

RESOLUTION NO. 18-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, ADOPTING GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENT AGREEMENTS IN THE CITY OF SUGAR LAND UNDER CHAPTER 312 OF THE TEXAS TAX CODE TO BE EFFECTIVE ON MAY 20, 2018.

WHEREAS, Chapter 312 of the Texas Tax Code requires the City Council to adopt guidelines and criteria governing tax abatement agreements every two years if the council elects to be eligible to participate in tax abatement; and

WHEREAS, the guidelines and criteria may only be amended or repealed by a vote of three-fourths of the members of the city council during the two-year period; and

WHEREAS, the City Council elects to remain eligible to participate in tax abatement as provided for in Chapter 312 of the Texas Tax Code and wishes to adopt guidelines and criteria governing tax abatement according to the terms set forth in this Resolution; NOW, THEREFORE;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS:

Section 1. That it elects to remain eligible to participate in tax abatement as provided for in Chapter 312 of the Texas Tax Code, as amended, by adoption of these guidelines and criteria.

Section 2. That it adopts the following guidelines and criteria for granting tax abatement in the City of Sugar Land:

A. Definitions.

Abatement means the full or partial exemption of property from ad valorem taxes.

District means the Fort Bend County Appraisal District.

Ineligible Property includes:

1. Land;
2. Real property used for residential purposes;
3. Real property with a productive life of less than 10 years;
4. Real property used primarily to provide retail sales or services to the public;
5. Tangible personal property that the District classifies as inventory or supplies;
6. Tangible personal property located on the Real Property Improvements prior to the effective date of the applicable tax abatement agreement;

7. Any property owned or leased by a member of the city council or the planning and zoning commission on the effective date of a tax abatement agreement; and
8. Any other property for which Abatement is not allowed by state law.

Owner means the Owner of the real property to which the abatement agreement applies.

Personal Property means any property classified as tangible personal property by the District that is not Ineligible Property.

Real Property Improvement or Improvements means any new facility or structure or the expansion or modernization of an existing facility or structure classified as real property by the District that is not Ineligible Property.

Reinvestment Zone means an area that the City Council of the City of Sugar Land designates by ordinance as a Reinvestment Zone that meets the requirements of Chapter 312 of the Texas Tax Code.

Targeted Business or Industry means a type of business or industry that the city council determines would primarily fall into one or more of the following classifications:

1. Regional or national corporate headquarters;
2. Scientific Research and Development and Related Manufacturing
3. Advanced Technology Research and Development and Related Manufacturing
4. Financial services;
5. Medical Research and Development and Related Manufacturing; and
6. Energy & Petroleum Industry Services and Engineering

Value means the appraised value as shown on the records of the District.

B. Minimum Qualifications for Abatement.

1. The city council may grant Abatement for Real Property Improvements and Personal Property if:
 - (a) Upon completion: (1) The Cumulative Value of Improvements and Personal Property is at least \$4,000,000; or (2) Improvements and Personal Property will be used by a Targeted Business or Industry; and
 - (b) A building permit for the Improvements has not been issued.
2. As to the Personal Property, the Personal Property is located on the same property as the Improvements for which Abatement is granted and the Abatement is for the same year or years as the Abatement of the Improvements; and

3. Any abated Improvements and Personal Property, must meet all the requirements of state law.

C. Factors Considered in Granting Abatement. To determine whether to grant Abatement, the types of property to be abated, and the percentage and duration of the abatement, the city council may consider any factor that could have an impact on the community, including, but not limited to, the following:

1. The type, value, and productive life of the property to be abated;
2. The number of jobs that will likely be retained or created;
3. The amount of local payroll that will be created;
4. The amount of local sales taxes that will be generated;
5. The increase in the tax base during and after abatement;
6. The amount applicant proposes to expend on public infrastructure, whether on or off-site, to provide for or serve the Improvements;
7. The Improvements and Personal Property will be used by a Targeted Business or Industry;
8. The Value of the applicant’s existing, improvements, personal property and investment within the City; and
9. The applicant’s demolition of an existing improvement for purposes of building new Improvements within the City

D. Amount and Duration of Abatement. The following table provides guidance when granting Abatement for Improvements and Personal Property for projects that meet the requirements of state law and these guidelines and criteria:

Cumulative Value of Improvements and Personal Property	Abatement Duration	Annual Percent of Abatement
\$4,000,000 - \$20,000,000	Up to 10 years	Up to 35%
\$20,000,001- \$40,000,000	Up to 10 years	Up to 55%
\$40,000,001 - \$75,000,000	Up to 10 years	Up to 75%
\$75,000,001 and Greater	Up to 10 years	Up to 100%

E. Leadership in Energy and Environmental Design (LEED®) Tax Abatement.

1. Definitions. In this section:

LEED Tax Abatement means an additional Abatement the City Council may grant under this section for Improvements that receive LEED certification.

