

MEMORANDUM

TO: Frank Salvato, City Manager

FROM: Bob van Til, AICP
Director of Community Development

RE: Proposed Tax Abatement Ordinance

DATE: March 16, 2004

The purpose of this memorandum is to provide the Council with an advance copy of the draft tax abatement ordinance.

The previous tax abatement ordinance expired in August of 2003. Since that time, staff has worked on updating the policies.

Staff originally planned to introduce the ordinance during the March 23, 2004 meeting. However, due to scheduling problems, we were not able to get all the parties together to finalize the document. This additional time, ironically, will give staff the opportunity to incorporate some recommendations provided by the economic development planning consultant for the comprehensive plan.

The current policy includes incentives that differ for the downtown area, the enterprise zones and neighborhood empowerment zones, as well as areas not contained in either of the special incentives districts (ie, "city wide projects"). The policies also include an incentive to preserve historical structures.

The policies provide the majority of the abatement percentage for capital investment, since that activity has the greatest impact on the City's budget. The remaining portion of the abatement percentage is provided based on the level of wages the business will pay its workers.

The policies are also designed to afford a significant measure of discretion by the council in granting tax abatements while providing applicants with a basic framework for minimum requirements.

Please feel free to contact me at 512-352-5990 or via email at bob.vantil@ci.taylor.tx.us if you have any questions.

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Proposed city of Taylor Tax Abatement Policies

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Proposed city of Taylor Tax Abatement Policies

Guiding Principles/Value Statements

1. The tax abatement policies must help the city attain its economic development goal of adding value to the tax rolls and “value-added” jobs that provide better than average wage jobs;
2. Tax abatement policies are a necessary economic development tool to attract and retain jobs to our community;
3. Not all businesses should be eligible for tax abatements;
4. The tax abatement policies should be flexible enough to allow case by case negotiations for desirable projects yet should establish minimum qualifications to guide efficient administration;
5. Applicants should be required to demonstrate financial stability and a positive impact on the city’s as well as the community’s well being before receiving consideration of a tax abatement;

I. Applicability

These policies apply to new, relocating, renovated, modernized, redeveloped, and expanding businesses. It also applies to historic structures.

II. Definitions

"Abatement" means the partial exemption for ad valorem taxes of eligible properties in a reinvestment zone designated as such for economic development purposes.

"Act of God" means an act occasioned exclusively by violence of nature and in no sense attributable to human action.

"Agreement" means a contractual agreement between a property owner and a taxing authority for the purpose of tax abatement. In no event shall the duration of an agreement exceed ten (10) years, even if the abatement is not applied in the initial years of the agreement.

"Base Year Value" means the taxable value of the applicant's real and personal property, as determined by the Williamson County Appraisal District, located in a designated reinvestment zone on January 1 of the year in which the tax abatement agreement is executed.

"Capital Investment" means an activity that adds value to the City’s property tax base by either real or business personal property improvements

"City" shall mean the city of Taylor, Texas

"City Wide Project" means areas not located in the Downtown Investment District, the Enterprise Zone or in the either of the two Neighborhood Empowerment Zones

Construction, substantially underway: completed grading, private and public (if applicable) utilities installed, and the foundation completed.

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~~"Economic Life" means the number of years a property qualifies for depreciation under the Internal Revenue Service Code (Section 168) Modified Accelerated Cost Recovery System.~~

"Expansion" means the addition of buildings, structures, fixed machinery, or equipment for the purpose of increasing production capacity or revenues.

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

"Facility, New" means a property previously undeveloped which is placed into service by means other than expansion or modernization.

"Fiscal Impact Analysis" means a quantification of the financial impacts and benefits (revenues and expenditures) to the city of Taylor in response to a tax abatement application.

"Historically Significant Structure" means a structure that is either located in a district or is itself a structure located on the National Register of Historic Places as designated by the National Parks Service.

"Job" means a permanent, full-time, employment position that has or will result in employment of at least 2,080 hours per year per person. Part time positions shall not be included in this definition.

