



City of Saginaw

City of Saginaw

Meeting Date: 04/19/2016

Staff Contact: Nan Stanford
City Manager

Agenda Item: 9
(CC-0416-18)

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SUBJECT: Consideration and Action regarding Resolution No. 2016-05, Adopting Guidelines and Criteria for Tax Abatement Agreements within the City of Saginaw (*tabled at 4/5/2016 Council Meeting*)

BACKGROUND/DISCUSSION:

Resolution No. 2016-05 adopts the guidelines and criteria for tax abatement agreements within the City of Saginaw. The City is required to review and adopt guidelines every two years. The current guidelines were adopted March 4, 2014. The only changes to the resolution are the dates. The only change to the guidelines and criteria is the deletion of the Eagle Mountain-Saginaw ISD from Section 1, Definitions. School districts are no longer allowed to participate in tax abatements. The resolution and guidelines have been reviewed by the City Attorney.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval of Resolution No. 2016-05, adopting guidelines and criteria for Tax Abatement Agreements within the City of Saginaw.

Attachments

Proposed Resolution with Attachments

RESOLUTION NO. 2016-05

A RESOLUTION ADOPTING GUIDELINES AND CRITERIA FOR TAX ABATEMENT AGREEMENTS WITHIN THE CITY OF SAGINAW; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, economic development through the creation of a new industry and expansion of existing industry that results in new wealth and/or job opportunities is important for the well being and health of the local economy; and

WHEREAS, the City of Saginaw must compete with other localities throughout the United States currently offering tax incentives to attract new facilities and plant modernization projects; and

WHEREAS, the abatement of property taxes, when offered to attract businesses which bring in money from outside a community instead of merely recirculating dollars within a community, has been shown to be an effective method of enhancing and diversifying an area's economy; and

WHEREAS, Chapter 312 of the Texas Tax Code requires any eligible taxing jurisdiction to establish Guidelines and Criteria as to eligibility for tax abatement agreements prior to granting of any future tax abatement or creation of a reinvestment zone; and

WHEREAS, the City Council has previously adopted appropriate guidelines for the grant of a tax abatement or creation of a reinvestment zone; and

WHEREAS, the City Council now desires to adopt the revised tax abatement Guidelines and Criteria; and

WHEREAS, these Guidelines and Criteria shall not be construed as implying or suggesting the City of Saginaw is under obligation to provide tax abatement or other incentives to any applicant; and all applicants shall be considered on a case-by-case basis.

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

SECTION 1.

The City Council hereby establishes the guidelines and criteria governing property tax abatement agreements as set forth on Exhibit "A" to this resolution as the City of Saginaw Tax Abatement Guidelines and Criteria.

SECTION 2.

The guidelines and criteria shall be effective for two (2) years from the date of adoption, specifically April 19, 2016 through April 20, 2018, and may only be amended or repealed by a three-fourths vote of the City Council.

SECTION 3.

This resolution shall be in full force and effect from and after its passage and it is so resolved.

PASSED AND APPROVED THIS 19th DAY OF APRIL, 2016.

Gary Brinkley, Mayor

ATTEST:

Janice England, City Secretary

EFFECTIVE: April 19, 2016

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, City Attorney



CITY OF SAGINAW, TEXAS

TAX ABATEMENT POLICY – GUIDELINES AND CRITERIA

Section 1

DEFINITIONS

- a) **“Abatement” means the full or partial exemption from ad valorem taxes of certain improvements to real property in a reinvestment zone designated for economic development purposes.**
- b) **“Agreement” means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.**
- c) **“Base Year Value” means the assessed value of eligible property on 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.**
- d) **“Deferred Maintenance” means improvements necessary for continued operations, which do not improve productivity or alter the process technology.**
- e) **“Economic Life” means the number of years a property improvement is expected to be in service in a facility.**
- f) **“Eligible Jurisdiction” means the City of Saginaw, Tarrant County, or other special taxing districts that levy ad valorem taxes upon and provide services to property located within a proposed or existing reinvestment zone.**
- g) **“Expansion” means the addition of buildings, structures, fixed machinery or equipment for purposes of increasing production capacity.**

Exhibit "A"

