

RESOLUTION NO. 2021-1104A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILMER, TEXAS, ADOPTING THE CITY'S TAX ABATEMENT CRITERIA AND GUIDELINES GOVERNING SUBSEQUENT TAX ABATEMENTS.

WHEREAS, a municipality may enter into tax abatement agreements authorized by Chapter 312 of the Texas Tax Code ("Code") only if the governing body of the municipality has previously adopted a resolution stating the municipality elects to be eligible to participate in tax abatement agreements and has established guidelines and criteria governing tax abatement agreements ("Tax Abatement Policy");and

WHEREAS, the Wilmer City Council does elect to be eligible to participate in tax abatement agreements; and

WHEREAS, pursuant to the Code, a Tax Abatement Policy is effective for two (2) years from the date of its adoption; and

WHEREAS, the City's current Tax Abatement Policy was adopted by the City Council of Wilmer, Texas pursuant to Resolution No. R19-0620D and went into effect on June 20, 2019; and

WHEREAS, the City Council of the City of Wilmer Texas wishes to readopt a new and revised Tax Abatement Policy for an additional two years unless earlier amended

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

SECTION 1. The City Council hereby adopts the Tax Abatement Policy attached hereto as Exhibit "A", which constitutes the guidelines, criteria and procedures governing tax abatement agreements entered into by the City, to be effective from the date of adoption of this Resolution through 2023, unless earlier amended or repealed by a vote of at least three- fourths (3/4) of the members of the City Council of the City of Wilmer Texas.

SECTION 2. This Tax Abatement Policy, as it may subsequently be amended, will expressly govern all tax abatement agreements entered into by the City during the period in which such Tax Abatement Policy is in effect.

SECTION 3. All resolutions of the City of Wilmer heretofore adopted which are in conflict with the provisions of this resolution be, and the same are hereby repealed, and all resolutions of the City of Wilmer not in conflict with the provisions hereof shall remain in full force and effect.

SECTION 4. If any article, paragraph, subdivision, clause or provision of this resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgment or holding shall not affect the validity of this resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional. 9

SECTION 5. That the recitals to this Resolution are hereby incorporated into the body of this Resolution as if fully set forth in this Section and are hereby found and declared to be true and correct legislative findings and are adopted as part of this Resolution for all purposes.

SECTION 6. This resolution shall take effect immediately from and after its passage, and it is accordingly so resolved

DULY PASSED and approved by the City Council of the City of Wilmer, Texas, on this the 4th day of November, 2021

ATTEST:




Mayra A. Ortiz, City Secretary

APPROVED:



Sheila Petta, Mayor

APPROVED AS TO FORM:



Michael B. Halla, City Attorney

**CITY OF WILMER,
TEXAS GUIDELINES FOR
TAX ABATEMENT**

**GENERAL PURPOSES AND
OBJECTIVES**

The City of Wilmer is committed to the promotion of high-quality development in all parts of the City and to an ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City will, on a case-by-case basis, consider providing tax abatement as a stimulus for economic development in Wilmer. It is the policy of the City that such consideration will be provided in accordance with the procedures and criteria outlined in this document and in Chapter 312 of the Tax Code. Nothing herein shall imply or suggest that the City of Wilmer is under obligation to provide any tax abatement to any applicant.

According to the Property Redevelopment and Tax Abatement Act, codified in Chapter 312 of the Texas Tax Code, the City may only grant tax abatement on the increment in value added to a particular property by specific improvements that meet the economic development goals and objectives of the City. The tax abatement may apply to the real estate portion of the project or the tangible personal property added to the real estate or both.

Tax abatements are granted to the owners of real and personal property; for projects where the real estate is leased, special terms and conditions will be required in the agreement.

Tax Abatement Agreements. In the event the City chooses to enter into a tax abatement agreement, consistent with the Texas Property Redevelopment and Tax Abatement Act, the City will establish a reinvestment zone for economic development purposes. Within the reinvestment zone there may be an tax abatement granted for the increase in value of real and tangible personal property.

Section 2264.051 of the Texas Government Code requires the City to provide within the tax abatement application a statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker. Accordingly, all Tax Abatement Agreements will contain a provision specifying the rate and terms of the repayment of the public subsidy if convicted of knowingly employing an undocumented worker.

