

**RESOLUTION NO. 20-90**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREENVILLE, TEXAS, AMENDING GUIDELINES AND CRITERIA FOR REINVESTMENT ZONES FOR PURPOSES OF TAX ABATEMENT; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, the Guidelines and Criteria for Tax Abatement in a Reinvestment Zone created in Hunt County ("Guidelines") requires a biennial review of the Guidelines in accordance with standards therein contained; and

**WHEREAS**, the guidelines and criteria for reinvestment zones and tax abatement have been reviewed; and

**WHEREAS**, after review, it is recommended that:

1. The Guidelines and Criteria adopted on August 27, 2019 be amended to correct certain typographical errors by replacing "Hunt County" with "Greenville, Texas" as presented in Exhibit "A" attached hereto; and

**WHEREAS**, a reinvestment zone has been created and a tax abatement contract has been made pursuant to the Guidelines; and

**WHEREAS**, the City Council of the City of Greenville, Texas, desires to amend the guidelines for tax abatement and reinvestment zones for the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE, TEXAS, THAT:**

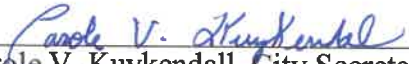
**SECTION 1.** The City Council believes that the Guidelines should be affirmed and adopted. The guidelines and criteria set forth in Exhibit "A" are hereby amended and adopted and shall continue in full force and effect for a period not to exceed two (2) years subject to any future amendments as may be lawfully authorized by the City Council.

**SECTION 2.** This Resolution shall be in full force and effect immediately upon its passage and approval.


**PASSED AND APPROVED** this the 17<sup>th</sup> day of November 2020.

  
David L. Dreiling, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Carole V. Kuykendall, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Daniel W. Ray, City Attorney

## **EXHIBIT “A”**

### **GUIDELINES AND CRITERIA FOR TAX ABATEMENT IN A REINVESTMENT ZONE CREATED IN GREENVILLE, TEXAS**

#### **SECTION 1. Definitions.**

- (a) “Abatement” means the full or partial exemption from ad valorem taxes of certain real property and personal property in a reinvestment zone designated by an affected jurisdiction for economic development purposes.
- (b) “Affected Jurisdiction” means Greenville, Texas and any municipality or school district, the majority of which is located in Greenville, Texas, that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone designated by Greenville, Texas.
- (c) “Agreement” means a contractual agreement between a property owner and/or lessee and an affected jurisdiction for the purposes of tax abatement.
- (d) “Base Year Value” means the assessed value of eligible property January 1 preceding the execution of the agreement, plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.
- (e) “Deferred Maintenance” means buildings and structures, including machinery and equipment, used or to be used primarily to receive, store, service, or distribute goods or materials owned by the facility operator, where a majority of the goods or services are distributed to points at least 50 miles from its location in Greenville, Texas.
- (g) “Expansion” means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.
- (h) “Facility” means property improvements completed or in the process of construction which together compromise an integral whole.
- (i) “Fixed Machinery and Equipment” or “Fixed Machinery or Equipment” means heavy, non-mobile machinery and/or equipment that cannot be removed without injuring a building or structure and does not include movable machinery and equipment.
- (j) “Manufacturing Facility” means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.

- (k) “Modernization” means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- (l) “New Facility” means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- (m) “Other Basic Industry” means buildings and structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services which serve a market primarily outside of Greenville, Texas and result in the creation of new permanent jobs and create new wealth in Greenville, Texas.
- (n) “Productive Life” means the number of years a property improvement is expected to be in service.
- (o) “Regional Entertainment Facility” means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of users reside at least 50 miles from its location in Greenville, Texas.
- (p) “Research Facility” means buildings and structures, including machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- (q) “Regional Service Facility” means buildings and structures, including machinery and equipment, used or to be used to service goods where a majority of the goods being serviced originate at least 50 miles from the facility's location in Greenville, Texas.
- (r) “Value of Property” means the assessed value of eligible property for purposes of ad valorem taxation.

## **SECTION 2. Abatement Authorized.**

- (a) **Authorized Facility.** A facility may be eligible for abatement if it is a Manufacturing Facility, Research Facility, Distribution Center or Regional Service Facility, Regional Entertainment Facility, or Other Basic Industry.
- (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 affected jurisdiction and the property owner or lessee, subject to such limitations as the governing body of the affected jurisdiction may require.

