

RESOLUTION NO. R-31-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALESTINE, TEXAS, ESTABLISHING AND ADOPTING GUIDELINES AND CRITERIA FOR GRANTING COMMERCIAL TAX ABATEMENT IN REINVESTMENT ZONES CREATED IN THE CITY OF PALESTINE, TEXAS, IN ACCORDANCE WITH CHAPTER 312 OF THE TEXAS PROPERTY TAX CODE; ESTABLISHING AN EFFECTIVE DATE; AND AUTHORIZING THE CITY SECRETARY TO POST THE GUIDELINES AND CRITERIA ON THE CITY'S INTERNET WEBSITE UPON APPROVAL.

WHEREAS, the City of Palestine, Texas (the "City") wishes to continue to promote economic development programs in accordance with the authority granted to municipalities; and

WHEREAS, the City's economic development programs include, but are not limited to the granting of tax abatements in accordance with Chapter 312 of the Texas Tax Code, which is known as the Property Redevelopment and Tax Abatement Act (the "Code"); and

WHEREAS, Section 312.002(a) of the Code requires the City, as a taxing unit, to adopt a resolution establishing guidelines and criteria governing tax abatement agreements; and

WHEREAS, the City previously adopted Resolution No. R-21-22 establishing guidelines and criteria governing tax abatement agreements, approved on June 13, 2022; and

WHEREAS, pursuant to Section 312.002 of the Code, tax abatement guidelines and criteria are effective for only two (2) years unless amended or repealed by a vote of three-fourths of the City Council; and

WHEREAS, the City Council of the City of Palestine, Texas, desires to adopt new Commercial Tax Abatement Guidelines and Criteria; and

WHEREAS, the City previously expressed its intent to consider the Commercial Tax Abatement Guidelines and Criteria by Resolution R-27-24 approved on May 28, 2024; and

WHEREAS, the City Council of the City of Palestine held a public hearing pursuant to Section 312.002(c-1) of the Texas Tax Code regarding the proposed guidelines and criteria for granting tax abatement on the 8th day of July, 2024 at a properly noticed meeting, at which the public was given the opportunity to be heard on the issue; and

WHEREAS, the Council reaffirms its absolute discretion under Section 312.002(d) of the Code to decide whether to enter into a specific tax abatement agreement and to delegate to its employees the authority to determine whether the City Council should consider a particular application or request for abatement; and

WHEREAS, the adoption of the guidelines and criteria for granting tax abatement does not create any property, contract, or other legal right in any person to have the City Council consider or grant a specific application or request for tax abatement according to Section 312.002(d)(3).

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

- SECTION 1.** The foregoing recitals shall be and are hereby incorporated in this Section 1 as if said recitals were fully set forth herein.
- SECTION 2.** The Policy, Guidelines and Criteria for Granting Tax Abatement Relief in Reinvestment Zones created in the City of Palestine, Texas, attached hereto as Exhibit "A" to this Resolution, is hereby incorporated herein as if fully stated and are hereby adopted by the City of Palestine.
- SECTION 3.** The City Secretary shall cause the Policy, Guidelines and Criteria for Granting Tax Abatement Relief to be posted on the City's internet website.
- SECTION 4.** This Resolution shall be effective as of the date considered, approved, and adopted by the City Council of the City of Palestine, Texas.

PASSED, APPROVED, AND ADOPTED, by the City Council of the City of Palestine, Texas, on the 8th day of July, 2024.


MITCHELL JORDAN
MAYOR

ATTEST:


APRIL JACKSON
CITY SECRETARY

APPROVED AS TO FORM:



REZZIN PULLUM
CITY ATTORNEY



Exhibit "A" to Resolution No. R-31-24

CITY OF PALESTINE, TEXAS

POLICY, GUIDELINES AND CRITERIA FOR GRANTING COMMERCIAL TAX ABATEMENT

(Chapter 312, Texas Tax Code)

Effective July 8, 2024

CONFIDENTIAL

PLEASE NOTE:

Section 312.003 of Chapter A of the Texas Tax Code provides:

"Information that is provided to a taxing unit in connection with an application or request for tax abatement under this chapter and that describes the specific process or business activities to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed. That information in the custody of a taxing unit after the agreement is executed is not confidential under this section."

Persons in possession of an Application for Tax Abatement are reminded of this provision of the law and should restrict access to such information accordingly.