**MINIMUM GUIDELINES AND
STANDARDS FOR TAX ABATEMENT**

To be considered eligible for tax abatement, the proposed project and/or property must meet the following criteria:

1. An investment of at least \$10,000,000 in taxable assets for any new construction. The acquisition cost of the real estate is not included in computing the amount of taxable assets. Construction costs are not necessarily indicative of the taxable value of the property. (The taxable value is determined by the Dallas Central Appraisal District as of January 1 of each year.)
2. The City may consider tax abatement for an investment of at least \$10,000,000 in taxable assets for any construction related to the expansion, remodeling or modernization of existing businesses provided that the businesses are current in all obligations to the city/county and school district and that they are operating lawfully in accordance with zoning and all other regulations of the city,
3. The City may consider tax abatement for an investment less than those established in these guidelines for the taxable assets based upon City evaluation of economic development factors, including but not limited to: the location of taxable inventory on the property; the amount of sales tax which the project or property will generate for the City; and the amount of any rollback taxes triggered by the development or project.
4. The project makes a substantial contribution to redevelopment efforts or the project has high visibility, image impact, or is of a significantly higher level of development quality.
5. The project is in an area that might not otherwise be developed because of restraints of topography, ownership patterns, site configuration, or other constraints.
6. The project stimulates concentration of employment and/or commercial activity.
7. A project submitted for tax abatement shall be subject to fiscal impact analysis to determine whether the services required for the facility will exceed the amount of taxes generated if abatement was provided. It shall be the general policy that the city will not consider a tax abatement for any project that will generate negative cost to the city, however if a project is to be constructed in two or more phases and the net result for the overall project will result in a positive impact for the city, an abatement agreement maybe considered.
8. Applicants must provide a written narrative in the form of an application for a Tax Abatement Agreement that details how a development/project meets the above minimum standards. The application must also provide information to address the following criteria:

OBJECTIVE CRITERIA

The following criteria are designed to evaluate specific components common to all applicants:

1. The amount of property tax base (including personal property) that will be added.
2. The amount of local annual payroll created.
3. The number of new jobs created and/or in the case of existing business how many jobs are being retained. This description shall include the type of jobs full/part time including

projected wages rates and benefits.

4. The amount of sales tax generated.

5. The amount of taxable inventory located on the property.

6. Any extraordinary utility uses and if possible a projection of anticipated franchise or similar fee revenues which may accrue to the benefit to the city.

7. An investment of less than \$ 10,000,000 in taxable assets may be eligible for tax abatement based upon the evaluation of other economic development factors, including, but not limited to, the location of taxable inventory on the property; the amount of sales tax which the property or project will generate for the City; and the amount of any rollback tax triggered by the development or the project.

8. Recommended Schedule of Performance Criteria and Abatement Amounts

Total Appraised/Assessed Taxable Value/Full Time Employees

\$10 - \$20 Million and 25 FTE's could receive up to 25% Abatement up to 7 Years
\$21 - \$35 Million and 50 FTE's could receive up to 50% Abatement up to 7 Years
\$36- \$50 Million and 75 FTE's could receive up to 50% Abatement up to 10 Years
\$51 - \$65 Million and 100 FTE's could receive up to 65% Abatement up to 10 Years
Over \$65 Million and 200 FTE's could receive up to 70% Abatement up to 10 Years

SUBJECTIVE CRITERIA

The applicant must also present in a written narrative, information regarding the following:

1. Whether the project is new construction/business or expansion remodel or modernization of an existing business.
2. The type and value of public improvements, if any, being made by the applicant as well as identifying any additional cost to the public for increased services or public improvements which may be necessary to support the project.
3. Whether the applicant be the owner or lessee, and if lessee, whether there are occupancy commitments already existing.
4. Whether the project does (or can) meet all relevant zoning, subdivision and other legal requirements?
5. The impact the project will have on other taxing units.

5. Whether the project is consistent with the comprehensive plan of the City.
6. Whether the level of quality is significantly (and an objective basis for "significantly") higher than the typical projects of similar use, including whether site amenities are provided.
7. Whether the project poses any negative environmental, operational, visual or other impacts (i.e. pollution, noise, traffic congestion, etc.).

AMOUNT AND DURATION OF TAX ABATEMENT

The above criteria will be used to determine whether it is in the best interest of the City to provide tax abatement to an applicant. The following represents the type of economic development projects which the City Council has determined is desirable to promote a diversified tax base within the City of Wilmer and which may be eligible for tax abatement incentives from the city.

I. Tax abatements are available for both new facilities and structures and for the expansion and modernization of existing facilities and structures. For expansion and modernization of existing facilities, abatement will only be considered for the value added to buildings, equipment, and tangible personal property; the land value increase will not be abated. The City of Wilmer may provide up to 70 % tax abatement for eligible expansion or modernization projects. The following definitions shall apply to these eligible project categories:

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|--------------------------------|--|
| Warehousing and Distribution - | Temporary storage of materials received in bulk for later transfer or shipment in smaller lots and in combination with other materials received. |
| Fabrication and Assembly - | The connection of standard, previously manufactured components to form a consumer product. |
| Manufacturing and Processing - | The combining of raw materials to form finished products that are physically altered and result in consumer products, which includes certain intellectual property activities such as computer software development. |
| Regional Service Operation - | The provision of financial, accounting, insurance, or other similar back-office |

processing or services for a regional, national or multinational organization.

Major Tourist Attraction -

Any major tourist attraction, amusement park, stadium, arena, race track or similar facility or expansion which will employ not less than 40 permanent full-time employees or a comparable equivalent.

2. Any other uses, not elsewhere listed in this policy, will have to be considered on an individual basis to evaluate the desirability and compatibility of the proposed use for the community.

3. For capital intensive projects with a capital investment in excess of One Hundred Million Dollars (\$100,000,000), the City Council reserves the right to negotiate such terms and conditions as are permitted by state statute (i.e. potentially 100% for 10 years).

4. A project may be granted tax abatement on real and/or personal property for a period of up to 10 years, depending on the evaluation of the tax abatement guideline criteria. The actual percentage of taxes subject to abatement shall be determined as outlined above and will apply only to the portion of the taxable value of the real property or of the tangible personal property located on the real property, or both, that exceeds that property's taxable value for the year in which the agreement is executed (base year). The tax abatement agreement for tangible personal property may only apply to the personal property added to the real property after the agreement is executed.

**PROCEDURAL
GUIDELINES**

Any person, organization or corporation desiring that the City consider providing tax abatement to encourage location or expanded operation within the city shall comply with these procedural guidelines. Nothing within these guidelines shall be construed to suggest that the City is under any obligation to provide any abatement to any applicant even if certain criteria are satisfied. The City reserves the right to reject any application.

APPLICATION

Applicants must submit an application for tax abatement to the City Administrator or

Economic Development Director addressing all of the above criteria, and include a legal description of the property and a plat showing the precise location of the property, current tax affidavits, ownership information and authorization form the owner of the property if different from the applicant, all roadways within five hundred feet of the site, and all existing zoning and land uses within five hundred feet of the site. A completed application must be submitted, along with a check payable to the City of Wilmer for Five Hundred Dollars (\$ 500) for new construction or for existing business expansion as an application fee. Should the applicant withdraw the application during the process or fail to perform based on the agreed to schedule, the fee shall then be forfeited and utilized by the city to offset the cost incurred to process the application.

APPLICATION REVIEW PROCESS

The City Administrator or Economic Development Director will review the complete application for compliance with the guidelines contained herein which, if acceptable, will be presented to the Wilmer City Council for its review and consideration. The Council's review shall be based upon a subjective evaluation of the completed application and it may invite representatives from the Dallas County to participate in the review. Additional information maybe requested as needed. The application may be distributed to appropriate City departments for internal review and comments. Copies of the complete application package and staff comments,if any, will be provided to other taxing entities. The City Staff shall use these Guidelines to determine which proposed agreements to present to City Council. After review, the application will be presented to the Wilmer City Council for final action. The applicant must execute the Tax Abatement Agreement prior to submission to the City Council for approval. Upon Council approval, the application will be forwarded to other taxing entities for their review and possible participation if applicable.

The Mayor will make recommendations on the application to the City Council; however, the applicant may be requested to meet with the City Council. Based on the recommendation, the City Council may consider a resolution calling a public hearing to consider the establishment of a tax reinvestment zone. Although the applicant must first execute the tax abatement agreement, it will be subject to Council approval. Before the City may enter into a tax abatement agreement, the property involved must be designated by the City Council as a Reinvestment Zone.

The City Council will then give notice and hold a public hearing to determine whether the property involved should be designated as a Reinvestment Zone, whether the project is feasible and practical, and whether the project would be a benefit to the City after expiration of the agreement. At the public hearing, the City staff and/or the applicant may make a presentation after which interested persons may speak for or against the designation.

After the public hearing, the City council will consider adoption of an ordinance designating the area described in the legal description of the proposed project as a Tax Abatement Reinvestment Zone. After designation of the Reinvestment Zone, the tax abatement agreement willbe executed.

ADOPTION OF TAX ABATEMENT AGREEMENT

The City will employ a standard form tax abatement agreement, the terms and provisions of which may be negotiated to accommodate the specific or unique aspects of the project. However, any tax abatement agreement must include the following terms:

1. General description of the project.
2. Amount of tax abatement.
3. Method for calculating the value of the abatement.
4. Term of the abatement.
5. Legal description of the property.
6. Type, number, location and timetable of planned improvements.
7. Any specific terms or conditions to be met by applicant.

Should the terms of the tax abatement agreement subsequently not be satisfied, the tax abatement shall be null and void and all a specific remedy related to the previously abated tax amounts as established in the agreement shall apply. Provisions to this effect will be incorporated into the agreement.

RECAPTURE/CLAWBACK

(a) 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.

(b) If in the event that the company or individual:

(c) Allows its ad valorem taxes owed the City or other affected jurisdiction to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or

(d) 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.

(e) The agreement then may be terminated and all or a portion of taxes previously abated by the agreement will be recaptured and paid within sixty (60) days of the termination.

(f) Section 2264.051 of the Texas Government Code requires the City to provide within the tax abatement application a statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker. Accordingly, all Tax Abatement Agreements will contain a provision specifying the rate and terms of the repayment of the public subsidy if convicted of knowingly employing an undocumented worker.