- (c) **New and Existing Facilities.** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- (d) **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, aircraft, and site improvements, plus that office space and related fixed improvements necessary to the operation and administration of the facility.
- (e) **Ineligible Property.** The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; personal property not defined as eligible property; tools; furnishings and other forms of light movable equipment and machinery; vehicles; vessels; homing; hotel accommodations; retail facilities; deferred maintenance investments; property to be rented or leased, except as provided in Section 2(f); property, owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.
- (f) **Owned/Leased Facilities.** If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee. Publicly owned land leased to private entities shall be eligible if otherwise qualified.
- (g) **Value and Term of Abatement.**
  - (1) *For new facilities.* Abatement shall be granted effective with the January 1st valuation date immediately following the date of execution of the agreement. Up to one hundred percent (100%) of the value of new eligible properties may be abated for up to seven (7) years. The abatement may be extended through an initial agreement and a subsequent agreement as may be required to comply with State law regarding the term of a reinvestment zone.
  - (2) *For modernization or expansion.* Abatement shall be granted effective with the January 1st valuation date immediately following the date of execution of the agreement. Up to one hundred percent (100%) of the value of new eligible properties may be abated for up to five (5) years. The abatement may be extended through an initial agreement and a subsequent agreement as may be required to comply with State law regarding the term of a reinvestment zone.

(a) If a modernization project includes facilities replacement, the value eligible for abatement shall be the value of the new units less the value of the old units.

(3) The value and term of any tax abatement shall be determined by the City Council. Each project will be reviewed separately and incentives may be granted based on different criteria such as amount of capital investment, number of jobs created, type of business, etc.

(h) **Economic Qualification.**

In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:

(1) Must increase the value of the property in the amount of \$1,000,000.00 or more attributable to the increase in value of buildings, structures, site improvements, fixed machinery and equipment, and related fixed improvements;

(2) Must not be expected to solely or primarily have the effect of transferring employment from one part of Greenville, Texas to another; and,

(3) Must be necessary because capacity cannot be provided efficiently utilizing existing improved property.

(i) **Taxability.** From the execution of the abatement contract to the end of the agreement period, taxes shall be payable as follows:

(1) The value of ineligible property, as provided in Section 2(e), shall be fully taxable;

(2) The value of existing eligible property in the base year shall be determined each year and shall be fully taxable; and,

(3) The additional value of new eligible property shall be taxable in the manner described in Section 2(g).

**SECTION 3. Application.**

(a) Any present or potential owner of taxable property in an affected jurisdiction may request the creation of a reinvestment zone and tax abatement by filing a written application with the presiding officer of the governing body of the affected jurisdiction.

- (b) The application shall consist of a completed application form accompanied by: a general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken; a descriptive list of the improvements which will be a part of the facility; a map and property description; and, a time schedule for undertaking and completing the planned improvements. In the case of modernizing, a statement of the assessed value of the real and personal property of the facility shall be given for the tax year immediately preceding the applications. The application form may require such financial and other information as the governing body of the affected jurisdiction deems appropriate for evaluating the financial capacity and other factors of the applicant.
- (c) Upon receipt of a completed application, the officer with whom the application was filed shall notify in writing the presiding officer of the governing body of each affected jurisdiction. Before acting upon the application, each affected jurisdiction shall through public hearing afford the applicant and the designated representative of any affected jurisdiction the opportunity show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on an agenda of the governing body.
- (d) After receipt of an application for creation of a reinvestment zone and application for abatement, the affected jurisdiction shall prepare or cause to be prepared a feasibility study setting out the impact of the proposed reinvestment zone and tax abatement. The feasibility study shall include, but not be limited to, an estimate of the economic effect of the creation of the zone and the abatement of taxes and the benefit to the eligible jurisdiction and the property to be included in the zone. The costs of such feasibility study shall be borne by the applicant.
- (e) The governing body of the affected jurisdiction shall not establish a reinvestment zone for the purpose of abatement if it finds that the request for the abatement was filed after the commencement of construction, alteration, or installation of improvements related to a proposed modernization, expansion or new facility.
- (f) Variance. The Council may, upon its own motion, approve a variance to extend the abatement periods in Section 2(g)(1) and (2), above, to the maximum time and abatement percentage allowed by state law. Approval of any such variance requires a two-thirds (2/3) vote of the governing body. Requests for variance from the provision of Subsection (a) and (g) of Section 2 may be made in written form to the presiding officer of the governing body of the affected jurisdiction; provided, however, the total duration of an abatement shall in no instance exceed seven (7) years. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance.

