

**GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN
THE CITY OF PALACIOS IN AN ENTERPRISE OR REINVESTMENT ZONE**

**Section 1
DEFINITIONS**

- (a) “Abatement” means the full or partial exemption from ad valorem taxes of certain new improvements of real and / or personal property in a reinvestment or enterprise zone designated for economic development purposes.
- (b) “Aquaculture/Agriculture Facility” means buildings, structures and major earth structure improvements, including fixed machinery and equipment, the primary purpose of which is the hatching, incubator, nursing, maturing and/or processing to marketable size aquatic culture in commercially marketable quantities or the processing, refining, packaging, and distribution of food and/or fiber products in commercially marketable quantities.
- (c) “Agreement” means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.
- (d) “Base Year Value” means the assessed value of eligible property of January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.
- (e) “Deferred Maintenance,” means improvements necessary for continued operations that do not improve productivity or alter the process technology.
- (f) “Economic Life” means the number of years a property improvement is expected to be in service in a facility. Provided, however, that in no circumstance shall the number of years exceed the depreciation allowance specified in the United States Internal Revenue Code.
- (g) “Eligible Jurisdiction” means City of Palacios, or any Independent School District, which is located in the City of Palacios, that levies ad valorem taxes upon and provides services to property located within a proposed or existing reinvestment zone.
- (h) “Enterprise Zone” means a specific geographic area, a census block group that has a poverty level of 20 percent or greater as identified by the 2010 U.S. Census and is recognized as such by the Texas Office of the Comptroller. Designation of an area as an Enterprise Zone under the Texas Enterprise Zone Act (Chapter 2303, Government Code) constitutes designation of the area as a Reinvestment Zone under Chapter 312, Subchapter C, Section 312.401 of the Government Code.
- (i) “Expansion” means the addition of building, structures, fixed machinery, equipment and personal property for purpose of increasing production capacity.
- (j) “Facility” means property improvements completed or in the process of construction which together comprise an integral whole.

- (j) “Manufacturing Facility” means buildings, structures, fixed machinery, equipment and personal property, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (k) “Modernization” means the upgrading of existing facilities which increased the productive input or output, updates the technology or substantially lowers the unit cost of the operation, Modernization may result from the construction, alternation, or installation of buildings, structures, fixed machinery, equipment and personal property. It shall not be for the purposes of reconditioning, refurbishing or repairing.
- (l) “New Facility” means a property previously undeveloped, which is placed in service, by means other than or in conjunction with expansions or modernization.
- (m) “Other Basic Industry” means building and structures including fixed machinery, equipment and personal property not elsewhere described, used or to be used for the production of products or services, from which a majority of revenues generated by activity at the facility are derived from outside the City of Palacios.
- (n) “Regional Distribution Facility” means buildings and structures including fixed machinery, equipment, and personal property used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility, from which a majority of revenues generated activity at the facility are derived from outside the City of Palacios.
- (o) “Regional Entertainment/Tourism Facility” means buildings and structures, including fixed machinery, equipment, and personal property used or to be used to provide entertainment and/or tourism related services, from which a majority of revenues generated by activity at the facility are derived from the outside the City of Palacios.
- (p) “Regional Service Facility” means buildings and structures, including fixed machinery, equipment, and personal property used or to be used to provide a service, from which a majority of revenues generated by activity at the facility are derived from outside the City of Palacios.
- (q) “Reinvestment Zone-City Designated” means any area of the City of Palacios that has been designated a Reinvestment Zone or Enterprise Zone for tax abatement purposes and that is not within the tax jurisdiction of any incorporated municipality. It is the intent of the City of Palacios to designate such zones in a case-by-case basis.
- (r) “Reinvestment Zone-Taxing Entity Designated” means any area of the City of Palacios which lies within the tax jurisdiction of another taxing entity and has been designated a Reinvestment Zone by that taxing entity for tax abatement purposes. It is the intent of the City of Palacios to provide tax abatement within designated Reinvestment Zones as long as the taxing entity-granted tax abatement is in concert with the tax abatement guidelines contained herein.