"Jobs, New" means a new or retained job

"Modernization" means the replacement and upgrading of existing facilities which increase the productive input or output, updates the technology, or substantially lowers the unit cost of operation, and extends the economic life of the facility. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, or equipment. It shall not be for the purpose of renovation, reconditioning, refurbishing, repairing, or completion of deferred maintenance.

"Recapture of Property Taxes" shall mean the repayment of abated real and business personal property taxes in the event the applicant fails to perform in accordance with this ordinance and the tax abatement agreement during any time the tax abatement agreement is in effect. Recapture may also include the filing of a lien on the property for which the tax abatement agreement was created.

"Redevelopment" means replacement or reconstruction of a portion or all of a facility that has been damaged by an Act of God when the damage from the Act of God has resulted in at least a 60% reduction in value of the facility as compared to the value immediately prior to the Act of God as determined by Williamson County Appraisal District. The facility owner shall have the burden to prove the required decrease in value to the satisfaction of the City Manager or his designee prior to consideration by the City Council of a tax abatement application for a Redevelopment project.

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"Reinvestment Zone" is an area designated as such for the purpose of tax abatement as authorized by Chapter 312, Property Redevelopment and Tax Abatement Act, Title 3, Local Taxation, Texas Tax Code, as amended. It may also include a State designated enterprise (EZ) zone or locally designated neighborhood empowerment zone (NEZ).

"Value," shall mean the value as determined by an appraisal prepared by Williamson County Appraisal District, unless otherwise specified. If a facility is damaged by an Act of God and an appraisal of the damaged facility is not available from Williamson County Appraisal District "decrease in value" may be determined by an independent appraiser agreed upon by the City and either the owner of a facility or applicant for a tax abatement. The term "value added" means increase in appraised value.

Vendor, Local: a vendor with a Taylor address

"Wages Paid," shall be equal to or greater than 110 percent of the average weekly wages paid for all of the full time jobs in this industry or industries the applicant is part of, excluding executive positions, as reported by the most recent Bureau of Labor Statistics' ES 202 report, or similar reporting mechanism, for Williamson County.

III. Basic Policies

A. Reinvestment Zones

All tax abatement projects must be located in a reinvestment zone or enterprise zone.

B. Maximum Tax Abatement Allowed

The maximum tax abatement shall not exceed 90 percent and shall not extend beyond ten years. The tax abatement for capital investment shall not exceed 60 percent and the tax abatement for wages paid shall not exceed 30 percent, except for major investments. Appendix "A" summarizes the established tax abatement levels.

C. Capital Investment Required

No tax abatement shall be granted for the creation of jobs and or the level of wages paid without a capital investment.

D. City Not Obligated

The City is not obligated under any circumstances to enter into a tax abatement agreement with everyone who submits a tax abatement application.

IV. City Wide Projects.

An applicant for tax abatement may receive a real and business personal property tax abatement in accordance with the requirements shown in Appendix "A".

V. Downtown Development Area Projects.

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An applicant for tax abatement may receive a real and business personal property tax abatement in accordance with the requirements shown in Appendix "A".

VI. Projects in Neighborhood Empowerment Zones (NEZ) and Enterprise Zones (EZ)

An applicant for tax abatement may receive a real and business personal property tax abatement in accordance with the requirements shown in Appendix "A".

VII. Historic Preservation

A. Maximum Tax Abatement

The City may consider a tax abatement for up to 20 percent for a historically significant residential or commercial structures.

B. Designation

The City Council shall, concurrent with the levy of taxes for each year, approve a partial exemption from ad valorem taxes for certain historically significant sites in need of tax relief to encourage their preservation.

C. Application

For each assessment year for which the owner of the property designated as a historically significant structure desires such property to be partially tax exempt pursuant to this subsection, the owner shall file with the City a sworn application, no later than January 31, setting forth the fact that the requirements of this subsection concerning preservation and maintenance of the subject structure were being fully satisfied as of January 1 of the year for which application for exemption is being sought. Applications shall be available at the city of Taylor's Department of Community Development. The application shall include, among other items, current evidence of the structure's inclusion within a district located on the National Register of Historic Places or as a structure on the National Register of Historic Places.