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SECTION 1 - PREAMBLE

This City of Palestine, Texas Policy, Guidelines and Criteria for granting Tax Abatement ("the Policy") adopted July 8, 2024 by the City of Palestine is designed to stimulate continued economic growth in the City of Palestine, while preserving the values and existing assets that provide the quality of life our citizens already have come to enjoy.

It seeks a balance between attracting new businesses that are seeking to relocate here, providing a friendly environment for new undertakings, promoting the expansion of economic resources already in place, and considering the effect of economic change upon existing economic assets that already have realized their potential.

It seeks to preserve the values of the past, stimulate and consider current economic opportunities, and plan for a future that includes a global economic marketplace and new and exciting economic endeavors.

It is the intent of the City of Palestine (the "City") to put in place a Tax Abatement Policy that will take the City through the 21st century and be of benefit to all the citizens of our community.

The City acknowledges that both the retention of economic assets and existing jobs and the creation of new jobs and economic endeavors have an important place in striking a positive economic balance in the City of Palestine. These Guidelines and Criteria for seeking a Tax Abatement from the City are intended to be flexible, and special circumstances may lead the City to tailor individual Tax Abatement Agreements to specific circumstances.

This particular Tax Abatement Policy and Guidelines and Criteria apply to the granting of a Tax Abatement by the City of Palestine. There are a number of other entities and bodies that can choose to abate or not abate taxes as well. We urge applicants to check with the appropriate agencies, and the Anderson County Appraisal District to determine the circumstances of your particular situation as far as determining the taxing entities that may affect your project. However, the City of Palestine has no objection to other taxing entities adopting this Tax Abatement Policy and Guidelines and Criteria as their own subject to their complying with the statutory requirements for doing so; however, in no event should an amendment of this Policy by another taxing entity constitute an amendment by the City of Palestine without the City of Palestine City Council complying with the statutory requirements of Ch. 312 of the Texas Tax Code for making amendments to its tax abatement policy, guidelines and criteria once adopted and while in effect.

SECTION 2 - DEFINITIONS

The following definitions shall be applicable to this Tax Abatement Policy and Guidelines and Criteria only.*

- a. **"Abatement" (or "Tax Abatement")** means the full or partial exemption from ad valorem taxes of certain property in a reinvestment zone or enterprise zone designated by the City of Palestine for economic development purposes.
- b. **"Agreement"** means a contractual agreement between a property owner and/or lessee and an eligible taxing jurisdiction for the purpose of tax abatement.
- c. **"Base year value"** means the appraised value in the reinvestment zone on January 1 preceding the effective date of the Agreement, plus the agreed upon value of eligible property improvements made after January 1 but before the effective date of the Agreement, or the sales price if the property was conveyed subsequent to January 1, whichever is greater.
- d. **"Competitive Market Wage"** means the greatest of (a) the wage established through industry analysis, competitive markets and business financial evaluation, or prevailing wage rates; or (b) the median annual wage for all occupations in Anderson County.
- e. **"Competitively-Sited Project"** means a project where the applicant has completed a written evaluation of competing locations for expansion, relocation, or new operations, including identification of specific sites in those locations.
- f. **"Deferred maintenance"** means improvements necessary for continued operation which do not improve productivity or alter the process technology.
- g. **"Expansion"** means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.
- h. **"Facility"** means property improvements completed or in the process of construction which together comprise an integral whole.
- i. **"Full-Time Equivalent Job" (or "FTE")** means a job where an employee works a minimum of thirty-five (35) hours per week, or one thousand eight hundred twenty (1,820) hours per year, for a specified wage and/or salary.
- j. **"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.

- k. **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion or Modernization.
- l. **"Office Building"** means a new office building to be occupied 100% by one owner or one tenant, providing further that said building and owner or tenant meet the other criteria set forth herein.
- m. **"Economic Life"** means the number of years a property improvement is expected to be in service in a facility.
- n. **"Eligible Jurisdiction"** means the area within the corporate boundaries of the City of Palestine, Texas, or other taxing district located within the corporate limits of the City of Palestine, Texas, that is eligible to abate its taxes according to Texas law that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.
- o. **"Manufacturing Facility"** means buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacturing of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- p. **"Part-Time Equivalent Job" (or "PTE")** means a job where an employee works a minimum of one thousand forty (1,040) hours per year.

** While the definitions above may be incorporated into a formal properly executed tax abatement agreement, parties to any tax abatement agreement should refer to their specific tax abatement agreements for specific agreed upon definitions.*

SECTION 3 - TAX ABATEMENT AUTHORIZED

- a. **Eligible Facilities.** Upon application, Eligible Facilities shall be considered for Tax Abatement as hereinafter provided. Eligible Facilities must fall within one of the following series of the North American Industrial Classification Code as determined by the United States Office of Management and Budget:
 - (1) **Manufacturing:**
 - Major Group 31-33 (Food and Kindred Products, Textiles, Furniture and Fixtures, Printing, Chemicals, Petroleum Refining, Leather, Stone Products, Fabricated Metals, Industrial Machinery, Electronic Equipment, Transportation Equipment, and Miscellaneous Manufacturing)
 - (2) **Transportation:**
 - Major Groups 48-49 (Railroad Transportation, Warehousing, Communications, Electric and Gas Services)

(3) **Services:**

- Sector 11 (Agriculture, forestry, fishing and hunting)
- Sector 21 (Mining, Oil and Gas)
- Sector 22 (Utilities)
- Sector 23 (Construction)
- Sector 42 (Wholesale Trade)
- Sector 44-45 (Retail trade)
- Sector 51 (Information)
- Sector 52 (Finance and insurance)
- Sector 53 (Real estate and rental and leasing)
- Sector 54 (Professional, Scientific, and Technical Services)
- Sector 55 (Management of companies and enterprises)
- Sector 56 (Administrative and support and waste management and remediation services)
- Sector 61 (Education services)
- Sector 62 (Health Care and Social Assistance)
- Sector 71 (Arts, entertainment, and recreation)
- Sector 72 (Accommodation and food services)
- Sector 81 (Other services, except public administration)
- Sector 92 (Public administration)
- Sector 99 (Unclassified)

- b. **Creation of New Value.** Abatement may only be granted for the additional value created by eligible property improvements made subsequent to and specified in an abatement agreement between the City and the property owner or lessee (if required), subject to such limitations as the City 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-in-place machinery and equipment, site improvements plus that office space and related fixed-in-place improvements necessary to the operation and administration of the Facility or that contribute to mitigation of existing air, emissions, water, or soil pollution.
- e. **Ineligible Property.** The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings, and other

forms of movable personal property; vehicles; vessels; aircraft; housing; deferred maintenance investments; property to be rented or leased except as provided in Section 3(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, or any property exempted by local, state, or federal law.

- f. **Owned/Leased Facilities.** If a leased Facility is granted abatement, the agreement shall be executed with the property owner (lessor) and the lessee.
- g. **Economic Qualification.** In order to be eligible to receive Tax Abatement, the planned improvement:
 - (1) Must be expected to increase the appraised ad valorem tax value of the property at least \$500,000 based upon the Anderson County Appraisal District's assessment of the Eligible Property; and
 - (2) Must be shown to directly create or prevent the loss of full-time employment on a permanent basis within the reinvestment zone; and
 - (3) Must provide salaries to all employees, including contract employees and employees hired by the contractors for construction of the company's facilities related to the Agreement, at a "Competitive Market Wage"; and
 - (4) Must make healthcare plans (Individual & Family) and retirement plans available to all employees. This is not required for contract employees and employees hired by contractors for construction of the company's facilities related to the Agreement; and
 - (5) Must, regardless of project size, hire at least 50% of its new employees at the project location from residents of the County of Anderson and subject to documentation evidencing compliance, as submitted by the company; and
 - (6) Must not involve contractors that have (i) any outstanding wage theft complaints against them or any wage theft violations committed in the last three years; (ii) any outstanding OSHA investigations or violations in the past three years; and
 - (7) Must be a **Competitively-Sited Project**; and
 - (8) Must be shown not to solely or primarily have the effect of transferring employment from one part of the City to another; and
 - (9) Must provide OSHA-10 training for construction workers and OSHA-30 training for supervisors in language the employees can understand and continue providing OSHA training, as applicable, after the construction of

the facility.

h. **Standards for Tax Abatement.** The following factors, among others, may be considered in determining whether to grant Tax Abatement, and if so, the percentage of value to be abated and duration of the Tax Abatement.

- (1) Value of land and existing improvements, if any;
- (2) Type and value of proposed improvements;
- (3) The expected economic life of proposed improvements;
- (4) Number of existing permanent jobs (i.e., FTEs) to be retained by the proposed improvements;
- (5) Number and type of permanent new jobs (i.e., FTEs) to be created by the proposed improvements;
- (6) Estimated value of local payroll to be created or enhanced,
- (7) Whether the new jobs to be created will be filled by persons residing or projected to reside within the corporate limits of the City of Palestine, Texas, or its extraterritorial jurisdiction;
- (8) Amount of local sales taxes, franchise fees, other fees, and revenues to be generated directly and indirectly, which may include:
 - i) Applicant's willingness to obtain a Direct Pay Permit from the Texas Comptroller, if appropriate; and
 - ii) the project's projected effect on the City's effective tax rate at the end of the Abatement.
- (9) The amount of property tax base valuation will be increased during term of Abatement and after Abatement, which shall include a definitive

commitment that such valuation shall not, in any case, be less than \$500,000;

- (10) The costs to be incurred by the City to provided facilities or services directly resulting from the new improvements;
- (11) The amount of ad valorem taxes to be paid to City of Palestine during the Abatement period considering (A) the existing values, (B) the percentage of new value abated, (C) the Abatement period, and (D) the value after expiration of the Abatement period;
- (12) The population growth of City of Palestine that might occur directly as a result of new improvements;
- (13) The types and values of public improvements, if any, to be made by applicant seeking Abatement;
- (14) Whether the proposed improvements compete with existing businesses to the detriment of the local economy;
- (15) The impact on the business opportunities of existing businesses;
- (16) The attraction of other new businesses to the area;
- (17) The overall compatibility with the comprehensive, long-range plan for the area;
- (18) Whether the project is environmentally compatible with the community and has no negative impact on quality-of-life perceptions.
- (19) The company profile, when established, including business references, principal bank, audited financial statement and Business Plan.

Each eligible Facility shall be reviewed on its merits utilizing the factors provided above. After such review, Abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

I. **Denial of Abatement.** No Abatement shall be authorized if it is determined that:

- (1) There would be substantial adverse effect on the provision of governmental services or tax base;
- (2) The Applicant has insufficient financial capacity to meet the requirements of the proposed Abatement agreement;

- (3) Planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- (4) Granting an Abatement would violate State or Federal laws;
- (5) There exists any other valid reason for denial deemed appropriate by the City of Palestine.

j. **Taxability.** From the execution of the Abatement to the end of the Agreement period, taxes shall be payable as follows:

- (1) The value of Ineligible Property as provided in Section 3(e) shall be fully taxable;
- (2) Non-abatable real property in the reinvestment zone shall be fully taxable each year;
- (3) The base year value of existing Eligible Property as determined each year shall be fully taxable;
- (4) If base year value decreases during the term of an Agreement or if an additional exemption is granted by the state or federal government, then the maximum amount of abatable value to be used in abatement calculation (the Cap) will be reduced each year at the same rate; and
- (5) The additional value of new Eligible Property shall be fully taxable at the end of the Abatement period.
- (6) Each year the abatement will be computed by ACAD in the following manner:
 - Current Property Value will be the current appraised value of all Eligible property and existing property within the reinvestment zone for the year in which the Agreement is executed.
 - Base year value will be subtracted from the Current Property Value, the result to be called "Current Amount Eligible for Abatement" provided the result is greater than or equal to the value of Eligible property.
 - Current Amount Eligible for Abatement is then multiplied by the abatement percentage specified by the Agreement for the given year.

SECTION 4 -TAX ABATEMENT SCHEDULES

In the event the City of Palestine desires to participate in a particular tax abatement project, the City may abate the increased value of ad valorem property taxes on real property developed, redeveloped, or improved to qualified businesses located within the City's corporate limits and jurisdiction. The amount of tax abated on any increment in value added to the ad valorem value of the property will be determined by the following objective criteria:

A. Economic Development Policy

1. Objective Requirements

- a. The business must have a minimum of five (5) new Full-Time Employees as defined herein, or
- b. Add at least \$500,000.00 in ad valorem taxable value to the current taxable value of business.
- c. Fall within one of the following series of the North American Industrial Classification Code as determined by the United States Office of Management and Budget:

(1) **Manufacturing:**

- Major Group 31-33 (Food and Kindred Products, Textiles, Furniture and Fixtures, Printing, Chemicals, Petroleum Refining, Leather, Stone Products, Fabricated Metals, Industrial Machinery, Electronic Equipment, Transportation Equipment, and Miscellaneous Manufacturing).

(2) **Transportation:**

- Major Groups 48-49 (Railroad Transportation, Warehousing, Communications, Electric and Gas Services)

(3) **Services:**

- Sector 11 (Agriculture, forestry, fishing and hunting)
- Sector 21 (Mining) (Wholesale trade)
- Sector 22 (Utilities)
- Sector 23 (Construction)
- Sector 42 (Wholesale trade)
- Sector 44-45 (Retail trade)
- Sector 51 (Information)

- Sector 52 (Finance and insurance)
- Sector 53 (Real estate and rental and leasing)
- Sector 54 (Professional, Scientific, and Technical Services)
- Sector 55 (Management of companies and enterprises)
- Sector 56 (Administrative and support and waste management and remediation services)
- Sector 61 (Education services)
- Sector 62 (Health Care Services)
- Sector 71 (Arts, entertainment, and recreation)
- Sector 72 (Accommodation and food services)
- Sector 81 (Other services, except public administration)
- Sector 92 (Public administration)
- Sector 99 (Unclassified)

d. Incentive Points may be awarded according to the following criteria:

EVALUATION CRITERIA	INCENTIVE POINTS
Each new Part-Time Equivalent Job created:	0.5
Each new Full-Time Equivalent Job created:	1
Each existing Full-Time Equivalent Job retained:	5
Every \$100,000 in capital investment generated:	1
Every \$20,000 in annual payroll (new and/or retained)	1
Meets "Manufacturing" group criteria (see above)	50
Meets "Transportation" group criteria (see above)	30
Meets "Service" group criteria (see above)	20

B. Abatement Eligibility

1. Standard Abatements

a. Abatement percentages may be earned depending upon total incentive points allocated in the following categories for new and expanding industries:

ALLOCATED INCENTIVE POINTS				
Abatement Year	35 to 74 Points	75 to 200 Points	201 to 400 Points	401 to 600 Points
1	80%	100%	100%	100%
2	60%	70%	100%	100%
3	40%	50%	70%	70%
4	20%	50%	50%	60%
5	0%	25%	25%	50%
6	0%	0%	0%	25%
7	0%	0%	0%	25%

2. Non-Standard Abatements (and PILOTs)
 - a. Applicants earning more than 600 total incentive points, or who otherwise can demonstrate unique or extraordinary characteristics and/or benefits associated with their project, may be eligible for non-standard Tax Abatements subject to terms and conditions specifically negotiated between the applicant and the City of Palestine.
 - b. Applicants eligible for non-standard Tax Abatements may qualify for the use of PILOT (Payments In Lieu of Tax) agreements as part of a negotiated Chapter 312 Tax Abatement Agreement incentive.

SECTION 5 -TAX ABATEMENT APPLICATION

1. **"Application."** Any current or potential owner of taxable property, or lessee of taxable property, in the City may request a Tax Abatement by filing a written Application with the City Manager of the City of Palestine, Texas. The City Council of the City of Palestine may establish an application fee associated with each Application, which (if established) must be paid at the time the Application is submitted.
2. **"Review."** All Abatement Application(s) will be individually reviewed by the City Council of Palestine and approved or disapproved based on the merits of the application and the guidelines and criteria set forth herein. In addition, in its discretion, the City may appoint a Tax Abatement Review Board to review and make recommendations to the Council regarding each application. If appointed, the Tax Abatement Review Board shall be made up of no less than three (3) and no more than five (5) members.
3. **"Included Items."** The Application shall consist of a completed Application form, which shall provide detailed information on the factors set out in Section 3 hereof; a detailed site plan or appropriate plan illustrating layout and design for structures, landscaping, signage, parking, and internal circulation along with a legal property description; and a time schedule for undertaking and completing the planned improvements. In the case of modernization, a statement of the current assessed value of the Facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the Application. The Application form may require financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors regarding the Applicant.
4. **"Reinvestment Zone Notice to be Given."** Prior to the adoption of an order designating a reinvestment zone or enterprise zone, the City shall give notice as