- (s) “Research Facility” means buildings and structures, including fixed machinery, equipment, and personal property used or to be used primarily for research and experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- (t) “New Machinery and Equipment and/ or Personal Property” means tangible machinery, equipment, or personal property that is securely placed or fastened and stationary within a building or structure or permanently resides in the reinvestment or enterprise zone.
- (u) “Commercial Office Facility” means office buildings rented to non-retail users. These buildings may be designed as garden, mid-rise or high-rise structures.
- (v) “Retail Facility” means space provided for the conducting and management of business, storing and selling of goods directly to the consumer.
- (w) “Residential” means residential buildings, including single family and multifamily housing.
- (x) “Vehicles, vessels, or aircraft” means any new commercial use vehicles (commercial trucking and similar vehicles based in Palacios, Texas and rendered on Matagorda County Appraisal District Rolls), new commercial use vessels (commercial seafood ships, boats, or similar craft that lists Palacios, Texas as its home port and base of operations and is rendered on Matagorda County Appraisal District Rolls), or new commercial aircraft (any commercial aircraft, aircraft production, parts production facilities or any other aviation-related facility that lists Palacios, Texas as its base of operations and is rendered on Matagorda County Appraisal District Rolls).

Section 2
ABATEMENT AUTHORIZED

- (a) Authorized Tax Abatement Categories. The following categories may be eligible for abatement:

- Manufacturing facility,
- Residential housing,
- Research facility,
- Aquaculture/agriculture facility,
- Regional distribution facility,
- Regional service facility,
- Regional entertainment/tourism facility,
- Commercial office facility,
- Retail facility,
- Commercial use vehicles, vessels, or aircraft
- Other basic industry.

- (b) Authorized Date. A facility shall be eligible for tax abatement if it has applied for such abatement prior to the commencement of construction, provided, that such facility meets the

criteria granting tax abatement in reinvestment zones created in the City of Palacios pursuant to the guidelines and criteria adopt by the City Council and will be considered on a case-by-case basis.

- (c) **Creation of New Value.** Abatement may only be granted for the additional value of eligible property improvements made subsequent to and listed in an abatement agreement by the City of Palacios and the property owner and/or lessee, subject to such limitations as the City Council may require.
- (d) **New and Existing Facilities.** Abatement may be granted to new facilities and improvements to existing facilities for purposes of modernization and expansion if they create new jobs and increase tax base as required by this policy, or if they are needed to retain existing jobs, except in the case of residential or retail tax abatement where jobs and other listed criteria are not a condition for abatement.
- (e) **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery, equipment, personal property, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility. The economic life of the property, improvements and personal property must exceed the life of the abatement agreement.
- (f) **Ineligible Property.** The following classes of property shall be fully taxable and ineligible for abatement:
 - Land,
 - Inventories,
 - Supplies,
 - Deferred maintenance investments,
 - Property that is associated with any activity that is illegal under federal, state or local law.
- (g) **Leased Facilities.** If an authorized facility eligible for tax abatement is leased, the agreement shall be executed with both the lessor and the lessee.
- (h) **Value and Term of Abatement.** Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the agreement. The value and term of abatement on new eligible property shall be determined in accordance with the following: the objective and premium criteria listed in Section 2(k) will be used to determine whether it is in the best interest of the City of Palacios to provide tax abatement to a particular applicant. The total value of the tax abatement provided would depend upon the degree to which the specific project furthers the goals and objectives of the City of Palacios, and the relative impact of the project. Tax abatement will be subject to the following guidelines, with the exception of residential uses which follow separate criteria as outlined in Section 12:

- (1) As a general rule, no tax abatement will be granted in amount that exceeds the estimated costs to the City of Palacios for support of the project. To determine these costs, a fiscal model analysis will be used.
- (2) When an applicant project meets the eligibility criteria specified in the economic qualification Section 2(k) and achieve a score of *at least 50 points* that project may be granted tax abatement on *real property*. The length of time and the percentage of tax abatement will be determined according to the scoring scale found in SECTION 3: POINT CRITERIA.
- (3) When an applicant project meets the eligibility criteria specified in the economic qualification Section 2(k) and achieve a score of *at least 350 points* that project may be granted tax abatement on both *real and personal property*. The length of time and the percentage of tax abatement will be determined according to the scoring scale found in SECTION 3: POINT CRITERIA.
- (4) In some special instances, projects that meet the economic qualification for tax abatement may be considered for premium points for tax abatement even if they cannot meet the *100 point* score. These special instances include:
 - (a) Projects which contribute significantly to specific economic development goals but that may be small in scale.
 - (b) Small scale development, redevelopment or expansion projects in the City that make a significant impact on the area.
 - (c) Retention of existing industry where companies are making a significant investment in new machinery and equipment in effort to update their current technology which does not result in significant new construction to exiting facility, but where the new machinery and equipment will assist in maintaining or improving their competitive advantage in the market place, thus retaining current employment levels and/or adding employees while maintaining existing tax to the City.
- (i) Tax abatement formulas appropriate to the nature and scale of these projects may be negotiated if the *percentage and term* guidelines do not adequately meet the objectives of the project.
- (j) The duration of an abatement agreement shall not exceed 10 years or one-half (1/2) the economic life of the eligible property, whichever is less. Further, under no circumstances shall the value of the abatement exceed 100 percent (100%) of the eligible property in a single year.
- (k) Economic Qualification. In order to be eligible to receive tax abatement, the planned expansion or modernization of an existing enterprise or the planned new facility must meet the following qualifications:
 - (1) Be reasonably expected to increase the appraised value of the property in the amount of not less than seventy-five-thousand dollars (**\$75,000**) after construction is

completed or three (3) years from the commencement of construction, whichever is less.

- (2) Be expected to prevent the loss of employment or create employment for not less than one (1) person associated with the production of goods, and services at the authorized facility on a full-time, permanent basis in the City of Palacios. Two (2) or more part-time, permanent employees totaling an average of not less than 40 hours per week may be considered as one full-time, permanent employee.
 - (3) Companies seeking to qualify for tax abatement on the basis of job retention shall document that without the creation of an reinvestment zone and/or receiving tax abatement, the company will either reduce employment or cease operations.
 - (4) Not be expected to solely and primarily have the effect of transferring employment from one part of the City of Palacios to another.
 - (5) Companies must take every effort to use local resources (employees, materials, services, etc.).
- (l) Taxability. From the execution of the abatement agreement to the end of the agreement period, taxes shall be payable as follows:
- (1) The value of ineligible property as provided in Section 2 (f), above, 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 taxable in accordance with terms of the tax abatement agreement.
 - (4) The additional value of new eligible property shall be taxable at the end of the abatement period.
- (m) Conflict of Interest. Property that is in reinvestment zone and that is owned or leased by a member of the governing body of the City of Palacios shall be excluded from property tax abatement.

Section 3 POINT CRITERIA

The following is an objective scoring scale designed to evaluate a number of specific components common to all applicants. Applicants are assigned points based upon comparable economic impact.

- (a) How many new jobs will be created? (Assign 50 points for the first job minimum requirement and 10 points per job for all additional ones.)

- (b) How many *existing* jobs will be retained? (Assign 50 points for the first job minimum requirement and 10 points per job for all additional ones.)
- (c) How much *new* local annual payroll will be created? (Assign 10 points per **\$25,000** of payroll.)
- (d) How much of existing payroll will be retained? (Assign 10 points per **\$25,000** of payroll.)
- (e) How much real property tax base valuation will be added? (Assign 10 points per **\$25,000** in real property up to \$1,000,000 in valuation and 1/2 point per \$250,000 above \$1,000,000.)
- (f) How much personal property tax base valuation will be added? (Assign 10 points per **\$25,000** in personal property up to \$1,000,000 in valuation and 1/2 point per \$250,000 above \$1,000,000.)

Points	REAL PROPERTY Percentage Per Year	PERSONAL PROPERTY Percentage per Year
50-149	75%-50%-35%-25%-10%	
150-199	75%-50%-50%-25%-10%	
200-249	75%-50%-50%-50%-10%	
250-299	75%-50%-50%-50%-50%	
300-349	75%-65%-50%-50%-50%	
350-399	75%-65%-65%-50%-50%	50%-35%-25%-15%-10%
400-449	75%-65%-65%-65%-50%	50%-50%-25%-15%-10%
450-499	75%-65%-65%-65%-65%	50%-50%-50%-15%-10%
501-599	75%-75%-75%-65%-65%	50%-50%-50%-50%-10%
550-600	75%-75%-75%-75%-75%	50%-50%-50%-50%-50%

Special tax abatement formulas may be negotiated for projects meeting the standard for tax abatement that achieve a point score that exceeds 600 points and more. Projects *may be* granted tax abatement on both real and personal property of up to 100% for a period of years.

In addition to the objective criteria for which specific points values can be assigned/subtracted, several additional considerations must be evaluated to obtain premium/penalty points of up to ten (10) points per items listed below. The applicant is asked to respond in written narrative format to the items listed below:

- (1) Is the project applicant a local company?
- (2) What types and values of public improvements, if any, will be made by the applicant?
- (3) Will the occupants of the project be owners or lessees? If lessee, is occupancy commitment (signed lease) already existing?