#### **SECTION 4. Reinvestment Zone Advisory Committee.**

There is hereby created a Reinvestment Zone Advisory Committee. The Committee shall be composed of eight (8) members. Two (2) member shall be members of the Board of Development of the City of Greenville as appointed by that Board; one (1) member shall be the Mayor of the City of Greenville or the Mayor's official designee; one (1) member shall be the City Manager of the City of Greenville or the City Manager's official designee; one (1) member shall be the President of the Greenville Independent School District or the President's official designee; one (1) member shall be the President of the Hunt Memorial Hospital District or the President's official designee; and one (1) member shall be the County Judge of Hunt County or the Judge's official designee; and one (1) member shall be appointed by the Commissioners Court of Hunt County. The initial members of the Committee shall be appointed as soon as possible after the adoption of these guidelines and criteria, and the Committee shall hold its initial meeting as soon as a majority of its membership has been appointed. The Committee may select from among its members a Chairman and a Vice Chairman and any other officers that the Committee deems necessary to perform its functions and duties.

It shall be the duty of the Committee to provide assistance and advice to any and all governing bodies of taxing entities in Greenville, Texas and to the Board of Development of the City of Greenville on matters related to tax abatement and reinvestment zones created in Greenville, Texas. The Committee shall also provide information and assistance to applicants and potential applicants for tax abatement and reinvestment zones. The Committee may make an initial review of each application for tax abatement made under these guidelines and criteria and make recommendations to the governing bodies regarding the sufficiency of the application and the value and term of abatement to be authorized.

#### **SECTION 5. Public Hearing.**

- (a) Should any affected jurisdiction be able to show cause in the public hearing why the granting of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity or the provision of service, that showing shall be reason for the governing body to deny any designation of the reinvestment zone, the granting of abatement, or both.
- (b) Neither a reinvestment zone nor abatement agreement shall be authorized 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;
  - (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals; or



- (4) A planned or potential use of the property would constitute a violation of other codes or laws.

**SECTION 6. Recapture.**

- (a) In the event that the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion, or other casualty, accident, or natural disaster for a period of one (1) year 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 shall be paid to the affected jurisdiction within sixty (60) days from the date of termination.
- (b) In the event that fixed machinery or equipment is installed and becomes eligible property, but is subsequently removed from the facility or become ineligible property during the abatement period, and is not replaced with fixed machinery or equipment of like value within a reasonable time, then all taxes previously abated by virtue of the agreement for said machinery or equipment shall be recaptured and paid within sixty (60) days from the date the machinery or equipment is removed from the facility or becomes ineligible property.
- (c) Should the governing body determine that the company or individual is in default according to the terms and conditions of its agreement, the governing body shall notify the company or individual in writing at the address stated in the agreement, and if such is not cured within sixty (60) days from the date of such notice (“Cure Period”), then the agreement may be terminated.
- (d) In the event that the company or individual: (1) allows its ad valorem taxes owed the City or any affected jurisdiction to become delinquent and fails to timely and properly follow the legal procedures for their 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 (60) days of the termination.

**SECTION 7. Administration.**

- (a) The Chief Appraiser of the Hunt County Appraisal District shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions which levy taxes on the amount of the assessment.

- (b) The agreement shall stipulate that employees and/or designated representatives of the affected jurisdiction will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) 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 company or individual and in accordance with its safety standards.
- (c) Upon completion of construction, the affected jurisdiction shall annually evaluate each facility and report possible violations of the contract and agreement to the governing body and its attorney.

**SECTION 8. Assignment.**

Abatement may be transferred and assigned by the homer to a new owner or lessee of the same facility upon the approval by resolution of the governing body, 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 contractual agreement with the affected jurisdiction. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to Greenville, Texas or any affected jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

**SECTION 9. Durations: Review.**

- (a) These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two (2) years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provision will be reviewed by the governing body to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be modified, renewed, or eliminated, providing that such actions shall not affect existing contracts.
- (b) This policy is mutually exclusive of existing Industrial District Contracts and owners of real property in areas deserving of special attention, as agreed by the affected jurisdictions.