



**CITY OF TYLER, TEXAS
CITY COUNCIL COMMUNICATION**

Agenda Number: O-2

Date: October 11, 2006

Subject: Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 2, re-adopting and reaffirming current guidelines and criteria for tax abatement.

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Item Reference: Texas Tax Code Chapter 312; City Code Chapter 2, Article III.

State law, at Texas Tax Code Section 312.002(a), states that a taxing unit may not enter into a tax abatement agreement, and the governing body of a taxing unit may not designate an area as a reinvestment zone, unless the governing body of the taxing unit has established guidelines and criteria governing tax abatement agreements and a resolution stating that the taxing unit elects to participate in tax abatement. The City of Tyler's guidelines and criteria for tax abatement are located in City Code Chapter 2, Article III., "Tax Abatement Policy".

Texas Tax Code Section 312.002(c) provides that the guidelines and criteria for tax abatement are effective for two years. It is now time for review of the Tax Abatement Policy in City Code Chapter 2. The current Tax Abatement Ordinance is being presented to Council for re-adoption with no changes from the previous language.

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance, re-adopting and reaffirming the guidelines and criteria governing tax abatement in the City of Tyler.

Drafted/Recommended By:
Department Leader

Gary C. Landers
City Attorney

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2006-87

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 2 “FINANCE AND TAXATION”, ARTICLE III, “TAX ABATEMENT POLICY” OF THE CODE OF ORDINANCES, CITY OF TYLER, TEXAS, RELATING TO TAX ABATEMENT; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, State law, at Texas Tax Code Section 312.002(a), states that a taxing unit may not enter into a tax abatement agreement, and the governing body of a taxing unit may not designate an area as a reinvestment zone, unless the governing body of the taxing unit has established guidelines and criteria governing tax abatement; and

WHEREAS, the City of Tyler's guidelines and criteria for tax abatement are located in City Code Chapter 2, Article III., "Tax Abatement Policy"; and

WHEREAS, Texas Tax Code Section 312.002(c) provides that guidelines and criteria for tax abatement are effective for two (2) years; and

WHEREAS, in accordance with Texas Tax Code Section 312.002(c), it is time for review of the Tax Abatement Policy in City Code Chapter 2; and

WHEREAS, the Tyler Economic Development Council has reviewed the current Tax Abatement Policy and recommends approval;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Tyler City Code Chapter 2, “Finance and Taxation”, Article III., “Tax Abatement Policy” is hereby amended to read as follows:

ARTICLE III. TAX ABATEMENT POLICY

Sec. 2-30. Tax Abatement Policy Principles.

a. A city, pursuant to State law, is authorized to offer abatement of City ad valorem taxes to industries and commercial enterprises within the City limits. The tax abatements are granted to real property owners who execute a tax abatement agreement with the City. The purpose of the tax abatement is to encourage the growth and establishment of industry and commercial enterprise in the City. Growth is measured both by increases in capital expenditure for buildings, machinery, and other capital goods and the increase in the Tyler workforce. The City's priority for tax abatement is to extend tax abatement to primary employers. A primary employer is one which forms the economic base of the community by generating a majority of sales outside of Smith County. In providing local jobs, the retention of existing jobs is recognized as more important than recruitment of new companies. Surveys in Texas have shown three-fourths of new jobs come from expansion of existing local companies. Abatement is given to provide significant, long term, positive economic impact to the community by using local contractors and the resident workforce to the maximum extent feasible and by developing, redeveloping and improving real estate within the City limits. The City's goal in providing tax abatements is to create additional jobs within the City. Abatements, however, may be granted when the City is convinced that the abatement is needed

to retain existing jobs which would otherwise be lost. Examples of uses eligible for abatements include manufacturing, distribution centers, corporate or regional office parks, and research facilities. Small companies have provided a significant source of new jobs within the City. Therefore, proposals by small entrepreneurs will be encouraged whenever the proposals comply with the policies of this chapter.

b. The City strives for efficiency in processing applications for tax abatement. It is understood that unduly long decision-making processes will discourage businesses that might otherwise be interested in moving to or expanding in Tyler. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-74, 9/27/00) (Ord. No. 0-2002-33, 8/28/2002) (Ord. No. 0-2004-63, 8/25/04) (Ord. No. 0-2006-86; 10/11/06)

Sec. 2-31. Abatement Eligibility Criteria.

a. Tax abatement will be considered for the following facilities if such development will create substantial capital improvements within the City limits or additional jobs:

1. Manufacturing facilities;
2. Distribution facilities;
3. Corporate offices;
4. Research parks;
5. Major tourism attractions;

b. Successful applicants must be located within a reinvestment zone prior to the inception of the project.

c. The project must provide for capital expenditures of at least *one million dollars* or an annual payroll increase of *four hundred thousand dollars* or the creation of twenty-five new permanent full-time jobs.

d. When an investment improves existing property, the portion of the value of property eligible for abatement is:

1. For real property, the value of real property which has increased in market value because of the development, re-development or improvements specified in the abatement contract.

2. For personal property, the market value of the personal property at the location, other than inventory or supplies, purchased with new capital identified in the tax abatement contract. Personal property located at the site before the period covered by the agreement, is not eligible for tax abatement.

3. If the investment meets the criteria set out in paragraph c., the property eligible for abatement may be personal, real or mixed. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-74, 9/27/00) (Ord. No. 0-2002-33, 8/28/2002) (Ord. No. 0-2004-63, 8/25/04) (Ord. No. 0-2006-86; 10/11/06)

Sec. 2-32. Abatement Review.

a. The City Manager, in consultation with the Tyler Economic Development Council, will initially negotiate all tax abatement contracts. The proposed contracts will then be submitted to the Reinvestment Zone Committee for review. The recommendation of the Reinvestment Zone Committee will be submitted to all participating local governments, including the City Council.

b. A Reinvestment Zone Committee is responsible for reviewing all applications for abatement, recommending action to be taken on the application by the City Council, and monitoring

compliance with abatement contracts. Any deviations from the original abatement contract will be reported by the committee to the City Council along with recommendations from the committee. Committee members shall be appointed by the City Manager and will include representatives who are active in promoting the economic health of the City and the other affected taxing jurisdictions. The committee will include representatives from each of the taxing entities that will be asked to participate in a tax abatement contract. Members do not have to be City residents.

c. When considering abatement contracts, the City will consider any burdens which will be placed on existing infrastructure and basic services by the proposed project. The City may reject applications which place inordinate demands on public services or require inordinately large expenditures to improve or maintain local government infrastructure.

d. Representatives of the taxing jurisdictions periodically review commitments made pursuant to this policy: this policy is reviewed every two years; all reinvestment zones are reviewed every five years; and tax abatement contracts are reviewed annually. This policy is separate from any policy concerned with enterprise zones and any obligations deriving from existing industrial development contracts. (Ord. No. 0-98- 21; 3/18/98) (Ord. No. 0-2000-23, 4/5/00) (Ord. No. 0-2000-74, 9/27/00) (Ord. No. 0-2002-33, 8/28/2002) (Ord. No. 0-2004-63, 8/25/04) (Ord. No. 0-2006-86; 10/11/06)

Secs. 2-33 - 2-39 Reserved.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this 11th day of October, A. D., 2006.

JOSEPH O. SEEBER, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY