

# **GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENT WITHIN THE CITY OF ANSON, TEXAS**

## **SECTION I. General Purpose:**

The City of Anson is committed to the promotion of development and to an ongoing improvement in the quality of life for the citizens residing within the City. The City recognizes that these objectives are generally served by enhancement and expansion of the local economy. The City will, on a case by case basis, give consideration to providing tax abatement, as authorized by V.T.C.A., Tax Code, Chapter 312, as stimulation for economic development within the City. It is the policy of the City that said consideration will be provided in accordance with the guidelines and criteria herein set forth and in conformity with the Tax Code.

Nothing contained herein shall imply, suggest or be understood to mean that the City is under any obligation to provide tax abatement to any applicant and attention is called to V.T.C.A., Tax Code, Section 312.002(d). With the above rights reserved all applications for tax abatement will be considered on a case by case basis.

## **SECTION II. Definitions:**

As used within these guidelines and criteria, the following words or phrases shall have the following meaning:

1. **Abatement of Taxes:** To exempt from ad valorem taxation all or part of the value of certain Improvements placed on land located in a reinvestment zone designated for economic development purposes as of the date of execution of the Tax Abatement Agreement for a period of time not to exceed ten (10) years.
2. **Abatement Agreement:** (1) A contract between a property owner and the City for the abatement of taxes on qualified property located within the reinvestment zone;
3. **Base Year Value:** The assessed value of property eligible for tax abatement as of January 1 preceding the execution of an Abatement Agreement as herein defined.
4. **CITY:** the City of Anson, Texas
5. **Expansion of Existing Facilities or Structures:** The addition of buildings, structures, machinery or equipment to a Facility after the date of execution of an Abatement Agreement.
6. **Existing Facility or Structure:** A facility as of the date of execution of the Tax Abatement Agreement, located in or on Real Property eligible for tax abatement.
7. **Facility:** The improvements made to Real Property eligible for tax abatement and including the building or structure erected on such Real Property and/or any Tangible

Personal Property to be located in or on such property. Such may be a Residential Facility.

8. **Residential Facility:** A Facility that is used primarily for housing individuals to be used as a residence and/or a Facility built to be leased out to individuals so the owner may earn passive income.
9. **Improvements to Real Property or Improvements:** Shall mean the construction, addition to, structural upgrading of, replacement of, or completion of any facility located upon, or to be located upon, Real Property, as herein defined, or any Tangible Personal Property placed in or on said Real Property. This shall include the construction, addition to, structural upgrading of, replacement of, or completion of any Residential Facility.
10. **Modernization of Existing Facilities:** The replacement or upgrading of existing facilities. This shall include the replacement or addition to or upgrading of existing Residential Facility(ies).
11. **New Facility:** The construction of a Facility on previously undeveloped real property eligible for tax abatement.
12. **Owner:** The record title owner of Real Property or the legal owner of Tangible Personal Property.
13. **Productive Life:** The number of years a Facility is expected to be in service.
14. **Real Property:** Land on which Improvements are to be made or fixtures placed.
15. **Reinvestment Zone:** Real Property designated as a Reinvestment Zone under the provisions of V.T.C.A., Tax Code, Section 312.202.
16. **Tangible Personal Property:** Any Personal Property, not otherwise defined herein and which is necessary for the proper operation of any type of Facility.

### **SECTION III. Intent of Criteria and Guidelines:**

The Intent of the criteria and guidelines, as herein set forth, is to establish the minimum standards which an applicant for tax abatement must meet in order to be considered for such status by the City.

### **SECTION IV. Criteria and Guidelines for Tax Abatement:**

1. Any type of Facility, other than a Residential Facility, will be eligible for tax abatement consideration provided such Facility meets all the following guidelines and criteria:

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- a. To qualify for Tax Abatement, the owner must modernize or expand an existing facility or construct a new facility.
- b. To be considered the Facility must meet **one** of the following criteria:
  - i. One of the following target industries:
    - A. Value-added Agricultural Production including Food Processing and Machinery
    - B. Warehouse Distribution
    - C. Retail Merchandising
    - D. Professional and Amateur Sports
    - E. Tourism
    - F. Hospitality
    - G. Medical & Health Care
    - H. Manufacturing
  - ii. The project is not included as a target industry, but in the City has the potential of generating additional significant economic development opportunities in the City.
  - iii. The company must meet one of the following criteria:
    - a) The project will add at least \$250,000 in real estate assessed valuation in the City, or \$500,000 of personal property assessed valuation, or 10 new permanent jobs if the facility is a new company to Anson.
    - b) The project will add at least \$150,000 in real estate assessed valuation, or \$500,000 in personal property assessed valuation, or 5 new permanent jobs if the facility is a modernization or expansion of an existing company that has operated in Anson for five or more years.
- c. The Facility must meet **one** of the following criteria:
  - i. The project will add at least \$100,000 in real estate assessed valuation, or \$250,000 of personal property assessed valuation, or 5 new permanent jobs if the company is new to the City.

