

CITY OF SNOOK, TEXAS

RESOLUTION NO. 2024-04

**GUIDELINES AND CRITERIA
FOR GRANTING TAX ABATEMENT**

WHEREAS, the attraction of long-term investment and establishment of new jobs in the City of Snook (“City”) would enhance the economic base of the City; and

WHEREAS, the City has certain governmental powers that enable it to take affirmative and effective action to stimulate such growth; and

WHEREAS, tax abatement is one of the principal means by which the public sector and the private sector can forge a partnership to promote real economic growth within the community; and

WHEREAS, tax incentives offered must be strictly limited in application to those new or existing industries or commercial enterprises that bring new wealth into the community in order to avoid reducing the needed tax revenues of the City; and

WHEREAS, in addition to keeping the protection of the environment and other natural resources as high priority, any attempts to stimulate the economy should be relatively assured of eventual positive economic effects on the City’s revenue raising capabilities; and

WHEREAS, the Property Redevelopment and Tax Abatement Act (the “Act”) Chapter 312 of the Texas Tax Code authorizes the City to provide property tax abatement for limited periods of time as an inducement for the development or redevelopment of a property; and

WHEREAS, effective September 1, 1987, the Act requires eligible taxing jurisdictions to establish Guidelines and Criteria as to eligibility for tax abatement agreements prior to granting any future tax abatement, said Guidelines to be unchanged for a two (2) year period unless amended or repealed by a three-fourths vote of the members of the City Council; and

WHEREAS, the guidelines and criteria that the City will utilize attempt to assert positive economic development, but should not be read to imply or suggest that the City of Snook, Texas is under an obligation to afford these opportunities to any applicant; and

WHEREAS, these Guidelines and Criteria are designed to allow maximum flexibility in addressing the unique concerns of each applicant while enabling the City to respond the changing needs of the community;

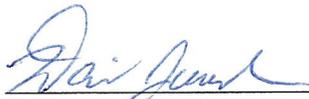
NOW, THEREFORE, BE IT RESOLVED, that the City of Snook, Texas, acting by and through its duly elected City Council, does hereby adopt the attached guidelines and criteria for granting tax abatement in reinvestment zones in the City of Snook styled as “Policy Statement on Property Tax Abatement Incentive for Selected Commercial Enterprises” in the City of Snook, be and are hereby adopted and incorporated herein by reference and effective August 26, 2024.

RESOLVED on this 26th day of August, 2024.

CITY OF SNOOK, TEXAS

By: 
Hon. Frank Fields, Mayor

ATTEST:


David Junek, City Administrator/Secretary

CITY OF SNOOK

POLICY STATEMENT ON PROPERTY TAX ABATEMENT INCENTIVE FOR SELECTED COMMERCIAL ENTERPRISES

Policy Adoption Date: August 26, 2024

I. PURPOSE

The City of Snook, hereinafter referred to as "the City," is committed to the promotion of high quality development in all parts of the community and to improving the quality of life for its citizens. In order to help meet these goals and to stimulate economic development, the City will consider providing incentives that include, but are not limited to, the property Tax Abatement incentive, in accordance with the procedures, criteria and guidelines set forth in this Policy and as provided by Chapter 312 of the Texas Tax Code. Nothing in this Policy shall imply or suggest that the City is under any obligation to provide any incentives to any applicant. Each application for the Tax Abatement incentive under this Policy shall be considered on an individual basis.

II. DEFINITION OF TAX ABATEMENT INCENTIVE

Tax Abatement incentive, as referred to in this Policy, means the partial, temporary exemption from ad valorem taxes on certain qualifying property in a Reinvestment Zone designated by the City or County for economic development purposes. Only ad valorem (property) taxes are eligible for the incentive.

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

III. GUIDELINES AND CRITERIA

In order to be eligible for property Tax Abatement incentive, the planned improvement at a minimum must:

- (a) The project must add new value to the tax roll of eligible property: a minimum of \$300,000 for a business new to Snook or \$150,000 for an existing local business.
- (b) The applicant must maintain or create within the first year and throughout the Tax Abatement incentive period a minimum of four (4) jobs at an average salary of \$36,000/year or higher, including any benefits.