LEED Value means the amount of the total Value of the Improvements that the City attributes to the LEED certification levels, calculated as follow:

<u>Certification Level</u>	<u>LEED Value</u>
Certified (Basic) Level	1.0% of the Value of the Improvements
Silver Level	2.5% of the Value of the Improvements
Gold Level	5.0% of the Value of the Improvements
Platinum Level	10.0% of the Value of the Improvements

2. Qualifications. In addition to any other Abatement on the Improvements granted under another section of this Resolution, the City Council may grant a LEED Tax Abatement for Improvements if the Owner:

- (a) Has applied for and is qualified to receive Abatement on the Improvements, other than the LEED Tax Abatement provided for in this section;
- (b) Has registered with the U.S. Green Building Council (USGBC) seeking LEED Certification for the Improvements prior to applying for tax abatement;
- (c) The LEED Value is at least \$100,000; and
- (d) Is receiving an Abatement of less than 100% of the Improvements under another section of this Resolution.

3. Amount. If granted, the LEED Abatement is for 100% of the LEED Value. The LEED Value abated under this section is deducted from the total Value of the Improvements before any other abatement is applied to those Improvements under any other section of this Resolution.

4. Time of Abatement. The Owner is qualified to receive the LEED Tax Abatement on the Improvements on January 1st of each year if:

- (a) The City has notified the Owner in writing that documents submitted by the Owner to the City are sufficient to verify that the Improvements are LEED certified;
- (b) The Owner is receiving an Abatement on the same Improvements under another section of this Resolution; and
- (c) The Owner has met any requirements of the District for receiving the LEED Abatement on the Improvements.

F. Conditions. A subcommittee of the city council charged with Economic Development oversight may recommend and the city council may impose any other conditions in a tax abatement agreement that the city council deems necessary to promote the purposes of these guidelines.

G. Abatement Agreement Requirements. To receive abatement, the Owner of the Real Property Improvements must enter into the City's standard tax abatement agreement that provides for:

1. The kind, number, and location of the Improvements;
2. The annual percentage of Abatement for property receiving Abatement;
3. The duration of the agreement, but not exceeding ten years;
4. Recapture of abated taxes if the Owner breaches the agreement;
5. A city council finding that abatement agreement complies with these guidelines;
6. Limiting the use of the Improvements to the purpose for which Abatement is granted;
7. The construction of Improvements by "separated contracts," as defined by State law or regulations, so that the City receives municipal sales taxes on the materials incorporated into the Improvements;
8. The Owner to certify annually that the Owner is in compliance with the abatement agreement and that the Owner will provide, upon the City's request, any information reasonably necessary for the City to determine if the Owner has complied with the abatement agreement;
9. City access to the Improvements during regular business hours to determine if the Owner is in compliance with the abatement agreement;
10. City to terminate the agreement if the Owner breaches the agreement;
11. The recording of a copy of the agreement in the Fort Bend Real Property Records by the Owner; and
12. Any other provisions required by law or required by the city council.

H. Application and Processing.

1. Any person may request Abatement by filing a written application with the City on forms provided by the City for that purpose.
2. The City's Economic Development Department will review the application and make its recommendation to a subcommittee of the city council charged with Economic Development oversight. The council subcommittee is responsible for reviewing abatement applications and making recommendations to the city council. The council subcommittee may develop policies and procedures for processing abatement applications that are not inconsistent with these guidelines or State law.
3. The council subcommittee will review all abatement applications it receives. If the council subcommittee believes the City should grant Abatement to the applicant, it will submit the application to the city council along with its recommendation of the terms and conditions under

which Abatement should be granted. If the council subcommittee believes Abatement should not be granted to the applicant, no further action will be taken on the abatement application unless the applicant requests in writing that the council subcommittee submit the application and its negative recommendation to the full city council.

4. Before the city council may approve a Tax Abatement agreement or designate an area as a Reinvestment Zone, the city council must first establish guidelines and criteria governing tax abatement agreements under the requirements of Chapter 312, Texas Tax Code. It is then necessary to designate a Reinvestment Zone by ordinance, which requires a public hearing under Chapter 312, Tex. Tax Code. The notice of the public hearing must be published in a newspaper having general circulation in the municipality not later than the seventh day before the date of the public hearing. The public hearing must be identified on the city council agenda and posted as provided in the Open Meetings Act. Additionally, notice of the hearing must be delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone not later than the seventh day before the date of the public hearing. The ordinance designating a Reinvestment Zone must be identified on the city council agenda and posted as provided in the Open Meetings Act. A Reinvestment Zone ordinance requires two readings of the city council.

5. Notice of any proposed abatement agreement to be presented to the city council must be identified on a city council agenda that must be posted as required by the Open Meetings Act and given to other taxing jurisdictions, as required by state law. A tax abatement agreement must be approved by the affirmative vote of four or more city council members at a regularly-scheduled meeting.

6. After a tax abatement agreement has been approved by city council a copy of the abatement must be submitted to the Fort Bend Central Appraisal District.

I. City Discretion. The City's adoption of these guidelines and criteria does not:

1. Limit the City's discretion in deciding whether to enter into a specific tax abatement agreement; or
2. Create any property, contract or other legal right in any person to have the City consider or grant a specific application or request for tax abatement.

Section 3. That these guidelines and criteria are effective on May 20, 2018 and remain in force for two years, unless amended by a vote of three-fourths of the members of the city council of the City of Sugar Land.

APPROVED on _____, 2018.

Joe R. Zimmerman, Mayor

ATTEST:

Glenda Gundermann, City Secretary

Approved as to Form: