatement</b>	<b>Years</b>
\$10,000,000	80	75%	1-5
to \$26,000,000 or more	0	50%	6-10

**LEVEL 4:**

<b>Capital Expenditure</b>	<b>Jobs Created<sup>1</sup></b>	<b>Abatement</b>	<b>Years</b>
\$30,000,000 or more	100	100%	1-10

- 1 Jobs must comply with Criteria 4, "Minimum Wage".
- 2 Jobs required in Levels 2 & 3 may be reduced by 10 for each \$2,000,000 in capital investment made by the property owner. For example, under level 2, a minimum investment of \$2,500,000 requires 50 jobs, \$4,500,000 requires 40 jobs and \$12,500,000 requires no jobs.

**MULTI-FAMILY RESIDENTIAL PROPERTIES**

Tax abatement may be available to multi-family residential properties of no fewer than 50 units located in Abilene Reinvestment Zone #1 (downtown). Total abatement shall not exceed 100%.

The minimum amount of abatement is 50% with an additional 5% for every 5 units over 50 for a maximum period of five years. Additional abatement may be available as negotiated depending on the number of jobs created and/or the total amount of capital investment made.

*PROPERTIES SUBJECT TO  
VOLUNTARY CLEANUP PROGRAM*

Tax abatement may apply to properties that are subject to a voluntary cleanup program as executed with the Texas Natural Resource Conservation Commission (TNRCC) in accordance with §361.601 et. seq. of the Health and Safety Code for the cleanup or removal of a hazardous substance or contaminant from the environment, as follows:

<b>Capital Expenditure</b>	<b>Jobs Created</b>	<b>Abatement</b>	<b>Year</b>
Minimum of \$250,000	10	100%	1
		75%	2
		50%	3
		25%	4

Tax abatement for such properties shall not exceed four years and will take effect on January 1 of the year following the date the property owner receives a certificate of completion for the property. The City of Abilene may cancel or modify the agreement if it determines that use of the land is changed from the use specified in the certificate of completion, and the new use may result in an increased risk to human health or the environment.

*RETAIL BUSINESSES*

Tax abatement may be available to those retail businesses that are located within one of Abilene's three enterprise zones or a designated development area as follows:

**LEVEL 1:**

<b>Capital Expenditure</b>	<b>Jobs Created</b>	<b>Abatement</b>	<b>Years</b>
Min. \$100,000	10	25%	1-5

**LEVEL 2:**

<b>Capital Expenditure</b>	<b>Jobs Created</b>	<b>Abatement</b>	<b>Years</b>
Min. \$500,000	50	50%	1-5

Abatement agreements shall not exceed 5 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. In such cases, the property owner shall demonstrate binding contract(s) with the lessee(s) to guarantee job creation.

3. *Tax abatement may be granted only for the additional value of eligible property improvements 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 three 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.
7. No tax abatement agreement for industrial, manufacturing, distribution and service businesses shall exceed a term of 10 years from the date of execution. Abatement agreements for retail businesses shall not exceed 5 years and agreements for properties subject to a voluntary cleanup agreement with TNRCC shall not exceed 4 years.
8. Individual taxing units governing a reinvestment zone may choose to grant tax abatement to an owner or lessee, but according to state law, 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.

### **CRITERIA**

1. A tax abatement agreement must:

- list the kind, number, and location of all proposed improvements to the property;

- provide for city 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 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 if the owner or lessee of the eligible property fails to make the improvements or repairs as provided by the agreement or create the specified number of jobs;
  - contain each term agreed to by the property owner and lessee;
  - require the owner of the property to certify annually to the City of Abilene that the owner and lessee 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 or lessee fails to comply with the agreement.
2. The owner or lessee of eligible property requesting tax abatement within a tax abatement reinvestment zone or enterprise zone shall invest a minimum amount of capital and provide a certain number of full-time equivalent employment positions as further defined below.
  3. The word “job” as referred to herein means a full-time equivalent employment position and is one that provides at least 2,080 hours annually including paid leave (such as vacation, sick leave, jury duty), excluding overtime hours within the City’s taxing jurisdiction. The number of full-time equivalent employment positions is determined by adding the total number of hours worked and/or actual paid leave (such as vacation, sick leave, jury duty) of all employees, less overtime hours, and dividing that sum by 2,080. All existing jobs as well as those created must be maintained throughout the term of a tax abatement agreement.
  4. If the minimum requirements are not met during the period as negotiated in 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.

In addition, abatement approved under “Industrial, Manufacturing, Distribution and Service Businesses” must meet the following:

5. “Minimum Wage” as referred to herein means the minimum hourly wage paid to an employee. Employers receiving Tax Abatement must pay a minimum wage to at least 70% of the new jobs created equal to \$3.00 an hour over the current federal minimum

wage if the company has a health benefits plan and \$4.25 an hour over the current federal minimum wage if the company does not have a health benefits plan.

## **APPLICATION**

For additional information on tax abatement or the Enterprise Zone program, contact the Department of Economic Development, City of Abilene, at (915) 676-6390 or by e-mail at [business@abilenetx.com](mailto:business@abilenetx.com).

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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