

**RESOLUTION NO. 201-2021**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS DECLARING THAT THE CITY COUNCIL ELECTS TO ADOPT A NEW PROPERTY TAX ABATEMENT POLICY SETTING OUT GUIDELINES AND CRITERIA IN ACCORDANCE WITH TEXAS TAX CODE ANN. SECTION 312.001 ET. SEQ., OTHERWISE KNOWN AS THE PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT (“ACT”), GOVERNING THE CREATION OF TAX ABATEMENT 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, the City Council first elected to offer tax abatements in accordance with the Act and adopted a tax abatement policy which outlined its guidelines and criteria; and

**WHEREAS**, staff believes a tax abatement should continue to be available as an incentive tool for use in recruiting new or expanding business to the City; and

**WHEREAS**, the Act provides that tax abatement guidelines and criteria are effective for two years unless amended or repealed; and

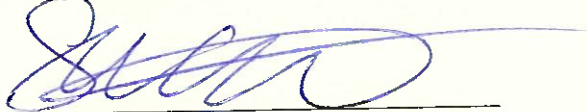
**WHEREAS**, the City Council last adopted new guidelines and criteria in October of 2013, and the Act requires that the City Council adopt new guidelines and criteria governing all tax abatement agreements entered into by the City.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

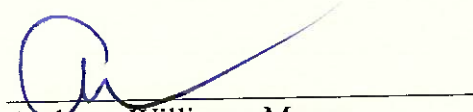
- Part 1: That the City Council of the City of Abilene elects to become eligible to participate in tax abatement.
- Part 2: That the revised tax abatement guidelines and criteria outlined in Exhibit “A” of this resolution (the Property Tax Abatement Policy) is hereby adopted by the City Council and shall remain in effect for two years from the date of adoption unless amended or repealed as provided by law.
- Part 3: That a public hearing was properly noticed and conducted prior to the adoption of this tax abatement policy guidelines and criteria.
- Part 4. That this Resolution takes effect immediately upon its adoption.

**ADOPTED this 18<sup>th</sup> day of November, 2021.**

ATTEST:

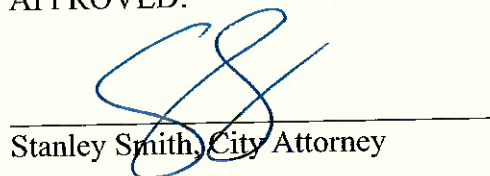


Shawna Atkinson, City Secretary



Anthony Williams, Mayor

APPROVED:



Stanley Smith, City Attorney



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

### **PHILOSOPHY**

Tax abatement is an economic development strategy to mitigate the heavy costs usually associated with the construction of a new facility or the 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 the City of Abilene that tax abatement be considered only after careful review of the economic impact for the City. 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, Texas, in accordance with Texas Tax Code, Chapter 312, otherwise known as the Property Redevelopment and Tax Abatement Act (the "Act"), and 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
- Services 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
- Renewable Energy

Eligible property where tax abatement may be granted includes non-residential real property and/or tangible personal property located on the real property. Tangible personal property must have not been located on the real property at any time before the abatement agreement is executed. Excluded from eligible personal property are inventory, tools, furnishings, supplies, or other forms of movable personal property.

If any business (other than retail) is located or will locate within a City of Abilene enterprise zone, an additional 5 – 10% abatement may be available, as individually negotiated, with total abatement not to exceed 100%.

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

Tax abatement may be available to industrial, manufacturing, distribution and service businesses located anywhere within the City of Abilene 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	0		

**LEVEL 2:**

<b>Capital Expenditure</b>	<b>Jobs Created <sup>1</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>1,2</sup></b>	<b>Abatement</b>	<b>Years</b>
\$30,000,000 or more	100	100%	1-10

1. Jobs must comply with Criteria 5 "Minimum Wage".
2. Special consideration (percent of abatement and years) may be granted under Level 3 and Level 4 when criteria for jobs are not met.

**MULTI-FAMILY RESIDENTIAL PROPERTIES**

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 Commission on Environmental Quality (TCEQ) 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><u>Capital Expenditure</u></b>	<b><u>Jobs Created</u></b>	<b><u>Abatement</u></b>	<b><u>Year</u></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. 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><u>Capital Expenditure</u></b>	<b><u>Jobs Created</u></b>	<b><u>Abatement</u></b>	<b><u>Years</u></b>
Min. \$100,000	10	25%	1-5

**LEVEL 2:**

<b><u>Capital Expenditure</u></b>	<b><u>Jobs Created</u></b>	<b><u>Abatement</u></b>	<b><u>Years</u></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 requires.*

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/properties in the City of Abilene 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 the City's three enterprise zones meet the criteria without further designation. The City Council of the City of Abilene, Texas, 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 TCEQ 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 of Abilene.
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 provide that the owner of the property will use reasonable efforts to maximize City of Abilene goods and services in the construction, operation and maintenance of the proposed improvements to the property;
  - require the owner of the property to certify annually to City of Abilene that the owner or lessee is in compliance with each applicable term of the agreement;
  - provide that City of Abilene 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. The agreement shall require the Owner to make reasonable efforts to employ persons who are residents of City of Abilene to fill the jobs to be created. The Owner shall not be required to employ City of Abilene residents who are not (i) equally or more qualified than non-City of Abilene residents; (ii) available for employment on terms and/or salaries comparable to those required by non-residents or (iii) able to become qualified with 72 hours of training. In the event a City of Abilene resident could become qualified with a maximum of 72 hours training, the Owner shall be required to provide such training.
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 per hour over the current federal minimum wage provided the company has a health benefits plan or \$4.25 per hour over the current federal minimum wage if the company does not have a health benefits plan.
6. The Owner of the property shall not be required to use goods and services provided by City of Abilene residents that are not (i) of similar quality to those provided by non-residents or (ii) made available on terms, conditions and price comparable to those offered by non-residents. Comparable price means less than or equal to 105% of the non-resident price for goods and services of equivalent quality, conditions and terms.



## **APPLICATION**

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 City Council of the City of Abilene, Texas. 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.