

RESOLUTION NO. 1261

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, ADOPTING A COMPREHENSIVE POLICY OF GUIDELINES AND CRITERIA FOR GOVERNING ECONOMIC DEVELOPMENT INCENTIVES, PARTICULARLY TAX ABATEMENT AGREEMENTS, WITHIN THE CITY OF WAXAHACHIE AND ITS EXTRATERRITORIAL JURISDICTION

WHEREAS, the City Council desires to promote economic development within Waxahachie; and

WHEREAS, the provision of certain economic development incentives may encourage prospective businesses and companies to locate in Waxahachie or existing businesses and companies to expand; and

WHEREAS, the establishment of specific guidelines, criteria, and procedures are necessary to insure that tax abatement incentives are given and administered effectively; and

WHEREAS, the adoption of guidelines and criteria are required by State law before an area may be established as a reinvestment zone;

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

Section 1. That the City of Waxahachie hereby establishes certain guidelines and criteria governing economic development incentives, including tax abatement agreements, within the City of Waxahachie and its extraterritorial jurisdiction attached as "Exhibit A", and such guidelines and criteria shall expressly govern all subsequent tax abatement agreements.

Section 2. That an ECONOMIC DEVELOPMENT COMMISSION has been established by ordinance of the City of Waxahachie and charged with the duty of reviewing all applications for tax abatement, making recommendations to the City Council, concerning such applications, and initiating amendments to these guidelines and criteria.

Section 3. That such guidelines and criteria shall be effective for two (2) years from January 22, 2019 and may only be amended or repealed by a three-fourths vote of the City Council.

PASSED AND APPROVED this 22nd day of January, 2019.




MAYOR

ATTEST:


City Secretary

CITY OF WAXAHACHIE, TEXAS

POLICY ON ECONOMIC DEVELOPMENT INCENTIVES

I. PURPOSE AND OBJECTIVE

The City of Waxahachie is committed to the promotion of quality development in all parts of the city; and to an ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City of Waxahachie will, on a case-by-case basis, give consideration to providing incentives as a stimulation for economic development in Waxahachie. It is the policy of the City of Waxahachie that said consideration will be provided in accordance with the procedures and criteria outlined in this document. However, nothing herein shall imply or suggest that the City of Waxahachie or any other taxing entity is under obligation to provide any incentive to any applicant. All applicants shall be considered on a case-by-case basis.

II. DEFINITIONS

- (a) **Agreement** means a contractual agreement between a property owner, a lessee (if applicable) and the City of Waxahachie for the purposes of tax abatement.
- (b) **Applicant** means one or more owners and, where applicable, lessees of property who request tax abatement in accordance with these guidelines. For example, when real property for which abatement is requested is to be leased to a lessee who will be employing persons at the property, both the owner and the lessee are collectively the applicant.
- (c) **Eligible Property** means all property eligible for tax abatement under the Property Redevelopment and Tax Abatement Act, including real property located within a Reinvestment and/or Enterprise Zone and tangible personal property which is located within a Reinvestment Zone and/or Enterprise Zone after the effective date of a tax abatement agreement.
- (d) **Permanent Employee** means an employee who is employed by the applicant to work at least 1,820 or more hours per year.
- (e) **Property Redevelopment and Tax Abatement Act** means such act as codified as Chapter 312 of V.T.C.A., Tax Code.
- (f) **Reinvestment Zone** means an area designated in accordance with the Property Redevelopment and Tax Abatement Act by the City of Waxahachie.

III. CRITERIA FOR ECONOMIC DEVELOPMENT INCENTIVES

The following minimum criteria may be used for consideration of any tax abatement incentives:

- (1) The proposed development, redevelopment, expansion and/or modernization must add or retain at least ten (10) full time employees. If the project involves leased facilities, then either the owner or lessee must meet the job commitment.
- (2) An investment of at least \$2,000,000.00 in new property improvements as assessed on property tax

roll is required, and the economic life of the facility or improvements must exceed the abatement period.

- (3) The project meets all relevant zoning requirements.

In addition to the minimum requirements stated above, the following subjective criteria shall be considered prior to granting any economic development incentive:

- (4) Is the project consistent with the comprehensive plan of the City of Waxahachie?
- (5) What types and cost of public improvements and services (water and sewer main extension, streets and alleys, etc.) will be required of the City? What types and values of public improvements, if any, will be made by the applicant? How will this project affect the Waxahachie Independent School District and Ellis County?
- (6) Notwithstanding any other provision of this policy document, the exemption of real and tangible personal property can be considered for tax abatement only to the extent that its new value exceeds the value for the year in which the agreement is executed. As an example, if existing real property is valued at \$2 million and the personal property is valued at \$3 million, then all improvements (excepting inventory and supplies) over \$5 million could be considered for tax abatement purposes.

IV. TYPES OF INCENTIVES

It is the intent of the City of Waxahachie to customize the offering of economic development incentives on a case-by-case basis. This individualized design of a total incentive package is intended to allow maximum flexibility in addressing the unique concerns of each applicant while enabling the City to better respond to the changing needs of the community.

The criteria outlined in Section III above will be used to determine whether it is in the best interest of the City of Waxahachie to provide any economic development incentives to a particular applicant. The degree to which the specified project furthers the goals and objectives of the City of Waxahachie and the relative impact of the specified project will be used to determine the total value of the incentives provided. As a general rule, no tax abatement will be provided to any applicant in an amount exceeding the value of the following:

- (a) Where the increased value of the eligible improvements exceeds \$2,000,000 over the value in the year in which the agreement is executed, the amount of the tax abatement shall not exceed sixty percent (60%) of the taxes assessed and such abatement shall not exceed a term of seven (7) years.
- (b) Where the increased value of the eligible "new business" improvements exceed \$50,000,000 over the value in the year in which the agreement is executed, the amount of the tax abatement may be 100% of the taxes assessed for said eligible improvements for a maximum of two years to allow for construction in progress. To receive a maximum two year, 100% abatement, construction must extend through January 1st of two consecutive years. Tax abatements granted during construction in progress are in addition to any long-term abatements granted.

V. APPLICATION PROCEDURES

Any person, partnership, organization, corporation, or other entity desiring that the City of Waxahachie consider providing tax abatement incentives to encourage location or expanded operations within the city limits or the extraterritorial jurisdiction of Waxahachie shall be required to comply with the following application procedures.

However, nothing within these guidelines shall imply or suggest that the City is under any obligation to provide any incentive to any applicant.

Applicant shall file an application form as required by the City Manager, which shall include at least the following information:

- (1) A plat showing the precise location of the property and present zoning, all roadways within 300 feet of the site, and all existing zoning and land uses within 300 feet of the site.
- (2) If the property is described by metes and bounds, a complete legal description shall be provided.
- (3) A brief description of the proposed improvements or expansion and its projected costs; the type of business operation proposed; the number and type of jobs created, including information pertaining to anticipated job transfers, the projected date of operation; and the type and value of any economic development incentives requested. Applicant must address issues in Section II (Criteria) of the Policy Statement in letter format.
- (4) The applicant shall provide any other information about the proposed project as may be required by the City.
- (5) The owner/proponent shall file a separate application with the County. The County may approve the same tax abatement agreement as the City or it may develop its own agreement. The County may request additional information from that submitted to the City.
- (6) An application must be on file with the City of Waxahachie and approved by the Waxahachie Economic Development Commission prior to any construction, equipment purchase, or land purchase, for said property to be considered for tax abatement purposes.

Once the application has been received, the information submitted will be reviewed by the City Manager for completeness and accuracy. The City Manager will then distribute the application to the appropriate departments for internal review and comments. Following staff review, copies of the complete application package and staff comments will be provided to the City Council. The Economic Development Commission will meet to discuss the proposal at a work session prior to making a formal recommendation to the City Council.

At a subsequent regular City Council meeting, the application for any economic development incentive may be considered. If any incentives include tax abatement, then certain public notice and hearings are required as mandated by State law under the Property Redevelopment and Tax Abatement Act and must be followed for the designation of a reinvestment zone and execution of a tax abatement agreement. Prior to final approval, all legal documents to effect such reinvestment zone(s) and tax abatement agreements shall be drafted and approved by the City Attorney.

Should the City Council determine that it is in the best interest of the City of Waxahachie to provide tax abatement incentives to a particular applicant, a resolution shall be adopted declaring that under the guidelines and criteria established herein, the application is eligible for tax abatement incentives and that the Mayor is authorized to execute a contract with the application enumerating the type of incentives and governing the conditions applicable to them. Any agreement so adopted must include at least the following specific items.

- (1) Description of the type of incentive to be provided and its duration.
- (2) Legal description of the property to be designated as a reinvestment zone.
- (3) Detailed information regarding the type, number, location, and costs of planned improvements.

- (4) A statement that actual construction of improvements will begin no more than twelve (12) months from the date tax abatement is approved. In the event of non-compliance with this provision, the application shall be null and void with the right to reapply.
- (5) A statement granting the access to and inspection of the property and proposed improvements by City inspectors and officials to ensure that the improvements or repairs are made according to specifications and conditions of the agreements.
- (6) A statement limiting the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and
- (7) A statement providing for the recapturing of 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.

The agreement will provide for the recapture of all or a portion of property tax revenue lost as a result of the agreement if the owner of the property fails to create all or a portion of the number of new jobs provided by the agreement, if the appraised value of the property subject to the agreement does not attain a value specified in the agreement, or if the owner fails to meet any other performance criteria provided by the agreement, and payment of a penalty or interest, or both, on that recaptured property tax revenue

If a leased facility is granted tax abatement, the agreement shall be executed with the City, the lessor, and the lessee.

In addition, Section 2264.051 of the Texas Government Code requires the City to provide within the tax abatement application a statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker. Further, the tax abatement agreement will contain a provision specifying the rate and terms of the payment of interest should the business be convicted of knowingly employing an undocumented worker, in violation of 8 U.S.C. Section 1324a(f).

VI. COMPLIANCE AUDITS, REVIEWS AND INSPECTIONS

The City shall have the right to conduct reviews, audits and inspections to evaluate the applicant's performance and compliance with the terms of the tax abatement agreement after the abatement is granted. The City shall also have the right to conduct review, audits and inspections during the application process to verify information in the application and assess project feasibility and benefit. The applicant must agree to provide to the City requested information promptly after request by the City for purposes of these reviews and audits, and agree to give the City the right to inspect the applicant's operations at reasonable times.

VII. AMENDMENTS TO THESE GUIDELINES AND CRITERIA

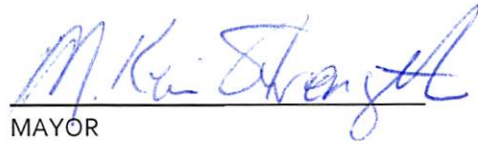
The guidelines and criteria adopted herein shall not be amended except by three-fourth (3/4ths) vote of the City Council. Amendments to these guidelines and criteria must be initiated by resolution approved by two-thirds (2/3rds) of the voting members of the Economic Development Commission and thereafter submitted to the City Council.

VIII. EFFECTIVE DATE

These guidelines and criteria adopted herein shall be effective for two (2) years from January 22, 2019, unless

otherwise repealed in their entirety by a majority vote of the City Council.

PASSED and APPROVED this 22nd day of January, 2019.


MAYOR

ATTEST:

CITY SECRETARY