In consideration of the request for the Tax Abatement incentive, the following factors will also be considered:

- (1) Jobs The projected new jobs created including the number of jobs, the type of jobs and the average salary per job class.

- (2) Fiscal Impact The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, the amount of direct sales tax that may be generated, any infrastructure improvements by the City that will be required by the facility, the infrastructure improvements made by the facility, and the compatibility of the project with any City master plan for development.
- (3) Valuation at Termination of Tax Abatement Incentive Period The estimated fair market value, valued at the end of incentive period, of any equipment included in the Tax Abatement incentive. The economic life of the added-value property must exceed the duration of the granted Tax Abatement incentive period.
- (4) Community Impact

The pollution, if any, as well as other negative environmental impacts affecting the health and safety of the community that will be created by the project;

The revitalization of a depressed area;

The business opportunities of existing local

businesses; The alternative development possibilities

for proposed site; The impact on other taxing entities;

Whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Burleson County to another; and/or,

Whether the product manufactured or service provided by the business competes to a substantial degree with an existing business.

IV. TAX ABATEMENT INCENTIVE AUTHORIZED

- (a) Authorized Date A facility shall be eligible for the Tax Abatement incentive if it has applied for the incentive prior to the commencement of construction and meets the guidelines and criteria under this Policy.
- (b) Creation of New Value Tax Abatement incentive may only be granted for the additional value of eligible property improvements made subsequent to the filing of an application for the Tax Abatement incentive and specified in the Tax Abatement incentive agreement between the City and the property owner and/or lessee, subject to such limitations as the guidelines and criteria may require.
- (c) New and Existing Facilities Tax Abatement incentive may be granted for new facilities and improvements and for the expansion or modernization of existing facilities and improvements. If the modernization project includes facility replacement, the Tax Abatement incentive value shall be the tax-appraised value of the new unit(s) less the value of the old unit(s).

- (d) Eligible Property Except as otherwise provided in this policy, the Tax Abatement incentive may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary or convenient to the operation and administration of the facility.
- (e) Ineligible Property The following types of property shall be fully taxable and ineligible for property Tax Abatement incentives: land, inventories, supplies, tools, vehicles, vessels, aircraft, housing or residential property, deferred maintenance investments, property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated, or directed by a political subdivision of the State of Texas.
- (f) Owned/Leased Facilities If a leased facility is granted the Tax Abatement incentive, the agreement shall be executed with the lessor and the lessee and the new value investment shall be combined to calculate the total new value investment. If the lessee removes or reduces its new value investment to the detriment of the lessor, the lessor may annually elect to extend its Tax Abatement incentive to obtain a replacement lessee. The lessor may obtain the full benefit of the remaining Tax Abatement incentive period by resuming the Tax Abatement incentive with the combined value of the replacement lessee by disregarding the Tax Abatement incentive extension term. The lessor shall not receive any Tax Abatement incentive during any year where a Tax Abatement incentive extension has been elected. The Tax Abatement incentive period, including any extensions, shall never exceed a total of ten years as provided by state law. The replacement lessee may apply for its own Tax Abatement incentive based solely on its new value investment.
- (g) Value and Term of Tax Abatement incentive Tax Abatement incentives shall commence with the January 1 valuation date immediately following the occupancy of the property qualifying for the Tax Abatement incentive unless otherwise specified by the City. The value of new eligible properties shall be abated according to the approved agreement between applicant and the City. The City, in its sole discretion, shall determine the amount of any Tax Abatement incentive.

The total amount of eligible property improvements and jobs created and retained are based on projected property improvements and personnel employed. However, the actual amount of tax abatement incentives shall be determined annually based on the actual eligible improvements and the actual number of employees.

