

**RESOLUTION NO. 142-2024**

**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, AND FOR ECONOMIC DEVELOPMENT GRANTS PURSUANT TO CHAPTER 380 TEXAS LOCAL GOVERNMENT CODE KNOWN AS CHAPTER 380.**

**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**, 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 City Council last adopted new guidelines and criteria in November of 2021; and

**WHEREAS**, the Act provides that tax abatement guidelines and criteria are effective for two years unless amended or repealed; and

**WHEREAS**, on April 14, 2016, the City Council adopted an Economic Development Agreement Program authorized by Chapter 380 of the Texas Local Government Code, and amended the Program on July 27, 2023; and

**WHEREAS**, the City Council finds that adopting of new tax abatement guidelines and criteria, and adoption of a revised Chapter 380 program for economic development incentives, is in the best interest of the City and community; and

**WHEREAS**, the new tax abatement guidelines and criteria and revised Chapter 380 program for economic development incentives may be utilized by the City together or separately as may be needed for economic development.

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

Part I: 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 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.

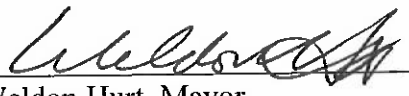
Part 4: That the revised chapter 380 program for economic development incentives outlined in Exhibit "A" of this resolution is hereby adopted by the City Council, shall replace the Chapter 380 Agreement program adopted on April 14, 2016 and amended on July 27, 2023, and shall remain in effect hereafter unless amended or repealed as provided by law.

Part 5: That this Resolution takes effect immediately upon its adoption.

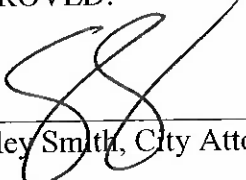
**ADOPTED this 13<sup>th</sup> day of June, 2024.**

ATTEST:

  
\_\_\_\_\_  
Shawna Atkinson, City Secretary

  
\_\_\_\_\_  
Weldon Hurt, Mayor

APPROVED:

  
\_\_\_\_\_  
Stanley Smith, City Attorney



## **Policy Statement for Tax Abatement and Chapter 380 Program for Economic Development Incentives City of Abilene, Texas**

This policy provides criteria for eligibility for tax abatement pursuant to Texas Tax Code, Chapter 312, known as the Property Redevelopment and Tax Abatement Act (the "Act"), and for economic development grants pursuant to Chapter 380 Texas Local Government Code known as Chapter 380 ("Chapter 380"). All applications will be considered on a case-by-case basis.

Abilene offers qualified projects the following types of incentives on a case by case basis:

1. Economic Development Grants (Chapter 380 Grants).
2. Tax abatement agreements for improvements to real property and for business personal property.

### **Purpose and Objectives.**

City of Abilene is committed to the promotion of high-quality development in all parts of the City, and to an ongoing improvement in the quality of life for all its citizens. The City will, on a case-by-case basis, consider providing Tax Abatement and/or Economic Development Grants as a stimulus for economic development activities including business attraction, relocation, expansion, and retention. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City will, on a case-by-case basis, consider providing tax abatement and economic development grants as a stimulation for economic development in the City. It is the policy of the City that said consideration will be provided in accordance with the procedures and criteria outlined in this Policy. Nothing herein shall imply or suggest that the City is under any obligation to provide tax abatement or economic development grants to any applicant. All applicants shall be considered on a case-by-case basis.

### **Incentives.**

Tax Abatement can be offered in two categories: (1) Real Property and/or (2) Business Personal Property. Real Property abatements will apply to the value of improvements made. Business Personal Property abatements will apply to the value of new personal property brought into the City.

Economic Development Grants (Chapter 380 Grants) can be considered for but are not limited to: grants and/or loans to provide a competitive advantage, foster relocation, encourage employment retention or growth and/or assist in public infrastructure improvements

### **Criteria**

The request for tax abatement or economic development grant shall be evaluated based upon a subjective review of the following criteria which each applicant will be requested to address in narrative format. The subjective criteria outlined below will be used in determining whether it is in the best interests of the City that a tax abatement or economic development grant be offered to an applicant. Specific considerations will include the degree to which the individual project furthers the goals and objectives of the community, as well as the relative impact of the project.

#### Employment Impact

*How many jobs will be brought to City?*

*What types of jobs will be created? What will the total annual payroll be?*

#### Fiscal Impact

*How much real and personal property value will be added to the tax rolls?*

*How much direct sales tax will be generated?*

*How will this project affect existing businesses and/or office facilities?*

*What infrastructure construction would be required?*

*What is the total annual operating budget of this facility projected to be?*

#### Community Impact

*What effect would the project have on the local housing market?*

*What environmental impact, if any, will be created by the project?*

*How compatible is the project with the City's comprehensive plan.*

#### Economic Impact

*What is the economic impact for the City?*

*What impact does the project have on City facilities, tax base, and financial resources?*

#### 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.

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. 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 an 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 notice and public hearing as required by the Act.
6. Tax abatement is limited to 10 years under the Act. Chapter 380 grants are not limited to any specific period under Chapter 380, but the City reserves the right to limit such grants.
7. At any time before expiration, any tax abatement agreement or Chapter 380 agreement may be terminated or modified by the City if the property owner fails to comply with the terms of the agreement
8. A tax abatement agreement and the Chapter 380 agreement, as the case may be must:
  - a. list the kind, number, and location of all proposed improvements to the property;
  - b. 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;
  - c. 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;
  - d. provide for recapturing property tax revenue lost or the Chapter 380 grants 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; or breaches any of the terms and conditions of such agreement;
  - e. 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 goods and services in the construction, operation, and maintenance of the proposed improvements to the property;
  - f. require the owner of the property to certify annually to City that the owner or lessee is in compliance with each applicable term of the agreement;

- g. provide that City may terminate or modify the agreement if the property owner or lessee fails to comply with the agreement or breaches any of the terms and conditions of the agreement;
- h. 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;
- i. 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. 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 the agreement. The agreement shall require the owner to make reasonable efforts to employ persons who are residents of City to fill the jobs to be created. The owner shall not be required to employ City residents who are not (i) equally or more qualified than non-City 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 resident could become qualified with a maximum of 72 hours training, the owner shall be required to provide such training;

## APPLICATION

In determining how and with whom a tax abatement or Chapter 380 grant 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. To the extent permitted by law, information provided by an applicant in connection with a request for tax abatement or a Chapter 380 grant is confidential and not subject to public disclosure until the respective agreement is executed.

The Applicant must submit a written request to the attention of the City Manager. The request should include all necessary information to evaluate the request, and should contain the following information:

1. Information responsive to and needed to assess the criteria outlined in Section II of this Policy;
2. A general description of the proposed project, including the use and the general nature and extent of the modernization, expansion, or new improvements to be undertaken;
3. A time schedule for undertaking and completing the proposed project;
4. Plats or maps showing the precise location of the property and all roadways within 500 feet of the site;

5. A complete legal description of property by the metes and bounds or lot and block'
6. The name, address, email address and telephone phone number of the Applicant, the owner of the real property, the contemplated improvements, any business personal property to be added, and any lessee, if applicable, and the type of legal entity if other than an individual;
7. Any other information the Applicant deems necessary to evaluate the request.

**Review.**

The written request and application will be distributed to the appropriate City departments (and/or City consultants) for internal review and comments. Additional information may be requested of the applicant as needed. The City Manager; or designee will inform the applicant whether the application will be recommended to the City Council for approval, which approval is required for any tax abatement or Chapter 380 Agreement.