

GUIDELINES AND CRITERIA

For Granting Tax Abatement in Reinvestment and Enterprise Zones Designated by the City of Killeen, Texas

Under Texas Tax Code, Chapter 312

I. PURPOSE

The designation of a Reinvestment Zone or Enterprise Zone for Tax Abatement is allowed if it is reasonably likely to contribute to the attraction, retention, or expansion of primary employment or will attract major investment that would be a benefit to the property and contribute to the economic development of the municipality.

II. DEFINITIONS

A. "Abatement" means the full or partial exemption for the real property or of tangible personal property located on the real property, or both, from ad valorem taxes in a reinvestment zone designated by the City of Killeen for economic development purposes.

B. "Agreement" means a contractual agreement between a property owner and/or lessee and the City of Killeen, Texas.

C. "Base Year Value" means the assessed value of eligible property on January 1st of the year of the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1st but before the execution of the Agreement.

G.D. "Commercial Facility" means real property, that is not Residential Property, intended for business, commercial, or industrial use(s) and.

D.E. "Deferred Maintenance" means those improvements necessary for continued operation but which do not improve productivity or alter any process technology.

E.F. "Eligible Facilities" means those New Facilities or Expanded or Modernized existing buildings and structures, including fixed machinery and equipment, located or to be located inside a reinvestment or enterprise zone for tax abatement designated by the City of Killeen, or located within its extraterritorial jurisdiction.

F.G. "Enterprise Zone" means designation of an area under Texas Government Code chapter 2303 and Texas Tax Code section 312.2011.

G.H. "Expansion" or "Expanded" means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.

H.I. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.

I.J. “Modernization” or “Modernized” means a complete or partial demolition of Facilities and the complete or partial reconstruction or installation of a Facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment, or both.

J.K. “New Facility” means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion and Modernization.

K.L. “Owner” means the individual, corporation, partnership, or other legal entity in whom is vested the ownership, dominion, or title of property and who is responsible for payment of ad valorem taxes on that property; includes a Lessor or Lessee if responsible for payment of ad valorem taxes.

L.M. “Productive Life” means the number of years a property improvement is expected to be in service for a facility.

M.N. “Reinvestment Zone” means a reinvestment zone designated by the City of Killeen by authority of Chapter 312, Texas Tax Code.

N.O. “Residential Facility” means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, as the home or residence of 1 or more persons (i.e., single-, two-, and three-family dwellings; townhomes; fourplexes; and apartments).

III. ABATEMENT AUTHORIZED

A. Eligible Facilities. Upon application, Eligible Facilities shall be considered for Tax Abatement as hereinafter provided.

B. Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between the City of Killeen and the property owner or lessee, subject to such limitation as the City of Killeen may require.

C. New and Existing Facilities. Abatement may be granted for existing or New Facilities and for improvements to Existing Facilities for purposes of Modernization ~~and~~ or Expansion.

D. Eligible Property Improvements. Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements, and related fixed improvements necessary to the operation and administration of the Facility. The property subject to this agreement may be located in the extraterritorial jurisdiction of the City of Killeen; in that event, this agreement applies to city taxes if the city annexes the property during the period specified herein.

E. Ineligible Property. The following types of property shall remain fully taxable and ineligible for Tax Abatement: land, inventory, supplies, tools, furnishings and other

forms of movable personal property, ~~housing~~, Deferred Maintenance, property to be rented or leased except as provided in Section III(F), ~~and~~ property which has a Productive Life of less than 10 years, ~~and~~. ~~Also ineligible is~~ property owned or leased by a member of the city's governing body or its planning and zoning commission.

- F. Owned/Leased Facilities. If a leased Commercial Facility is granted abatement, the agreement shall be executed with both the lessor and the lessee. A leased Residential Facility need only be signed by the lessor.

G. Standards for Tax Abatement.

1. Commercial Facility Minimum Standards – Objective Criteria. The City of Killeen will consider tax abatement only on eligible commercial or industrial facilities and property value which meet the following criteria:

- a. The project involves a minimum investment in taxable property value greater than or equal to ~~of~~ 300% of the Base Year Value for construction of a New Facility, or 50% for Expansion of an existing facility, for an overall new investment of at least ~~\$250,000~~ \$5,000,000 in taxable assets; and
- b. The project will create or retain a minimum of 10 jobs ~~which would not otherwise be created or retained~~ and 50% of the jobs created or retained must have a salary greater than or equal to 150% of the area median income.

2 Residential Facility Minimum Standards – Objective Criteria.

- a. The project involves a minimum investment in residential real property greater than 300% of the Base Year Value for New Facility construction or 50% for Modernization of an existing Facility of the Base Year Value.

