

RESOLUTION NO. 2024-35

A RESOLUTION OF THE CITY COUNCIL ADOPTING TAX ABATEMENT GUIDLINES AND CRITERIA PURSUANT TO TEXAS TAX CODE CHAPTER 312 , FOR THE CITY OF LOCKHART; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the Property Redevelopment and Tax Abatement Act (the "Act"), Chapter 312 of the Texas Tax Code authorizes a municipality to provide property tax abatement for limited periods of time as an inducement for the development or redevelopment of a property; and

WHEREAS, the City of Lockhart, Texas (the "City") has certain governmental powers that enable it to take affirmative and effective action to stimulate such growth; and

WHEREAS, the attraction of long-term investment and the establishment of new jobs in the City would enhance the economic base of the City; and

WHEREAS, tax abatements **do not reduce existing local property taxes** and do not cause a loss of revenue. Instead, they offer a temporary limit on future taxes for a facility not yet built;

WHEREAS, tax incentives offered must be strictly limited in application to those new or existing industries that bring new wealth into the community in order to avoid reducing the needed tax revenues of the city; and

WHEREAS, in addition to keeping the protection of the environment and other natural resources as high priority, attempts to stimulate the economy should be relatively assured of eventual positive economic effects on the City's revenue raising capabilities; and

WHEREAS, the Act requires eligible taxing jurisdictions to establish guidelines and criteria governing tax abatement agreements, before entering into such agreements and prior to designating an area as a reinvestment zone;

WHEREAS, the tax abatement guidelines and criteria are effective for two years from the date of adoption and during that period, may be amended or repealed by a three-fourths vote by the City Council (the "City Council") of the City of Lockhart, Texas ;

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

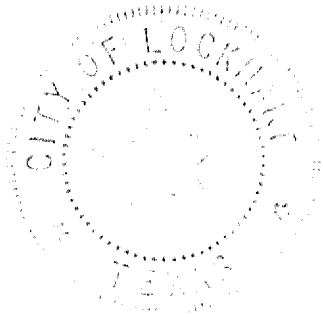
Section 1: That the City of Lockhart, Texas elects to become eligible to participate in tax abatement in accordance with Chapter 312, Texas Tax Code.

Section 2: That the Guidelines and Policy Statement for Tax Abatement for Real and Personal Property is hereby adopted by the of City as set forth in ATTACHMENT A, incorporated as if set forth fully herein.

Section 3: This resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Lockhart, Texas, and it is accordingly so ordained.

Section 4: The City Council hereby finds, determines, and declares that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

DULY RESOLVED AND APPROVED, ON PUBLIC HEARING, BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS ON, this 3rd day of DECEMBER 2024.



CITY OF LOCKHART

A handwritten signature in cursive script that reads "Lew White".

Lew White

Mayor

ATTEST:

A handwritten signature in cursive script that reads "Julie Bowermon".

Julie Bowermon
City Secretary

APPROVED AS TO FORM:

A handwritten signature in cursive script that reads "Brad Bullock".

Brad Bullock
City Attorney

Attachment A

CITY OF LOCKHART, TEXAS POLICY STATEMENT FOR TAX ABATEMENT

I. GENERAL PURPOSE AND OBJECTIVES.

The City of Lockhart is committed to the promotion of high-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 Lockhart City Council will, on a case-by-case basis, give consideration to providing tax abatement as stimulation for economic development in areas of the city which it has designated as a reinvestment zone. It is the policy of the City of Lockhart that said consideration will be provided in accordance with the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that the City of Lockhart is under any obligations to provide tax abatement to any applicant. All applicants shall be considered on a case-by-case basis.

Qualified projects eligible for a potential tax abatement are commercial or industrial developments that meet the capital investment and job threshold as described in this policy. Non-qualified projects include residential developments and tax-exempt properties.

Pursuant to Section 312.002 of the Tax Code, this policy is effective for two years from the date adopted. During that period, the guidelines and criteria may be amended only by a vote of three-fourths of the members of the City Council. If the City Council wishes to readopt this policy at the end of the two-year term, it must follow the procedure found in Chapter 312 of the Tax Code.

This policy must be posted on the City's website.

II. PROCESS/CRITERIA/GUIDELINES/FORMULA.

The Lockhart Economic Development Corporation (LEDC) administrator will administer this program. City staff, including the LEDC administrator and the City Manager, will review any request for tax abatement. Upon city staff review and recommendation, an application will be presented to the LEDC for recommendation to the City Council. The City Council's decision on the application is final. In the case of an applicant seeking a tax abatement from multiple taxing entities, LEDC and/or City staff will coordinate accordingly with representatives from each respective entity.

Staff and LEDC recommendation on the potential award of a tax abatement shall be based upon an evaluation of the criteria set forth in this Policy which each applicant will be requested to address.

(a) Definitions

- (1) "Abatement" means the full or partial exemption from ad valorem taxes of the increase in value from the base year value of certain real and/or personal property in a reinvestment zone designated by the City for economic development purposes due to repairs and or improvements made to the real property.
- (2) "Agreement" means a contractual agreement between a property owner and the City of Lockhart for the purposes of tax abatement.
- (3) "Base year value" means the assessed value of eligible property on January 1 preceding the execution of an Agreement pursuant to this Policy.
- (4) "Deferred maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (5) "Expansion" means the addition of buildings, structures, machinery, or equipment for purposes of increasing production capacity.
- (6) "Existing Facility" means a facility or business that has been in operation for more than one (1) year.
- (7) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (8) "Modernization" means a complete or partial demolition of facilities and the complete or partial reconstruction or installation of a facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of a facility of similar or expanded production capacity. Modernization may include improvements for the purpose for increasing productivity, updating the technology of fixed machinery and equipment, or both.
- (9) "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion or Modernization.

- (10) "Reinvestment Zone" means an area designated for commercial/industrial tax abatement by Ordinance adopted by the Lockhart City Council and meeting the criteria of Chapter 312 of the Texas Tax Code, as amended, effective for a period of five (5) years after the date of the designation, and that may be renewed for periods not to exceed five (5) years.

(b) Abatement Authorized

- (1) Authorized Facility/Project. All types of facilities or projects will be eligible for abatement if they meet the criteria set forth in this policy; however, decisions regarding the grant of abatement or terms of abatement shall be at the sole discretion of the City Council.
- (2) Creation of New Facility. Abatement may only be granted for the additional value resulting from improvements to eligible property made subsequent to and specified in an Agreement between the City of Lockhart and the property owner.
- (3) Existing Facilities. Abatement may only be granted for Modernization or Expansion. In such a case, the abatement may only be granted for the additional value resulting from improvements to eligible property made subsequent to and specified in an Agreement.
- (4) Eligible Property Abatement may be extended to the value of buildings, structures, fixtures, inventories, machinery, equipment and site improvements plus that office space necessary to the operation and administration of the Facility.
- (5) Ineligible Property. The following types of property shall be fully taxable and ineligible for abatement: land; supplies; tools; vehicles; vessels; aircraft; housing; hotel accommodations; deferred maintenance investments; property which has a useful life of less than ten (10) years; property owned or used by the State of Texas or its political subdivision or by any organization owned, operated or directed by a political subdivision of the State of Texas.
- (6) Leased Facilities. For a facility to qualify for abatement, the land and eligible property must be owned by the same individual or company and leased to a facility operator whose lease commitment is at least ten (10) years.

- (7) Expansion of Existing Facility/Business. A facility or business that has been in operation for one (1) year or more and that meets the other requirements as set forth in this policy will be eligible for the same amount of tax abatement as set forth in the formula set out in Section II(d).

(c) Criteria for consideration.

- (1) Economic Qualification Factors. In order to be eligible to receive tax abatement, the proposed project will be evaluated by the following criteria:

(A) Employment Impact :

- How many jobs will be created?
- What will the total annual payroll be?
- What is the overall employer benefits package? Will health care insurance be provided to employees with at least 50% being employer sponsored premium?

(B) Fiscal Impact

- How much real and personal property value will be added to the tax roll?
- How much, if any, direct sales tax will be generated?
- What infrastructure construction would be required?

(C) Community Impact

- Will the project create any potential environmental effects?
- Will the project generate significant utility demand?
- Project can serve as a prototype and catalyst for other development of higher standard.
- Must not have a primary effect of transferring jobs within the county.
- Property has high visibility, aesthetic impact, or is of a significantly higher level of development.

- (2) Other considerations: In addition to the above criteria, several additional considerations may be evaluated.

(A) Is project's sponsor a local company?

(B) What types and values of public improvements, if any, will be made by the applicant?

- (C) Does, or can, the project meet all relevant zoning, subdivision and other legal requirements?
 - (D) Does the project provide particular benefit to an area of the city targeted for revitalization?
 - (E) Will the project substantially increase the business opportunities of existing local suppliers and contractors?
 - (F) Does the project pose any negative environmental, operational, visual or other impacts (i.e., pollution, noise, traffic congestions, etc.)?
 - (G) Is the Project in an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.?
 - (H) What impact will the Project have on other taxing entities?
 - (I) How will this Project affect existing businesses/industries?
 - (J) How competitive is the Project? Are locations outside of the City of Lockhart under consideration?
 - (K) Is there a demonstrated financial need or gap that needs to be considered in order to facilitate the development of the Project?
 - (L) Does the site under consideration meet at least one of the mandatory criteria to be designated as a Reinvestment Zone pursuant to Texas Local Government Code Chapter 312.202, as amended?
- (d) **Formula.** Once a determination has been made that tax abatement should be offered, a Project will be evaluated based upon total project costs as stated in this Policy. Additionally, an approved Abatement will apply to property in accordance with the provisions of this Policy Statement. **Abatement shall only apply to the maintenance and operations portion of City of Lockhart's total tax rate.** The value and term of the Abatement shall be at the discretion of the City and will be determined by referencing the following table:

- (1) Facility/Project Adding at least \$75,000,000 to tax rolls and creating a minimum of twenty-five (25) jobs:

<u>YEARS OF ABATEMENT</u>	<u>PERCENTAGE OF ABATEMENT</u>
Year 1	100%
Year 2	100%
Year 3	70%
Year 4	70%
Year 5	55%
Year 6	55%
Year 7	55%
Year 8	30%
Year 9	30%
Year 10	30%

- (2) Abatements on all facilities/projects (both real and personal property) are open to negotiation up to the state law limits of 100% per year for a ten (10) year maximum term, including renewals. The required job count may, at the discretion of the City Council, be waived on a case-by-case basis should the project generate significant economic benefits for the community and local taxing districts. The number of years, up to the maximum of ten (10) years, including renewal terms, and/or percentage of abatements may be established at the sole discretion of the City Council on an individual basis. Where the applicant's investment in real and/or personal property improvements substantially exceeds the eligibility thresholds, the City Council may consider terms and/or percentages that exceed these guidelines. Maximum years of abatement will not exceed the maximum number of years permitted by state law.

III. GENERAL GUIDELINES.

Any person, organization or corporation desiring that the Lockhart City Council consider providing tax abatement as authorized by this Policy and state law, including without limitation, a tax abatement to encourage location or expansion of operations within the area designated by the location or expansion of operations within the area designated by the City shall be required to comply with the following general guidelines. Nothing within these guidelines shall imply or

suggest that Lockhart City Council is under any obligation to provide tax abatement in any amount or value to any applicant.

An Agreement shall only be effective if approved by majority vote of the City Council at a regularly scheduled meeting of the Council. Notice of the meeting shall comply with Chapter 551 of the Texas Government Code, as amended; however, such notice shall be provided at least thirty (30) days before the scheduled time of the hearing in accordance with Chapter 312 of the Tax Code. The public notice of the meeting at which the City Council will consider approval of an Agreement for tax abatement with a property owner shall contain the following:

- (1) the name of the property owner and the name of the applicant for the tax abatement agreement;
- (2) the name and location of the Reinvestment Zone in which the property subject to the agreement is located;
- (3) a general description of the nature of the improvements or repairs included in the agreement; and
- (4) the estimated cost of the improvements or repairs.

Lockhart's Tax Abatement Policy is governed by Chapter 312 of the Texas Local Government Code, as amended ("Chapter 312"). Any abatement offered must comply with Chapter 312 and this Policy. It is understood that any changes to Chapter 312 may trigger a change to this Policy or deviation from this Policy if in conflict with state law.

IV. UNDOCUMENTED WORKERS PROVISION AND OTHER APPLICABLE CONTRACTUAL TERMS

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).

Additionally, to the extent applicable, Applicant's compliance with Texas Government Code Chapter 2252, et seq., Chapter 2270, et seq., Chapter 2274, et seq., and other state laws providing prohibitions on government contracts shall be required and shall be included in all Agreements.

V. DEFAULT AND RECAPTURE.

Each Agreement shall provide the following:

- (a) In the event of default of any term or condition of the application for tax abatement by the applicant or the applicant's successor or of an assignee of the applicant, the City Council shall have the right to modify or terminate the Agreement and cease the abatement of taxes. Taxes based on the appraised value of the subject property with improvements will be due and payable for the year in which tax abatement is terminated.
- (b) Except for events of force majeure, or due to modernization, if during the abatement period, the facility ceases operation for a period of more than ninety (90) days, or falls below the contracted taxable values, and/or job count, then the tax abatement shall terminate, and no amount of taxes shall be abated for any calendar year this occurs. Notwithstanding the foregoing, an extension may be granted to Applicant in accordance with the following: If there is a planned closure for a period no more than ninety (90) days, then at least thirty (30) days prior to the commencement of that closure, the Applicant shall submit a written notice to the City detailing the reason for the closure and the schedule for reopening. Upon receipt of such written request, Staff will consider granting an extension to the ninety (90) day limitation of this Section. An extension shall be at the sole discretion of the City and shall be determined on a case-by-case basis.
- (c) In the event that the Applicant fails to pay ad valorem taxes owed to City of Lockhart or any other taxing entity located in the county when due, or violates any of the terms or conditions of the tax abatement policy; or is in default with any other city-sponsored program; then the city shall have right to terminate the tax abatement, in which event, taxes based on the full value of the subject property with all improvements shall be immediately due and payable, including any amount of taxes abated during the calendar year in which the termination occurs and any amount of taxes abated during prior years.
- (d) If the applicant, during the abatement period and for a period four years following the abatement period, ceases to operate the facility for which the abatement was granted or moves the facility for which abatement was granted to a location outside the City of Lockhart, the Lockhart City Council shall have the right to recapture taxes abated during any or all previous years.

VI. PRELIMINARY APPLICATION STEPS

- (a) Applicant shall complete the application for incentives provided by the Lockhart Economic Development Corporation
- (b) The location of the property must be provided. If the property is described by metes and bounds, a complete legal description shall be provided.
- (c) Applicant shall complete all forms and information detailed in Items A & B above and submit them to the City.

VII. APPLICATION REVIEW STEPS

- (a) All information in the application package detailed above will be reviewed for completeness and accuracy by City staff. Additional information may be requested as needed.
- (b) The application will be distributed to the appropriate departments of the taxing entities for internal review and comments. Additional information may be requested as needed.

VIII. CONSIDERATION OF THE APPLICATION

- A. All requests for Abatement shall be submitted on the Application provided in Exhibit "B" of this Policy. LEDC and City Staff ("Staff") will consider the application. An economic impact analysis may be conducted to understand the over economic benefit to the community and taxing districts. Additional information may be requested as needed. Any negotiation will take place with the applicant after receipt of the application and all information determined necessary by Staff. Should the project location be in an existing tax increment reinvestment zone (TIRZ), additional research and negotiation by staff will need to be made in order to determine if a tax abatement or different incentive program is in the best interest of the City of Lockhart.

LEDC and City staff will coordinate with other taxing entities on a case-by-case basis should an applicant wish to seek a tax abatement from other local taxing entities.

The recommendation by staff for a city tax abatement will be forwarded to the LEDC for consideration and recommendation. A reinvestment zone, if not already designated, must be designated with 7-day public notice and a public hearing by the City Council per state law. For the individual tax abatement, a

public notice at least thirty (30) days prior to the Council's consideration must occur, per state law. Following this notice, the City Council will be able to consider the tax abatement at a regularly scheduled City Council meeting. The City Council's decision on the application is final.

POST-APPROVAL

- (a.) Preceding execution of an Agreement by the City of Lockhart, the City will provide written notice and a copy of the proposed Agreement to each other local taxing unit at least seven (7) days prior to execution of the Agreement.
- (b.) The Applicant shall file an exemption application with all supporting documents to the Lockhart County Appraisal District. The application must be filed between January 1 and April 30 of the year for which an exemption is requested. An application for this exemption must be filed each year.
- (c.) Taxing entities providing an Abatement are required to post the approved agreement to their website and submit the Agreement(s) to the Texas Comptroller's Office for public posting on their website, per state law.
- (d.) Applicant shall provide annually to the City a signed affidavit confirming facility job count and taxable value as a compliance measure for the Abatement.
- (e.) Ongoing compliance during the abatement period, including audit and/or inspection by the City or other participating tax entities for contracted improvements may occur.
- (f.) Any assignment of the Abatement to an affiliate, subsidiary or new company must be requested in writing for approval by City; City's consent shall be discretionary based upon financial stability and viability of the affiliate, subsidiary or new company and other factors City determines reasonably appropriate given the terms of the Agreement. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment shall be to an owner that continues the same improvements or repairs to the property except to the extent such improvements or repairs have been completed, and that continues the same use of the facility as

stated in the original Agreement with the owner. No assignment shall be approved if the assignor or the assignee is found to be in default. Ongoing project operations following the Abatement period for a period of four (4) years per this Policy will be enforced.