

RESOLUTION NO. 23-94

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ADOPTING PROCEDURAL GUIDELINES AND CRITERIA FOR EVALUATING REINVESTMENT ZONE APPLICATIONS; AND ESTABLISHING COMPREHENSIVE CRITERIA AND GUIDELINES GOVERNING TAX ABATEMENT AGREEMENTS.

WHEREAS, the enhancement of the local economy is in the best interests of the citizens of Mesquite, and

WHEREAS, the creation of specified reinvestment zones will be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment that would be a benefit to the property and that would contribute to the economic development of the City of Mesquite; and

WHEREAS, the establishment of specific criteria, guidelines, and procedures are necessary to effectively and fairly administer the provision of economic development incentives; and

WHEREAS, state law 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, said Guidelines and Criteria to be unchanged for a two year period unless amended by a three-quarters vote;

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

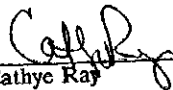
SECTION 1. That the City of Mesquite, in accordance with state law, hereby establishes Guidelines and Criteria for the application and evaluation of potential reinvestment zones and governing all tax abatement agreements, attached hereto as Exhibit "A" and made a part hereof for all purposes.

SECTION 2. That these Guidelines and Criteria shall not be construed as implying or suggesting that the City of Mesquite is under obligation to provide tax abatement or other incentive to any applicant, and all applicants shall be considered on a case-by-case basis.

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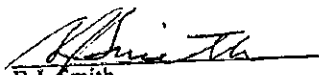
DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 15th day of August, 1994.


Cathye Ray
Mayor

ATTEST:

APPROVED:

Lynn Prugel
City Secretary


B.J. Smith
City Attorney

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GUIDELINES AND CRITERIA
FOR GRANTING TAX ABATEMENT IN REINVESTMENT ZONES
CREATED IN THE CITY OF MESQUITE, TEXAS

Section 1. Definitions

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of eligible property in a reinvestment zone designated by the City of Mesquite for economic development purposes.
- (b) "Agreement" means a contractual agreement between a property owner and/or lessee and the City of Mesquite, Texas.
- (c) "Base Year Value" means the assessed value of eligible property on January 1st of the year of the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1st but before the execution of the agreement.
- (d) "Deferred Maintenance" means improvements necessary for continued operation which do not improve productivity or alter the process technology.
- (e) "Eligible Facilities" means new, expanded or modernized buildings and structures, including fixed machinery and equipment, which are reasonably likely as a result of granting abatement to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the City of Mesquite.
- (f) "Expansion" means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.
- (g) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (h) "Hotel" means a commercial structure which provides overnight accommodations to travelers and which contains one hundred-fifty (150) rooms or more.
- (i) "Modernization" means the replacement and/or upgrading of existing facilities which increase the productive input or output, updates the technology or substantially lowers the unit cost of an operation. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment, or both.
- (j) "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion or Modernization.
- (k) "Office Building" means a new office building to be occupied at least ninety (90) percent by one owner or one tenant.
- (l) "Productive Life" means the number of years a property improvement is expected to be in service in a facility.

Section 2. Abatement Authorized

- (a) Eligible Facilities. Upon application, Eligible Facilities shall be considered for Tax Abatement as hereinafter provided.
- (b) Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an Abatement Agreement between the City of Mesquite and the property owner or lessee, subject to such limitations as the City of Mesquite 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 machinery and equipment, site improvements, and related fixed improvements necessary to the operation and administration of a Facility, except as provided in Section 2(f).
- (e) Owned/Leased Facilities. If a Leased Facility is granted Abatement, the Agreement shall be executed with the lessor and the lessee.
- (f) Ineligible Property. The following types of property shall be fully taxable and ineligible for Tax Abatement: land, inventories, supplies, tools, furnishings, and other forms of moveable personal property, housing, Deferred Maintenance, property to be rented or leased except as provided in Section 2(e), and property which has a Productive Life of less than ten (10) years.

Section 3. Criteria

- (a) Minimum Criteria. The City of Mesquite will consider Tax Abatement only for Eligible Facilities and/or Eligible Property which meet the following criteria:
 - (1) The project must result in a net increase of at least two (2) million dollars in taxable value.
 - (2) The project must conform to the Comprehensive Zoning Ordinance.
 - (3) The project must contribute to the retention or expansion of primary employment or contribute substantially to redevelopment efforts, and must not be expected to solely or primarily have the effect of transferring employment from one part of the City to another.
- (b) Additional Standards. In addition to the minimum requirements provided in Section 3(a), the following criteria shall be considered in determining whether to grant Tax Abatement and, if so, the percentage of value to be abated and the duration of the Tax Abatement:
 - (1) The value of land and existing improvements, if any;
 - (2) type and value of proposed improvements;
 - (3) productive life of proposed improvements;

- (4) number of existing jobs to be retained by proposed improvements;
- (5) number and type of new jobs to be created by proposed improvements;
- (6) amount of local payroll to be created;
- (7) whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdictions;
- (8) amount of local sales tax to be generated directly;
- (9) 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 \$2,000,000;
- (10) the costs to be incurred by the City of Mesquite to provide facilities or services directly resulting from the new improvements;
- (11) the amount of ad valorem taxes to be paid the City of Mesquite during the Abatement period considering the existing values, the percentage of new value abated, the Abatement period, and the value after expiration of the Abatement period;
- (12) the population growth of the City of Mesquite that occurs 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) whether the project is environmentally compatible with no negative impact on quality of life perceptions; and
- (18) the degree to which the project makes a substantial contribution to redevelopment efforts or special area plans by enhancing either functional or visual characteristics, e.g., historical structures, traffic circulation, parking, facades, signs, materials, urban design, etc.

Section 4 Procedural Guidelines

- (a) Application. All applicants shall be considered on a case-by-case basis; each application will be reviewed on its merits utilizing the criteria provided in Section 3. After such review, Abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

- (1) Any present or potential owner of taxable property in Mesquite, Texas may request the creation of a *reinvestment zone* and Tax Abatement by filing a completed Tax Abatement Application with the City of Mesquite. The application shall then be forwarded to the Director of Community Development for review and recommendation to the City Council of the City of Mesquite for final disposition.
 - (2) The application shall consist of a completed application form which shall provide detailed information on the items described in Section 3 above; a map and property description; and a time schedule for undertaking and completing the planned improvements. In the case of Modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the year of application.
 - (3) The application form may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant. Information which describes the specific processes 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.
 - (4) The City of Mesquite shall give notice as provided by the Texas Property Tax Code, i.e., (A) written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the Agreement is located no later than the seventh day before the public hearing; and (B) publication in a newspaper of general circulation within such taxing jurisdiction no later than the seventh day before the public hearing. Before acting upon the application, the City of Mesquite shall, by public hearing, afford the applicant, the designated representative of any governing body of each taxing unit, and any interested persons the opportunity to show cause why the Abatement should or should not be granted.
 - (5) The City of Mesquite, no more than forty-five (45) days after receipt of the application, shall by resolution, either approve or disapprove the application for Tax Abatement. The City of Mesquite shall notify the applicant of approval or disapproval.
- (b) Approval. If approved, the City of Mesquite shall formally pass a resolution and execute an Agreement with the owner of the Facility and lessee, as required, which shall include:
- (1) the estimated value to be abated and the Base Year Value;
 - (2) percent of value to be abated each year as provided in Section 4(d);
 - (3) the commencement date and termination date of Abatement;
 - (4) the proposed use of the Facility; nature of construction, time schedule, map, property description and improvement list as provided in Application;
 - (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in these Guidelines and Criteria; and

- (6) the size of investment and average number of jobs involved.
- (c) Denial. If denied, neither a reinvestment zone nor Abatement Agreement shall be authorized if it is determined that:
- (1) applicant failed to meet the minimum criteria;
 - (2) the request for Abatement was filed after the commencement of construction, alteration, Modernization, Expansion or New Facility;
 - (3) there would be a substantial adverse affect on the provision of government service or tax base;
 - (4) the applicant has insufficient financial capacity;
 - (5) planned or potential use of the property would constitute a hazard to public safety, health or morals;
 - (6) violation of other codes or laws; or
 - (7) any other reason deemed appropriate by the City Council of the City of Mesquite.

Such Agreement shall normally be executed within sixty (60) days after the applicant has forwarded all necessary information and documentation to the City of Mesquite.

- (d) Taxability. From the execution of the Abatement Agreement to the end of the Abatement 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;
 - (3) the additional value of new eligible property shall be taxed in the manner and for the period provided for in the Abatement Agreement; and
 - (4) the additional value of new eligible property shall be fully taxable at the end of the Abatement period.

Section 5 Administration

- (a) The Chief Appraiser of the Dallas County Appraisal District will 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 Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser will notify the City of Mesquite of the amount of the assessment.
- (b) The Abatement Agreement shall stipulate that employees and/or designated representatives of the City of Mesquite will have access to the reinvestment zone during the term of the Abatement to

inspect the Facility to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

- (c) Upon completion of construction, the designated representative of the City of Mesquite shall annually evaluate each Facility receiving Abatement to insure compliance with the Agreement, and a formal report shall be made to the City Council of Mesquite regarding the findings of each evaluation.

Section 6. Recapture

- (a) Should the City of Mesquite determine that the company or individual is in default according to the terms and conditions of its Agreement, the City of Mesquite shall notify the company or individual of such default in writing at the address stated in the Agreement, and if such is not cured within thirty (30) days from the date of the notice ("Cure Period"), then the Agreement may be terminated.
- (b) In the event that the company or individual (1) allows its ad valorem taxes owed the City of Mesquite 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 or conditions of the Abatement Agreement and fails to cure during the cure period in and after described, the Agreement then may be terminated by the City and all taxes previously abated by virtue of the Agreement will be recaptured and paid within thirty (30) days of the termination.

Section 7. Assignment

Tax Abatement Agreements may be transferred and assigned by the holder to a new owner or lessee of the same Facility upon the approval by resolution of the City Council of the City of Mesquite subject to the financial capacity of the assignee and provided that all conditions and obligations in the Abatement Agreement are guaranteed by the execution of a new contractual Agreement with the City of Mesquite. No assignment or transfer shall be approved if the parties to the existing Agreement, the new owner or new lessee, are liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

Section 8. Duration of Guidelines and Criteria

These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two (2) years, unless amended by three-quarters vote of the City Council of the City of Mesquite, at which time all reinvestment zones and Tax Abatement Agreements created pursuant to these provisions will be reviewed by the City to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be renewed, modified or eliminated.