- (4) What positive impact will the project have on other taxing entities (Palacios Independent School District in particular)?
- (5) Are the new jobs to be created likely to be filled by the City of Palacios' labor pool?
- (6) Will the project substantially increase business opportunities for existing local suppliers and contracts? Please give specific examples.
- (7) Will the project compete with existing businesses to the detriment of the local economy?
- (8) Does the project pose any negative environmental, operational, and/or visual or other impacts (i.e., pollution, noise, traffic congestion, etc.)?

Section 4 APPLICATION

- (a) Any present or potential property owner of taxable property in City of Palacios may request the creation of a reinvestment zone and tax abatement by filing a written request with the Palacios City Manager. Nothing within these guidelines shall be construed to suggest that the City of Palacios or any taxing authority in the City of Palacios is under obligation to provide any abatement to any applicant even if certain criteria are met. The City and any other taxing authority reserve the right to reject any application.
- (b) The Applicant should complete the following forms:
 - (1) Application for Tax Abatement
 - (2) Fiscal Impact Model Worksheet, along with documentation of figures.
 - (3) Tax Abatement Objective Worksheet with documentation.
 - (4) Narrative form for premium points.
 - (5) Signed Site Inspection Certificate by City Inspector.
 - (6) Signed Affidavit by Matagorda County Tax Office that all taxes on property in question are paid and current.
- (c) These forms shall be accompanied by the following:
 - (1) A general written description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken.
 - (2) A descriptive list of the improvements that will be a part of the facility.
 - (3) A map and legal property description.
 - (4) A time schedule for undertaking and completing the planned improvements.
 - (5) Such financial and other information as deemed appropriate by the City Council for purposes of evaluating the application.
- (d) Upon receipt of a completed application, the City Manager shall notify, in writing, the presiding officer of the governing body of each affected taxing authority or entity. Before acting upon the application, the City Council shall, through public hearing, afford the applicant, designated representatives of any affected taxing authority or entity, and the

general public opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on a City Council agenda to be posted in accordance with the Texas Property Redevelopment and Tax Abatement Act and the Texas Open Meeting Act.

- (e) After receipt of an application for tax abatement, the City Council may require a feasibility study setting out the impact of the proposed reinvestment zone and tax abatement, and the expense of the study shall be the sole responsibility of the entity requesting the proposed abatement. The feasibility study shall include, but not be limited to, an estimate of the economic effect of the abatement of taxes and the cost/benefit to the City and other affected jurisdictions.
- (f) A request for tax abatement shall not be granted if the City Council finds that the request for abatement was filed after the commencement of construction, alternation, or installation of improvements related to proposed expansion, modernization or new facility authorized as eligible under these guidelines.
- (g) Variance. Request for variance from provisions of these guidelines may be made in written form to the City Manager or a designated City representative provided, however, that the term and value of abatement described in Section 2(h), above, are not subject to variance. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourth (3/4) vote of the City Council.

Section 5 PUBLIC HEARING

- (a) Should any affected jurisdiction be able to show cause in the public hearing why the grant of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity or the provision of services, that showing shall be reason for the City to deny any designation of an Enterprise or Reinvestment Zone, the granting of abatement, or both.
- (b) Neither an Enterprise or Reinvestment Zone nor an abatement agreement shall be authorized if it's determined that:
 - (1) There would be a substantial adverse effect on the provision of government services or tax base,
 - (2) The applicant has insufficient financial capacity,
 - (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals, or
 - (4) Planned or potential use of the property violates other codes or laws.

Section 6 AGREEMENT

- (a) After the approval, the City shall formally pass a resolution and execute an agreement with the owner of the facility and/or lessee, which shall include the following:
 - (1) Estimated value to be abated and the base year value;
 - (2) Percent of value to be abated each year as provided for in Section 3, above;
 - (3) The commencement and termination dates of the abatement;
 - (4) The proposed use of the facility, nature of the construction time schedule for construction and commencement of operations map, property description, and improvements as listed in the application under Sections 4(b) and 4(c), above;
 - (5) Contractual obligations in the event of default, violation of terms and conditions, delinquent taxes, recapture, administration and assignment as provided for in Sections 2(a), 2(g), 2(h) and Sections 3, 7, 8 and 9 or other provisions that may be required for uniformity or by state law, and
 - (6) Amount of investment in, and average number of jobs associated with, the facility during the abatement period.

- (b) Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information and documentation for evaluation of the application to the City.

**Section 7
RECAPTURE**

- (a) In the event that the facility is completed and begins producing goods and/or services, but subsequently discontinues such production for any reason excepting fire, explosion or other casualty or natural disaster for a period of one (1) year during the abatement period, then the agreement shall terminate and so shall the abatement of taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for the calendar year shall be paid to the City within sixty (60) days from the date of termination.

- (b) Should the City determine that the company or individual is in default according to the terms and conditions of the abatement agreement, the City shall notify the company or individual, in writing, at the address stated in the agreement, and if such non-compliance is not resolved within sixty (60) days from the date of such notice, then the agreement shall be terminated.

- (c) In the event that the company or individual:
 - (1) Allows its ad valorem taxes owed the City or affected jurisdiction 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 and conditions of the abatement agreement and fails to resolve such violations within sixty (60) days from the date of written notice of such violations, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.

Section 8

ADMINISTRATION

- (a) The company must submit to the City or to the Palacios Economic Development Corporation, if so designated by the City, a copy of its quarterly report to the state during each year of the tax abatement. These reports will show the employment counts reported in the Company's Quarterly Report. The reports will be reviewed to see that the company is meeting/has met the conditions of the tax abatement agreement. If the company is deemed not in compliance with the agreement, the City Council may cancel or modify the agreement.
- (b) The agreement will be registered with both the Texas Department of Commerce and State Comptroller. This report must contain a general description of the reinvestment zone as well as information about the specific agreement - the name of parties involved, the project, the portion of the property to be exempt, and duration of the agreement.
- (c) The Chief Appraiser of the Matagorda County Appraisal District shall, as a normal consequence of his duties, 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 assessor with such information as may be necessary for the abatement, including the number of new or retained employees associated with the facility. Once the value has been established, the Chief Appraiser shall notify the affected jurisdictions that levy taxes of the amount of the assessment.
- (d) The agreement shall stipulate that employees and/or designated representatives of the City will have access to the abatement property during the term of the abatement agreement to inspect the facility to determine if the company or individual is in compliance with the terms and conditions of the abatement agreement. All inspections will be made only after notification of not less than twenty-four (24) hours and will only be conducted in such manner as not to 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 present and in accordance with the company's safety standards.
- (e) Upon completion of construction, the City Manager or his representative shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the City Council and City Attorney. It is the responsibility of the property owner to annually certify to the governing body that the project is in compliance with the reinvestment zone creation agreement and tax abatement agreement.
- (f) All proprietary information required by the City for purposes of monitoring compliance by a company with the terms and conditions of an abatement agreement shall be considered confidential.
- (g) City of Palacios shall cancel the entire agreement if the property owner fails to comply with terms of the written agreement.

Section 9
ASSIGNMENT

- (a) Abatement 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 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 Palacios.
- (b) The expiration date of the new contractual agreement shall not exceed the termination date of the abatement agreement with the original owner and/or lessee.
- (c) No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to the City of Palacios or any affected taxing jurisdiction for outstanding taxes or other obligations.
- (d) Approval of a transferred and assigned agreement shall not be unreasonably withheld.

Section 10
SERVERABILITY AND LIMITATION

- (a) In the event that any section, clause, sentence, paragraph or any part of these Guidelines and Criteria shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid such invalidity shall not affect, impair, or invalidate the remainder of these Guidelines and Criteria.
- (b) The City Council of the City of Palacios shall take no action that imposes an economic or financial hardship upon any other taxing authority or entity in the City of Palacios. Further, the City Council of the City of Palacios shall not designate a reinvestment zone or enterprise zone or enter into an abatement agreement which composes penalty provisions, as provided in Section 312.206 and Section 312.402 of the Tax Code, upon any other taxing unit in the City of Palacios for failing to enter into an abatement agreement.

Section 11
SUNSET PROVISION

- (a) The “Guidelines and Criteria” are effective upon the date of their adoption and will remain in force for two (2) years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the City of Palacios City Council to determine whether the goals of the abatement program have been achieved. Based upon that review, the “Guidelines and Criteria” may be modified, renewed or eliminated.
- (b) This policy is mutual exclusive of existing Industrial District Contracts and owners of real property in areas deserving of special attention as agreed by the affected jurisdictions.

- (c) Prior to the date for review, as defined above, the “Guidelines and Criteria” may be modified by a two-thirds vote of the City Council, as provided for in the Texas Property Redevelopment and Tax Abatement Act.

Section 12 RESIDENTIAL TAX ABATEMENT

The following is an outline of recommended steps for review and consideration of applications for tax abatement in the City of Palacios based on the requirements contained in the Property Redevelopment and Tax Abatement Act (Tax Code, Chapter 312) and the “Guidelines and Criteria for the Granting of Tax Abatement in the City of Palacios,” adopted by the City Council on August 5, 1996 and re-adopted and amended on July 3, 2006 and re-adopted and amended on July 9, 2013.

- (a) **Receipt of Application**

Upon Receipt of an application for tax abatement, the original and two (2) copies should be dated. The original should be placed in a central file in the City Clerk’s office.

One copy should be delivered to the City Tax Appraisal District Office and one copy should be provided to the local economic development organization (e.g., Palacios Economic Development Corporation [PEDC]).

- (b) **Analysis of Application**

Prior to approving the resolution providing for a tax abatement agreement, the City Council shall request the following information:

The City Manager or the PEDC will determine if the facility is eligible under Section 2(a) of the Guidelines and Criteria, if the application was submitted prior to the commencement of construction or installation of equipment as provided in Section 2(b), and will review the description of improvements to determine if the value of the improvements exceeds the \$75,000 minimum requirement.

The Matagorda County Tax Office will determine if the applicant is delinquent in payment of taxes to the City or other affected taxing jurisdictions.

The City Attorney shall determine whether the application is in compliance with the adopted Guidelines and Criteria. If a variance from the Guidelines and Criteria is requested, the City Attorney shall determine if the request is consistent with the requirements provided in Section 3(f) of the Guidelines and Criteria.

- (c) **Consideration of the Resolution to Grant Tax Abatement**

At a regularly scheduled meeting of the City Council, the Council members shall consider the application for tax abatement.

Following a public hearing on the request for tax abatement, the Council members approve one resolution unless they find one of the following reasons for denying the tax abatement:

- (a) The application is not consistent with the adopted Guidelines and Criteria;

- (b) There would be a substantial adverse effect on the provision of government services or tax base;
- (c) Planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- (d) Planned or potential use of the property violates the Zoning Ordinance or other codes or laws, or
- (e) Action by the City Council would impose a penalty under Chapter 312 of the Texas Tax Code on another taxing jurisdiction.

(d) **Execution of an Abatement Agreement Contract**

Following approval of the resolution, the City Attorney shall prepare an abatement agreement contract that, at a minimum lists:

- (a) The kind, number, and location of all proposed improvements;
- (b) Provides access to and authorizes inspection of the property by City employees to ensure that the improvements are made according to the terms and conditions of the abatement agreement;
- (c) Limits the use of property consistent with the general purpose of encouraging development or redevelopment of the zone during the period of the agreement, and
- (d) Provides for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided for in the agreement and keeps current on all taxes due to taxing entities.

(e) **Annual Determination of Taxable Value**

At the inception of the tax abatement agreement, the Matagorda County Central Appraisal District shall determine the base value of the facility. The base value of the facility is defined as the appraised value of the January 1st prior to the execution of the agreement, plus the value of any improvement made between January 1st and the date of the agreement.

Annually, the Matagorda County Central Appraisal District shall determine the taxable value of the facility based on the Guidelines and Criteria and report such value to all affected taxing jurisdictions.

Annually, the City or the PEDC, if so designated by the City, shall determine whether the company has made the improvements described in the application for abatement and has complied with the minimum investment and present such information to the City Manager with a recommendation on whether to continue or to terminate the agreement for non-compliance.

(f) **Recapture in the Event of Non-compliance**

If a residence is not in compliance with the abatement agreement or the owner becomes delinquent in payment of any taxes, the City Attorney shall provide notice to the owner of the determination of non-compliance and establish a deadline for resolution of the compliance issues as provided in Section 7(b) of the Guidelines and Criteria. If the compliance issues are not resolved, the City Attorney shall provide the owner and the Matagorda County Central Appraisal District notice of termination of the abatement agreement. The Matagorda County Central Appraisal District shall recapture all taxes

previously abated by virtue of the agreement as provided in Section 7(c)(2) of the Guidelines and Criteria.

(g) **Amount of Tax Abatement**

The tax abatement must adhere to the following schedule:

Year 1 – 75% abatement

Year 2 – 50% abatement

Year 3 – 35% abatement

Year 4 – 25% abatement

Year 5 – 15% abatement