- h) **"Facility" means property improvements completed or in the process of construction which together comprise an integral whole.**
- i) **"Manufacturing Facility" means buildings, structures, fixed machinery or 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.**
- j) **"Modernization" means the upgrading of existing facilities, which increased 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 purposes of reconditioning, refurbishing or repairing.**
- k) **"New Facility" means a property previously undeveloped, which is placed in service, by means other than or in conjunction with expansion or modernization.**
- l) **"Other Basis 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, from which a majority of revenues generated by activity at the facility are derived from outside Tarrant County.**
- m) **"Regional Distribution Center Facility" means buildings and structures including fixed machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility, from which a majority of the revenues generated by activity at the facility are derived from outside Tarrant County.**
- n) **"Regional Entertainment/Tourism Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment and/or tourism related services, from which a majority of revenues generated by activity at the facility are derived from outside Saginaw.**
- o) **"Regional Retail Facility" means buildings and structures including fixed machinery and equipment, used or to be used to provide retail services from which a majority of revenues generated by activity at the facility are derived from outside Saginaw.**
- p) **"Regional Service Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide a service from which a majority of revenues generated by activity at the facility are derived from outside Tarrant County.**

- q) **"Reinvestment Zone"** means an area designated as such for the purposes of tax abatement as authorized by the City in accordance with The Property Tax Code Annotated Chapter 312.201 et seq., the Property Redevelopment and Tax Abatement Act" (of Subchapter B), as amended.
- r) **"Research Facility"** means buildings and structures, including fixed machinery and equipment used or to be used primarily for research and experimentation to improve or develop new tangible goods or materials or to improve or develop the production process thereto.
- s) **"Regional Health Care Facility"** means buildings and structures, including fixed machinery and equipment, used or to be used to provide health care services, from which a majority of revenues generated by activity at the facility are derived from outside Saginaw.

Section 2

ABATEMENT AUTHORIZED

- a) **Authorized Facility.** A facility may be eligible for abatement if it is a:
 - **Regional Health Care Facility**
 - **Manufacturing Facility**
 - **Research Facility**
 - **Regional Distribution Center Facility**
 - **Regional Service Facility**
 - **Regional Entertain/Tourism Facility**
 - **Regional Retail Facility**
 - **Other Basis Industry**
- b) **Authorized Date.** A facility shall be eligible for tax abatement if it has applied for such abatement prior to the commencement of construction, provided, that such facility meets the criteria granting tax abatement in reinvestment zones created in the City of Saginaw pursuant to the guidelines and criteria adopted by the City Council.
- c) **Creation of New Value.** Abatement may only be granted for the additional value of eligible property improvements made subsequent to and listed in an abatement agreement between the City of Saginaw and the property owner and/or lessee, subject to such limitations as the City Council may require.
- d) **New and Existing Facilities.** Abatement may be granted to new facilities and improvements to existing facilities for purposes of modernization and expansion.

- e) **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility.
- f) **Ineligible Property.** The following classes of property shall be fully taxable and ineligible for abatement:
- Land
 - Inventories
 - Supplies
 - Furnishings or other forms of movable personal property
 - Vehicles, vessels or aircraft
 - Deferred maintenance investments
 - Residential property
 - Property that is associated with any activity that is illegal under federal, state or local law
 - Property owned or used by the State of Texas or its political subdivisions
 - Property owned by any organization which is owned, operated or directed by a political subdivision of the State of Texas
- g) **Leased Facilities.** If an authorized facility eligible for tax abatement is leased, the agreement shall be executed with both the lessor and the lessee.
- h) **Value and Term of Abatement.** Abatement shall be granted effective with the January 1 valuation date immediately following the completion of construction of the required improvements; provided, however, that the completion of construction must occur within two years of the effective date of any abatement agreement. The value and term of abatement on new eligible property shall be determined as follows:
- The value of the abatement shall be equal to 500 percent (500%) of investment by the business in eligible property described in Section 2(e), above. The City Council or its designated representative, shall work with the applicant, prior to the execution of an abatement agreement, to determine the exact schedule for the abatement.**
- The exact schedule of the abatement shall be selected by the applicant under one of the below alternatives:**
- a) 50% of the value of eligible property shall be abated in each of the ten (10) years of the abatement agreement, or;

- b) the applicant can select an abatement schedule, not to exceed 100% in any single year, which better meets the financial objectives of the company.

Under no circumstances shall the value of the abatement exceed one-hundred percent (100%) of the value of eligible property in a single year and the duration of an abatement agreement shall not exceed ten (10) years or one-half (1/2) the economic life of the eligible property, whichever is less.

- i) **Economic Qualification.** In order to be eligible to receive tax abatement the applicant must meet the following qualifications.

- 1) For a new facility (with the exception of a regional retail or regional entertainment/tourism facility), be reasonably expected to invest not less than fifteen million dollars (\$15,000,000) in the facility (including both eligible and ineligible property) within three (3) years from the commencement of construction and be expected to create employment for not less than ten (10) persons associated with the production of goods and services at the authorized facility on a full-time permanent basis in the City of Saginaw and/or Tarrant County. The employment of these persons must be accomplished by the completion of the third year of operations based on the below schedule:

Year 1	50%
Year 2	25%
Year 3	25%

- 2) For an expanded or modernized facility (excluding regional retail facilities), be reasonably expected to invest not less than five million dollars (\$5,000,000) in the facility (including both eligible and ineligible property) within three (3) years from the commencement of construction and be expected to create or retain employment for not less than ten (10) persons associated with the production of goods and services at the authorized facility on a full-time, permanent basis in the City of Saginaw and/or Tarrant County. The employment of these persons must be accomplished by the completion of the third year of operations based on the below schedule:

Year 1	50%
Year 2	25%
Year 3	25%

- 3) For regional retail and regional entertainment/tourism facilities, be reasonably expected to invest not less than ten million dollars (\$10,000,000) in the facility (including both eligible and ineligible property) within three (3) years from the commencement of

construction, and be expected to create or retain employment for not less than seventy-five (75) persons associated with the operation of the authorized facility on a full-time, permanent basis in the City of Saginaw and/or Tarrant County. The employment of these persons must be accomplished by the completion of the third year of operations based on the below schedule:

Year 1	50%
Year 2	25%
Year 3	25%

- 4) Two or more part-time, permanent employees totaling an average of not less than forty (40) hours per week, may be considered as one (1) full-time, permanent employee.**
 - 5) Companies seeking to qualify for tax abatement on the basis of job retention shall document that without the creation of a reinvestment zone and/or tax abatement, the company will either reduce or cease operation.**
 - 6) Not be expected to solely and primarily have the effect of transferring employment from one part of the City of Saginaw to another.**
- j) Taxability. From the execution of the abatement agreement to the end of the agreement period, taxes shall be payable as follows:**
- 1) the value of ineligible property as provided in Section 2(f) shall be fully taxable.**
 - 2) the base year value of existing eligible property as determined each year shall be fully taxable, and**
 - 3) the additional value of new eligible property shall be taxable in the manner described in Section 2(h).**
- k) Conflict of Interest. Property that is in a reinvestment zone and that is owned or leased by a member of the governing body or the Planning and Zoning Commission of the City of Saginaw shall be excluded from property tax abatement.**

Section 3

APPLICATION

- a) **Any present or potential property owner of taxable property in Saginaw may request the creation of a reinvestment zone and tax abatement by filing a writing request with the Mayor or his/her designated representative.**
- b) **The application shall consist of a completed application form accompanied by the following:**
 - 1) **A general written description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken.**
 - 2) **A descriptive list of the improvements that will be a part of the facility.**
 - 3) **A map and property description – including a plat, re-plat or proposed plat of the property.**
 - 4) **A time schedule for undertaking and completing the planned improvements.**
 - 5) **A check payable to the City of Saginaw in the amount of \$250.00 for filing fees.**
 - 6) **Such financial and other information as deemed appropriate by the City for purposes of evaluating the application.**
- c) **Upon receipt of a completed application the Mayor, or his/her designated representative, shall notify, in writing, the presiding officer of the governing body of each affected jurisdiction. Before acting upon the application, the City Council shall through public hearing, afford the applicant, designated representatives of any affected taxing jurisdiction and the general public opportunity to show cause why the abatement should or should not be granted. Notice of public hearing shall be clearly identified on a City Council Agenda to be posted in accordance with the Texas property Redevelopment and Tax Abatement Act and the Texas Open Meetings Act.**
- d) **After receipt of an application for creation of a reinvestment zone and application for tax abatement, the City Council, or its designee, shall prepare 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 jobs created, an estimate of the economic impact of the creation of the zone and the abatement of taxes and the cost/benefit to the City.**

- e) **A request for a reinvestment zone for the purpose of tax abatement shall not be granted if the City Council finds that the request for abatement was filed after the commencement of construction, alternation, or installation of improvements related to a proposed expansion, modernization or new facility authorized as eligible under these guidelines.**

- f) **Variance. Request for variance from provisions of these guidelines may be made in written form to the Mayor, or his/her designated representative, provided, however, that the term and value of abatement described in Section 2(h) may not be increased. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) vote of the governing body.**

Section 4

PUBLIC HEARING

- a) **Should any affected jurisdiction be able to show cause in the public hearing why the grant of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity or the provision of services, that showing shall be reason for the City to deny any designation of the reinvestment zone, the grant of abatement, or both.**

- b) **Neither a reinvestment zone nor an abatement agreement shall be authorized if it is determined:**
 - 1) **there would be a substantial adverse effect on the provision of government services 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) **planned or potential use of the property violates other codes or laws.**

- c) **After holding a public hearing, providing notice thereof and considering all of the evidence presented, the City Council may designate a reinvestment zone. The designation of a reinvestment zone must precede the approval of an agreement and may only be made after the City Council finds: that the improvements sought are feasible and would be of benefit to the zone after expiration of the agreement and that the zone meets one of the applicable criteria for reinvestment zones. The findings shall be noted in the minutes of**

the meeting at which they are made. The designation of the zone must be made by ordinance.

Section 5

AGREEMENT

- a) **After approval, the City shall formally pass a resolution and execute an agreement with the owner of the facility and/or lessee, which shall include the following:**
- 1) **Estimated value to be abated and the base year value.**
 - 2) **Percent of value to be abated each year as provided for in Section 2(h) above.**
 - 3) **The commencement and termination dates of the abatement.**
 - 4) **The proposed use of the facility, nature of the construction, time schedule for construction and commencement of operations, map, property description, and improvements as listed in the application under Section 3(b).**
 - 5) **Contractual obligations in the event of default, violation of terms and conditions, delinquent taxes, recapture, administration and assignment as provided for in Section 2(a), 2(h), 6, 7 and 8 or other provisions that may be required for conformity to state law, and**
 - 6) **Amount of investment in and average number of jobs associated with the facility during the abatement period.**
- b) **Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information and documentation for evaluation of the application to the City of Saginaw.**

Section 6

RECAPTURE

- a) **In the event that the facility is completed and begins producing goods and/or services, but subsequently discontinues such production for any reason excepting fire, explosion or other casualty or 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 taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for**

the calendar year shall be paid the City within sixty (60) days from the date of termination.

- b) Should the City determine that the company or individual is in default according to the terms and conditions of the abatement agreement, the City shall notify the company or individual, in writing, at the address stated in the agreement, and if such non-compliance is not resolved within sixty (60) days from the date of such notice, then the agreement shall be terminated.**
- c) In the event that the company or individual:**
 - 1) Allows its ad valorem taxes owed the City or other 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 resolve such violations within sixty (60) days from the date of written notice of such violation(s).**

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 County shall, as a normal consequence of his/her duties 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, including the number of new or retained employees associated with the facility. Once the value has been established, the Chief Appraiser shall notify the affected jurisdictions, which levy taxes of the amount of the assessment.**
- b) The agreement shall stipulate that employees and/or designated representatives of the City will have access to the reinvestment zone during the term of the abatement agreement to inspect the facility to determine if the company or individual is in compliance with the terms and conditions of the abatement agreement. All inspections will be made only after notification of not less than twenty-four (24) hours and will only be conducted in such manner as not to unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one (1) or more representatives of the company or individual present and in accordance with the company's safety standards.**

- c) **Upon completion of construction, the City shall annually evaluate each facility receiving abatement to ensure compliance with this agreement and report possible violations to the City Council and City Attorney. Abatements approved under previously authorized tax abatement agreements will be monitored for compliance relative to the agreement under which the abatement was approved.**

- d) **All proprietary information required by the City for purposes of monitoring compliance by a company with the terms and conditions of an abatement agreement shall be considered confidential.**

Section 8

ASSIGNMENT

Abatement may not be transferred and assigned by the holder to a new owner or lessee of the same facility.

Section 9

SEVERABILITY AND LIMITATION

In the event that any section, clause, sentence, paragraph or any part of these Guidelines and Criteria shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of these Guidelines and Criteria.

Section 10

SUNSET PROVISIONS

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 Saginaw, at which time all reinvestment 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.