D. Preservation and Maintenance Requirements

The following items shall be used in determining whether a historically significant structure has been maintained in accordance with minimum property structural and health standards:

1. Any well, cesspool or cistern shall be securely covered or closed;
2. Dead trees and tree limbs that are reasonably capable of causing injury to a person shall be removed in accordance with the city's landscaping ordinance, if applicable;
3. Any structure or portion of a structure which is vacant shall be securely closed so as to prevent unauthorized entry;
4. Yards are maintained in a manner that is free of rubbish, garbage, junk, refuse, weeds and underbrush consistent with the city's code enforcement requirements;
5. Paint or other coatings shall be applied at reasonable intervals so as to protect the exterior surfaces of a structure, which are subject to decay;
6. Screens and shutters existing at the time of designation or added subsequently shall be maintained in good repair;

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7. Broken windows shall be replaced or re-glazed;
8. Exterior doors and doorways shall be maintained in good repair and operable condition;
9. Skirting around the structure, if any, shall be maintained good repair;
10. Porch flooring and supports shall be maintained in sound condition, capable of bearing the required load safely;
11. Railings and handrails of exterior stairs, steps, balconies, porches and other exterior features shall be maintained in sound condition so as to afford safety;
12. Rotted exterior wood shall be replaced and repainted;
13. Broken or partially missing gutters or downspouts shall be replaced or repaired;
14. Loose bricks or stones in the exterior of a structure shall be re-established or replaced and all joints weatherproofed by proper maintenance of appropriate materials;
15. Fences and the exteriors of accessory buildings shall be maintained in reasonable repair, including painting if applicable; and
16. The property shall be kept in conformance with all city codes.

E. Inspection

Following the submittal of the application, the city shall inspect the subject structure and property to certify its conformance with this subsection within 30 days and report any deficiencies, if any, to the property owner. These deficiencies, if any, shall be abated within 30 days. Failure to address the deficient items identified shall render the annual tax abatement application null and void.

Following verified conformance with this subsection, the application shall be forwarded to the City Manager's office for submittal to the City Council for inclusion in the ordinance establishing the ad valorem tax rate for the year.

F. Economic Development Tax Abatement for Historically Significant Structures

If a historically significant commercial structure is intended to be used for a new or relocated business venture, the owner of the property may apply for a tax abatement, in addition to the tax abatement for historically significant structures, that is consistent with the district in which the structure is located, provided however, the maximum tax abatement percentage does not exceed 90 percent.

VIII. Major Investment Projects

An applicant for tax abatement may receive a real and business personal property tax abatement in accordance with the requirements shown in Appendix "A".

IX. Application

A. When to Apply

An application for tax abatement must be submitted prior to submitting an application for a zoning change, plat approval or building permit, whichever comes first. All

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individuals/corporations seeking tax abatement shall submit an application to the City of Taylor's City Manager's office.

B. Contents of Application

The application will include but not be limited to the company's history and profile (including a listing of the parent companies, company principals, etc.), three years of financial data (independent audits or IRS income tax statements), 3-digit NAICS industry number, number of jobs to be created or retained, proposed capital investment, proposed wages, schedule of improvements, site plan, and an indication of when the improvements will be completed.

If the company filed for bankruptcy within the previous three years, the City may reject the application for tax abatement.

C. Application Fee

A non-refundable application fee of \$500 shall be submitted with the tax abatement application for city wide projects; \$250 for projects in the enterprise and empowerment zones; and \$125 for projects in the downtown redevelopment area. No fee is required for applications for historic tax incentives.

D. Fiscal Impact Analysis

A fiscal impact analysis shall be performed by an independent consultant and shall be submitted for review along with the application for tax abatement. Tax abatement applications for historic tax incentives do not require a fiscal impact analysis.