- ii. The project will add at least \$75,000 in real estate assessed valuation, or \$150,000 in personal property assessed valuation if the facility is a modernization or expansion of an existing company that has operated in the City for five or more years.
- d. Notwithstanding any of the requirements set forth in part (c) immediately above, the City Council upon the affirmative vote of three-fourths (3/4) of its members may vary any of the above requirements when it is demonstrated by the applicant for Tax Abatement that variation is in the best interest of the City and will enhance the economic development of the City.
- e. New or existing facilities, of any type herein defined, located in a reinvestment zone or upon Real Property eligible for such status will be eligible for consideration for tax abatement status provided that all other criteria and guidelines are satisfied.

2. Any type of Residential Facility, will be eligible for tax abatement consideration provided such Residential Facility meets all the following guidelines and criteria:

- a. To qualify for Tax Abatement, the owner must construct a new residential facility.
- b. The Residential Facility must meet the following criteria:
  - i. The project will add at least \$ 50,000 in real estate assessed valuation, excluding the value of Real Property.

3. Any Improvements to Real Property or Modernization of Existing Facilities that pertains to only a Residential Facility will be eligible for tax abatement consideration provided such improvements or modernization to such Residential Facility will add at least \$20,000 in real estate assessed valuation in the City.

4. The following types of Property shall be ineligible for tax abatement status and shall be fully taxed.

- a. Real Property;
- b. inventories or supplies;
- c. tools;
- d. furnishings and other forms of movable personal property;
- e. vehicles;
- f. aircraft;

- e. housing (except Residential Facilities as allowed herein);
- f. boats;
- g. hotel accommodations;
- h. motel accommodations;
- i. property owned by the State of Texas or any State agency; and,

5. In reinvestment zones, the amount and term of abatement shall be determined on a case by case basis, however, in no event shall taxes be abated for a term in excess of ten (10) years. The amount of the taxable value of Improvements to be abated and the term of the abatement shall be determined by the City.

6. Taxability:

- a) The portion of the value of Improvements to be abated shall be abated in accordance with the terms and provisions of a Tax Abatement Agreement executed between the City and the owner of the Real Property and/or Tangible Personal Property, (which agreement shall be) in accord with the provisions of V.T.C.A., Tax Code, Section 312.205.

7. The city council shall have total discretion as to whether tax abatement is to be granted. Such discretion, as herein retained, shall be exercised on a case by case basis. The adoption of these guidelines and criteria by the city council does not:

- a) Limit the discretion of the city council to decide whether to enter into a specific tax abatement agreement;
- b) Limit the discretion of the city council to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or,
- c) Create any property, contract, or other legal right in any person to have the city council consider or grant a specific application or request for tax abatement.

8. The burden to demonstrate that an application for tax abatement should be granted shall be upon the applicant. The City shall have full authority to request any additional information from the applicant that the city council deems necessary to assist it in considering such application.

## **SECTION V. Reinvestment Zone:**

No Property shall be eligible for tax abatement unless such property is located in a reinvestment zone designated as such in accordance with V.T.C.A., Tax Code, Section 312.202. In the case of lessees the leaseholder must have a commitment of at least five (5) years.

## **SECTION VI. Tax Abatement Agreement:**

1. A Tax Abatement Agreement shall:
  - a) Establish and set forth the Base Year assessed value of the property for which tax abatement is sought.
  - b) Provide that the taxes paid on the base year assessed value shall not be abated as a result of the execution of said Tax Abatement Agreement.
  - c) Provide that ineligible property as subscribed in Section IV, Subsection 3, hereinabove shall be fully taxed.
  - d) Provide for the exemption of Improvements in each year covered by the agreement only to the extent the value of such Improvements for each such year exceeds the value for the year in which the agreement is executed.
  - e) Fully describe and list the kind, number and location of all of the improvements to be made in or on the Real Property.
  - f) Set forth the estimated value of all improvements to be made in or on the Real Property.
  - g) Clearly provide that tax abatement shall be granted only to the extent:
    1. The Improvements to Real Property, whether a Residential Facility or not, increase the value of the Real Property for the year in which the Tax Abatement Agreement is executed; and,
    2. That the Tangible Personal Property improvements to Real Property were not located on the Real Property prior to the execution of the Tax Abatement Agreement.
  - h) Provide for the portion of the value of the improvements to Real Property or improvements to be abated. This determination is to be made consistent with the provisions of Section IV, of these guidelines and criteria as hereinabove set forth.
  - i) Provide for the commencement date and the termination date. In no event shall said dates exceed a period of ten years.
  - j) Describe the type and proposed use of the improvements to Real Property or improvements including:

1. The type of facility.
2. Whether the improvements are for a new facility, modernization of a facility, or expansion of a facility.
3. The nature of the construction, proposed time table of completion, a map or drawings of the improvements above mentioned.
4. The amount of investment and the commitment for the creation of new jobs, if applicable.
5. A list containing the kind, number and location of all proposed Improvements.
6. Any other information required by the City.

k) Provide a legal description of the Real Property upon which improvements are to be made.

l) Provide access to and authorize inspection of the Real Property or improvements by employees of the City to insure improvements are made according to the specifications and conditions of the Tax Abatement Agreement.

m) Provide for the limitation of the uses of the Real Property or improvements consistent with the general purpose of encouraging development or redevelopment of the zone during the period covered by the Tax Abatement Agreement.

n) Provide the contractual obligations in the event of default by owner, violation of the terms or conditions by owner, recapturing property tax revenue in the event owner defaults or otherwise fails to make improvements as provided in said Tax Abatement Agreement, and any other provision as may be required or authorized by State Law.

o) Contain each term agreed to by the owner of the property.

p) Require the owner of the property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement.

q) Provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

## **SECTION VII. Application:**

1. Any present owner or lessee of taxable property located within the City may apply for tax abatement by filing an application with the City.
2. The application shall consist of a completed application form accompanied by:
  - a) A general description of the improvements to be undertaken.
  - b) A descriptive list of the improvements for which tax abatement is requested.
  - c) A list of the kind, number and location of all proposed improvements of the Real Property Facility, or Existing Facility.
  - d) A map indicating the approximate location of improvements on the Real Property Facility or Existing Facility together with the location of any or all Existing Facilities located on the Real Property or Facility.
  - e) A list of any and all Tangible Personal Property presently existing on the Real Property or located in an existing facility.
  - f) A proposed time schedule for undertaking and completing the proposed improvements.
  - g) A general description stating whether the proposed improvements are in connection with:
    1. the modernization of a facility (of any type herein defined); or,
    2. construction of a new facility (of any type herein defined); or,
    3. expansion of a facility (of any type herein defined); or,
    4. any combination of the above.
  - h) A statement of the additional value to the Real Property or Facility as a result of the proposed improvements.
  - i) A statement of the assessed value of the Real Property, Facility or Existing Facility for the Base Year.
  - j) Information concerning the number of new jobs that will be created or information concerning the number of existing jobs to be retained as result of the improvements undertaken.
  - k) Any other information which the City appropriate for evaluating the financial capacity of the applicant and compatibility of the proposed improvements with these guidelines and criteria.
  - l) Information that is provided to the City in connection with an application or request for tax abatement and which describes the specific processes or business

activity to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the Tax Abatement Agreement is executed. Information in the custody of an Affected Jurisdiction after the agreement is executed is not confidential. (V.T.C.A., Tax Code, Section 312.003).

- m) The City shall determine if the property described in said application is within a designated reinvestment zone. If the City determines that the property described is not within a current reinvestment zone then they shall so notify the applicant and said application shall then be considered both as an application for the creation of a reinvestment zone and a request for tax abatement to be effective after the zone is created.

## **SECTION VIII. Recapture:**

1. In the event that any type of facility subject to a tax abatement agreement is completed and begins producing goods or services, but subsequently discontinues producing goods or services for any reason, excepting fire, explosion or other casualty or accident or natural disaster or other event beyond the reasonable control of applicant or owner for a period of 180 days during the term of a tax abatement agreement, then in such event the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination. The burden shall be upon the applicant or owner to prove to the satisfaction of the City that the discontinuance of producing goods or services was as a result of fire, explosion, or other casualty or accident or natural disaster or other event beyond the control of applicant or owner. In the event that applicant or owner meets this burden and the City is satisfied that the discontinuance of the production of goods or services was the result of events beyond the control of the applicant or owner, then such applicant or owner shall have a period of one year in which to resume the production of goods and services. In the event that the applicant or owner fails to resume the production of goods or services within one year, then the Tax Abatement Agreement shall terminate and the Abatement of all taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination. The one year time period, hereinabove mentioned, shall commence upon written notification from the City to the applicant or owner.
2. In the event that the applicant or owner has entered into a tax abatement agreement to make improvements to a facility subject to a tax abatement agreement, but fails to undertake or complete such improvements, then in such event the City to whom the application for tax abatement was directed shall give the applicant or owner sixty (60) days notice of such failure. The applicant or owner shall demonstrate to the

satisfaction of the City, that the applicant or owner has commenced to cure such failure within the sixty (60) days above mentioned. In the event that the applicant or owner fails to demonstrate that he is taking affirmative action to cure his failure, then in such event the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to each Affected Jurisdiction within sixty (60) days of the date of termination.

3. In the event that the City determines that the applicant or owner is in default of any of the terms or conditions contained in the Tax Abatement Agreement, then in such event the City, shall give the applicant or owner sixty (60) days written notice to cure such default. In the event such default is not cured to the satisfaction of the City within the sixty (60) days notice period, then the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination.
4. In the event that the applicant or owner allows ad valorem taxes on property ineligible for tax abatement owed to the City, to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, then in such even the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination, under this subparagraph, takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination.
5. In the event that the applicant or owner, who has executed a tax abatement agreement with the City relocates the business for which tax abatement has been granted, to a location outside of the designated reinvestment zone, then in such event, the Tax Abatement Agreement shall terminate after sixty (60) days written notice by the City to the Owner/Applicant. Taxes abated during the calendar year in which termination, under this subparagraph takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination.
6. The date of termination as that term is used in this Subsection VIII shall, in every instance, be the 60th day after the day the City sends notice of default, in the mail to the address shown in the Tax Abatement Agreement to the Applicant or Owner. Should the default be cured by the owner or Applicant within the sixty (60) day notice period, the Owner/Applicant shall be responsible for so advising the City and

obtaining a release from the notice of default from the City, failing in which, the abatement remains terminated and the abated taxes must be paid.

7. In every case of termination set forth in Subparagraphs 1, 2, 3, 4 and 5 above, the City shall determine whether default has occurred by Owner (Applicant) in the terms and conditions of the Tax Abatement Agreement and shall notify other Affected Jurisdictions, if any.
8. In the event that a tax abatement agreement is terminated for any reason what so ever and taxes are not paid within the time period herein specified, then in such event, the provisions of V.T.C.A., Tax Code, Section 33.01 will apply.

## **SECTION IX. Miscellaneous:**

1. Any notice required to be given by these criteria or guidelines shall be given in the following manner:
  - a) To the owner or applicant: written notice shall be sent to the address appearing on the Tax Abatement Agreement.
  - b) To the City: written notice shall be sent to the address appearing on the Tax Abatement Agreement.
2. The Chief Appraiser of the Appraisal District of Jones County shall annually assess the Real and Personal Property comprising the reinvestment zone. Each year, the applicant or owner receiving tax abatement shall furnish the Chief Appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the City of the amount of assessment.
3. Upon the completion of improvements made to any type of Facility subject to a tax abatement agreement a designated employee or employees of the City shall have access to the Facility to insure compliance with the Tax Abatement Agreement.
4. A tax abatement agreement may be assigned to a new owner but only after written consent has been obtained from the City.
5. These guidelines and criteria are effective upon the date of their adoption by the City and shall remain in force for two years. At the end of the two year period these guidelines and criteria may be readopted, modified, amended or rewritten as the conditions may warrant.
6. In the event of a conflict between these guidelines and criteria and V.T.C.A., Tax Code, Chapter 312, then in such event the Tax Code shall prevail and these guidelines and criteria interpreted accordingly.

7. The guidelines and criteria once adopted by the City may be amended or repealed by a vote of three-fourths of the members of the governing body of an Affected Jurisdiction during the two year term in which these guidelines and criteria are effective.

**SUCH GUIDELINES AND CRITERIA WERE APPROVED MAY 14, 2018, AT CITY COUNCIL MEETING FOR THE CITY OF ANSON.**