23. Additional Standards for Evaluating Applicants – Subjective Criteria. The following factors, among others, shall be considered in determining the percentage of value to be abated and the duration of the Tax Abatement in accordance with the Schedule of Tax Abatement in Section III(J):

- a. whether the project makes a substantial contribution to redevelopment efforts, special area plans, or strategic economic development programs by enhancing either functional or visual characteristics, e.g., historical structures, traffic circulation, parking facades, materials, signs, etc.;
- b. whether the project has high visibility, image impact, or is of a significantly higher level of development quality;
- c. whether the project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, ~~ete~~etc.;

d. whether the project can serve as a prototype and catalyst for other development of a higher standard;

e. whether the project stimulates desired concentrations of employment or commercial activity;

- ef. whether the project generates greater employment than would otherwise be achieved, e.g., commercial/industrial versus residential or manufacturing versus warehousing;
- fg. value of land and existing improvements, if any;
- gh. type and value of proposed improvements;
- hi. productive life of proposed improvements;
- ij. amount of local payroll to be created;
- jk. whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdictions;
- kl. amount of local sales taxes to be generated directly;
- lm. amount that the property tax base valuation will be increased after the term of Abatement;
- mn. the costs to be incurred by the City of Killeen to provide facilities or services directly resulting from the new improvements;
- no. the amount of ad valorem taxes to be paid by the City of Killeen during the Abatement period considering (a) the existing values, (b) the percentage of new value abated, (c) the Abatement period, and (d) the projected property value after expiration of the Abatement period;
- op. the population growth of the City of Killeen that occurs directly as a result of new improvements;
- pq. the types of value of public improvements, if any, to be constructed and paid for by the applicant seeking Abatement;
- qr. the extent to which the proposed improvements compete with existing businesses;
- rs. the impact, whether positive or negative, on the business opportunities of existing businesses;
- st. the attraction of other new business in the area;
- u. the overall compatibility with the City of Killeen's zoning and subdivision regulations, and over-all comprehensive plan; and

tv. whether the project is environmentally compatible, with no appreciable negative impact on quality-of-life perceptions.

34. Each Eligible Facility shall be reviewed on its merits utilizing the applicable factors provided in Section III(G) above. After such review and full evaluation, abatement may be denied entirely or may be granted to the extent deemed appropriate in accordance with the Schedule of Tax Abatement in Section- III(-J).

H. Denial of Abatement. A tax abatement agreement shall be denied if it is determined that:

1. there would be a substantial adverse effect on the provision of government service or tax base;
2. the applicant has insufficient financial capacity to meet the requirements of the proposed abatement agreement;
3. planned or potential use of the property would constitute a hazard to public safety, health, or morals;
4. approval of an abatement agreement would violate State or Federal laws or regulations; or
5. there exists any other valid reason for denial deemed appropriate by the City Council of the City of Killeen.

I. Taxability. From the date of the execution of the Abatement Agreement period, taxes shall be payable as follows:

1. the value of ineligible property as provided in Section III(E) shall be fully taxable;
2. the base year value of existing eligible property as determined each year shall be fully taxable;
3. the additional value of new eligible property shall be taxed in the manner and for the period provided for in the Schedule of Tax Abatement in Section III(J); and
4. the additional value of new, eligible property shall be fully taxable at the end of the Abatement period. _____

J. Schedule of Tax Abatement. The term and percentage of tax abatement shall be determined by the sum of points earned in each of the following categories. ~~Applicant must receive points in both Category I and Category II in order to receive~~

~~K-J.~~ However, the parties may agree to a lesser time period or percentage of abatement than would otherwise be entitled under this point-factor analysis.

Commercial Facility

Category I. Objective Criterion - - Dollar Value of Improvements

\$5,000,000- \$10,000,000	3 points
\$10,000,000- \$15,000,000	6 points
\$15,000,000- \$30,000,000	9 points
>\$30 million	12 points

Category II. Objective Criterion – Number of Jobs Created or Retained (that would not otherwise be created or retained.)

10 – 30 jobs	3 points
31 – 50 jobs	6 points
51 – 100 jobs	9 points
>100 jobs	12 points

Category III. Subjective Criterion – Positive Impact on Community

No Significant Positive Impact	0 points
Desirable Positive Impact	3 points
Exceptional Positive Impact	6 points

Residential Facility

Category I. Objective Criterion – Value of Improvements

300% of base year value	6 points
500% of base year value	12 points
>500% of base year value	15 points

Category II. Subjective Criterion – Positive Impact on Community

No Significant Positive Impact	0 points
Desirable Positive Impact	10 points
Exceptional Positive Impact	15 points

SCHEDULE

Sum of Points	Years of Abatement	% Abatement
<6	-	-
6 – 9	≤3	30%
12 – 21	≤5	50%
21-30	≤10	100%

IV. APPLICATION

- A. Any present or potential owner of taxable property in Killeen, Texas, or its extraterritorial jurisdiction, may request tax abatement for Eligible Facilities by filing a written request with the City Manager of the City of Killeen. After processing the application, the City Manager, or his designee, shall make a recommendation to the City Council of the City of Killeen for final disposition.
- B. The application shall consist of:
 - 1. a completed application form which shall provide detailed information on the items described in Section III(G);
 - 2. a detailed site plan illustrating layout and design for structures, landscaping, signage, parking, and internal circulation along with a legal property description;
 - 3. a time schedule for undertaking and completing the planned improvements;
 - 4. in the case of Modernization, a statement of the assessed value of the facility, separately stated for real and personal property, for the tax year immediately preceding the application; and
 - 5. such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.

V. AGREEMENT

- A. The City of Killeen, no more than 90 days after receipt of the completed application, shall by Resolution either approve or disapprove a Tax Abatement Agreement at a regularly scheduled meeting of the City Council. The City of Killeen shall notify the applicant in writing of approval or disapproval.
- B. The City of Killeen shall give notice as provided by the Texas Tax Code, i.e., written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located, no later than the seventh day before the execution of a Tax Abatement Agreement.
- C. The City of Killeen shall provide public notice (as required by Chapter 551, Texas Government Code) at least 30 days before the scheduled time of a meeting regarding the approval of a Tax Abatement Agreement. The public notice shall contain:
 - 1. the name of the property owner and the name of the applicant who would be party to the agreement;
 - 2. the name and location of the reinvestment zone in which the property subject to the agreement is located;

3. a general description of the nature of the improvements or repairs included in the agreement; and
 4. the estimated cost of the improvements or repairs.
- D. A Tax Abatement Agreement shall include, but not be limited to:
1. a list of the kind, number, and location of all proposed improvements on the property;
 2. a time schedule for undertaking and completing the planned improvements;
 3. a description of the proposed use of the Facility;
 4. a detailed site plan illustrating layout and design for structures, landscaping, signage, parking, and internal circulation along with a legal property description of the Facility;
 5. the estimated value of eligible property and the base year value of the Facility;
 6. the percent of value to be abated each year as provided in Section III(J);
 7. the commencement date and the termination date of abatement;
 8. a limitation on the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax abatement is in effect;
 9. an estimate of the number of jobs to be created or retained over the abatement period;
 10. provision for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement, as provided in Section VI;
 11. provisions for administration as provided in Section VII, including a provision for access to and inspection of the property by City employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreement; and
 12. provisions for assignment of the tax abatement, as provided in Section VIII;
- E. Nothing contained within these Guidelines and Criteria shall preclude the City Council from entering into a tax abatement/economic incentive agreement that takes full

advantage of the flexibility contained in the Texas Local Government Code, Government Code, or Tax Code, as amended.

VI. RECAPTURE

- A. In the event that the Facility is completed and begins producing products or service but subsequently discontinues producing products or service for any reason except fire, explosion, or other casualty or accident or natural disaster for a period of six months during the abatement period, then the Agreement shall terminate and so shall the Abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year and all taxes previously abated by virtue of this agreement will be reconstructed and shall be paid to the City within sixty days from the date of termination.
- B. Should the City determine that the Owner is in default according to the terms and conditions of its Agreement, the City shall notify the Owner in writing at the address stated in the Agreement and if such default is not cured within sixty days from the date of such notice ("Cure Period"), then the Agreement may be terminated.
- C. In the event that the Owner (1) allows its *ad valorem* taxes owed to the City become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest, or (2) violates any of the terms and conditions of the Abatement Agreement and fails to cure during the Cure Period, the agreement then may be terminated and all taxes previously abated by virtue of the Agreement will be recaptured and paid within sixty days of the termination.
- D. Any amount to be recaptured under this section shall be a lien on all real property subject to the Agreement.

VII. ADMINISTRATION

- A. The Chief Appraiser of the Bell County Appraisal District will annually determine an assessment of the real and personal property composing a reinvestment zone designated by the City. Each year, the Owner receiving tax abatement shall furnish the Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser will notify the City of Killeen of the amount of the assessment.
- B. The Abatement Agreement shall stipulate that employees and/or designated representatives of the City of Killeen will have access to the property during the term of the Abatement to inspect the Eligible Facility to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after giving twenty-four hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one or more representatives of the Owner and in accordance with its safety standards.

- C. Upon completion of construction, the designated representative of the City of Killeen shall annually evaluate each Facility receiving Abatement to ensure compliance with the Agreement, and a formal report shall then be made to the City Council of Killeen regarding the findings of the evaluation.

VIII. ASSIGNMENT

Abatement may be transferred and assigned by the current owner to a new owner of the same Facility upon the approval by resolution of the City of Killeen, subject to the financial capacity of the assignee and provided that all conditions and obligations in the Abatement Agreement are guaranteed by the execution of a new Agreement with the City of Killeen. No assignment or transfer shall be approved if the current owner, the new owner, or the new lessee is liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

IX. SUNSET PROVISION

Pursuant to Tax Code Section § 312.002(C), these guidelines and Criteria are effective upon the date of their adoption and will remain in force for two years, unless amended by three-quarters vote of the City Council of the City of Killeen, at which time all Reinvestment Zones or Enterprise Zones and Tax Abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria may be modified, renewed, or eliminated.

Date Adopted:_____

Res. No.:_____