E. Review and Approval

The City Manager, or his or her designee, shall review the application for completeness prior to submittal to the City Council for consideration.

F. Proprietary Information

Proprietary information in the application shall be withheld from public record when the application is submitted to the City Council in accordance with limits provided by State law

G. Tax Abatement Process

The generalized tax abatement process is outlined in Appendix B

XI. **Agreement**

A. Following the approval of the application by City Council, staff shall negotiate a tax abatement agreement with the applicant. An agreement for tax abatement must include but is not limited to the following:

- a. List the kind, number, and location of all proposed improvements of the property;

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- b. Provide access to and authorize inspection of the property by authorized Taylor municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;
- c. Limit 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;
- d. Provide for the recapture 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;
- e. Contain each term agreed to by the owner of the property;
- f. 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 terms of the agreement, which may include value of capital investment and wage levels; and
- g. Provide that the City Council of the City of Taylor may cancel or modify the agreement if the property owner fails to comply with the agreement.
- h. Identification of the base year tax value
- i. Arrangements are made that so that the sales tax from the purchase of construction materials are credited to the city of Taylor.
- j. That local vendors and contractors shall be used, as much as possible, for the planning, and construction of the new facility.

B. Approval

The agreement for tax abatement shall be submitted to the City Council for approval or denial within 180 days following the date the City Council approved the application. Failure on the part of the applicant to successfully negotiate the tax abatement agreement within the 180-day time limit shall cause the tax abatement application to become null and void.

C. Permits and Construction

A building permit must be issued within 270 days (9 months) and construction shall be substantially underway within 365 days (1 year) from the date the tax abatement agreement is approved. The tax abatement agreement shall terminate if these conditions are not met.

XII. Reporting and Enforcement

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A. Capital Investment – Evidence Of

The tax abatement agreement shall become null and void if by the third anniversary following the approval of the tax abatement agreement by the City Council, the applicant fails to cause the City's ad valorem tax rolls to reflect the property value increases represented in the tax abatement agreement.

B. Wages Paid – Evidence Of

No portion of the wage-related tax abatement benefit shall be applied to the applicant's tax abatement percentage for the upcoming year if the applicant, for whatever reason, fails to compensate its employees in accordance with the requirements of the tax abatement agreement. The required wage data, for the preceding calendar year, shall be submitted to the City prior to the first day of February. If the wage data does not qualify the applicant for the wage-related tax abatement percentage, the City shall notify the applicant as well as the Williamson County Appraisal District relating to the discontinuation of the wage-related tax abatement benefit.

XIII. Miscellaneous Policies

A. Tangible Property Located on the Property Prior to the Tax Abatement Application

An agreement for exemption of tangible personal property located on real property shall not include tangible personal property that was located on the real property prior to the time of the agreement and all agreements shall exclude inventory and supplies.

B. Local Business Expansions or Relocations

Tax abatements shall be based on the increase in the taxable value of real property and personal property and then only to the extent that the increase exceeds any reduction in the fair market value of other real property and personal property of the owner relocating within the jurisdiction of the City.

C. Expiration and Renewal of Policies

In accordance with state law, these guidelines are effective for two (2) years from the date adopted by the Taylor City Council. The guidelines may be amended or repealed by a vote of three-fourths of the members of the Taylor City Council.

D. Other Taxing Entities

If the individual taxing entities offer tax abatement to an owner, then in accordance with state law, a contract will be executed between the various individual taxing units governing the reinvestment zone and the owner, the contract shall specify terms and conditions of the tax abatement.

E. Intergovernmental Coordination

The granting of the tax abatement and other development incentives shall be coordinated between the taxing units, the Taylor Economic Development Corporation, and other organizations that may be designated by the City.

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F. Variances

Variances to these policies may only be granted to the requirements relating to when permits must be issued, when construction must start, and the definition of “substantially complete” providing that the variances are clearly stipulated in the tax abatement agreement, if needed.

G. Cancellation of the Agreement

If, at any time, during the period the tax abatement is in effect, the company should file for bankruptcy, close, or relocate out of the incorporated limits of the city of Taylor, the tax agreement shall become null and void and the applicant may become subject to recapture as provided for in the tax abatement agreement.

City of Taylor Tax Abatement Matrix

Appendix "A"

	Equal To Or Greater Than	But Less Than	Minimum # of New or Retained Jobs	Up To	Up To:
City Wide Project					
Capital Investment	\$1,000,000	\$2,000,000	15	20%	5 years
	\$2,000,000	\$5,000,000	25	40%	5 years
	\$5,000,000	\$10,000,000	40	60%	5 years
Plus					
Wages Paid	Greater than 110% of the average weekly wages paid for this industry			30%	10 years
Or					
Major Investment	\$10,000,000		50	90%	10 years
Total Possible Tax Abatement				90%	10 years

EZ/NEZ					
Capital Investment	\$500,000	\$1,000,000	10	20%	5 years
	\$1,000,000	\$3,000,000	15	40%	5 years
	\$3,000,000	\$5,000,000	20	60%	10 years
Major Investment	\$5,000,000		25	90%	10 years
Total Possible Tax Abatement				90%	10 years

Downtown					
Capital Investment	\$100,000	\$250,000	0	20%	5 years
	\$250,000	\$450,000	0	40%	5 years
	\$450,000	\$750,000	5	60%	10 years
Major Investment	\$750,000		5	90%	10 years
Total Possible Tax Abatement				90%	10 years

	Allowed	For
Historic Preservation Tax Abatement	20%	1 year

APPENDIX "B"
Generalized Tax Abatement Process

1. Application Submitted
2. Pay application fee
3. Fiscal impact analysis is performed
4. Review of the application
5. Application is approved by the City Council
6. Tax abatement agreement is negotiated
7. Tax abatement agreement is approved by City Council (within 180 days of the application being approved by the City Council)
8. Building permit is issued (within 270 days from the City Council approval date of the tax abatement agreement)
9. Construction is substantially underway (within 365 days from the City Council approval date of the tax abatement agreement)
10. 100 percent of the anticipated capital investment appears on the City's property tax rolls (within 3 years from the City Council approval date of the tax abatement agreement)

Tax Abatement Verification Cycle

	Annual Property Tax Cycle	Annual Wage Data verification	Historic Property Tax Abatement Process
January	Property is (re) appraised	Quarterly wage data is submitted to the TWC. Previous year's wage data is submitted to the City	Application due to the City no later January 31st
February		City verifies wage data (compared against ES202 wage data reported by the BLS for Williamson County)	City inspects property within 30 days from the submittal of the application
March		City notifies company and WCAD of status	Deficiencies, if any, are abated in 30 days from the inspection
April			Application forwarded to City Manager's Office
May			
June			
July	Certified tax rolls sent to city		
August			
September	City sets property tax rate		Abatement awarded along with the approval of the ordinance establishing the tax rate
October	Property tax notices are mailed out		Appraisal district notified
November			
December			
January	Property taxes due		

TAYLOR TAX ABATEMENT "CANCELLATION" THRESHOLDS

1. Application for tax abatement is submitted to City



2. Application is approved by the City Council



180 days

3. Tax abatement is acted on by City Council



9 months

Building permit
Is issued



12 months

Construction begins



3 years

100% of the capital investment appears
on the City's property tax rolls

4. Company fails to pay 110% of the average wages for the industry

5. Company files for bankruptcy

WAGE DATA VERIFICATION FORM

Date:

For the period covering:

Company name:

Address:

Contact person and phone number of person who can answer questions about the data submitted:

Please attach the last four most recent ES 202 reports (QCEW), BLS Multiple Worksite Report, or similar report for the last calendar year.

Indicate the average number of full time employees employed over the last 12 months:

Company's four digit NAICS number:

Approved for submittal:

Signature Owner, General Manager, CEO, CFO

Printed Name and Title

Date