In no case would the Tax Abatement incentive exceed the maximum allowed by state law, presently 100% for ten (10) years. Factors to be considered in determining the portion of the increased value to be abated and the duration of the abatement agreement include, but are not limited to:

1. Total amount of the increased value;
2. Total number of jobs created;
3. Type of jobs created;
4. Dollar Value of payroll created;
5. Other costs and revenues associated with the application.

(h) Taxability From the execution of the Tax Abatement incentive agreement to the end of the agreement period, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Part IV (e) 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 the manner described in Part IV (g).

V. APPLICATION PROCESS

(a) Any present or potential owner of taxable property in the City of Snook may request the creation of a Reinvestment Zone and Tax Abatement incentive by filing written request with the City Administrator.

(b) The application shall consist of a completed application form accompanied by:

- (1) A general 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 which will be a part of the facility;
- (3) A map and property description or a site plan, including a legal description of the area proposed for designation as a Reinvestment Zone, as applicable.
- (4) A time schedule for undertaking and completing the planned improvements;
- (5) In the case of modernizing or replacing existing facilities, 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 application;
- (6) The application form may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant;
- (7) A schedule reflecting the proposed amount of abated taxes for which the applicant seeks, as well as the anticipated taxes to be paid by the applicant which will not be subject to the Tax Abatement incentive; and
- (8) A schedule of the proposed job creation or retention, including details of job type(s), wages and benefits, and the timing of creation of any job within the abatement period.

- (c) Upon receipt of a completed application, the City Administrator shall notify the Mayor and City Council. Before acting upon the application, the City may conduct an Economic Impact Study. Following this step, the City shall afford the applicant and any other interested persons the opportunity to speak and present evidence for or against the designation of the area as a Reinvestment Zone for the purpose of the Tax Abatement incentive during a public hearing. Notice of the public hearing shall be clearly identified on an agenda of the City to be posted as required by law. At least seven (7) days before the date of the hearing, notice of the hearing must be 1) published in a newspaper having general circulation in the City; and 2) delivered in writing to the presiding officer of the governing body of each taxing entity having in its boundaries real property that is to be included in the proposed Reinvestment Zone.
- (d) The City shall approve or disapprove the application for designation of an area as a Reinvestment Zone for Tax Abatement incentive within ninety (90) days after receipt of the application. The presiding officer of the legislative body of the City shall notify the applicant of the approval or disapproval promptly thereafter.
- (e) A request for designation of an area as a Reinvestment Zone for the purpose of receiving the Tax Abatement incentive shall not be granted if the jurisdiction receiving the application finds that the request for the Tax Abatement incentive was filed after the commencement of construction or installation of improvements related to a proposed modernization expansion or new facility began.

VI. PUBLIC HEARING

- (a) Should the City be able to show cause in the public hearing why the granting of a designation of an area as a Reinvestment Zone for the Tax Abatement incentive will have a substantial adverse effect on its bonds or other debt instruments, service capacity or the provision of service, that showing shall be reason for the City to deny the granting of the application.
- (b) Neither a Reinvestment Zone nor a property Tax Abatement incentive agreement shall be authorized if it is determined that:
 - (1) There would be a substantial adverse effect on the provision of a government service or tax base of the City.
 - (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.
 - (4) Planned or potential use of the property violates governmental codes or laws.

VII. AGREEMENT

- (a) After approval of the application for the designation of an area as a Reinvestment

Zone for the property Tax Abatement incentive, the City Council will consider the approval of a Tax Abatement agreement by the affirmative vote of a majority of the members of the governing body at a regularly scheduled meeting. The public notice of the meeting at which the City Council will consider the approval of a Tax Abatement agreement with a property owner must contain, in addition to any other requirement of law: (1) the name of the property owner and the name of the applicant for the Tax Abatement agreement; (2) the name and location of the Reinvestment Zone in which the property subject to the Tax Abatement agreement is located; (3) a general description of the nature of the improvements or repairs included in the Tax Abatement agreement; and (4) the estimated cost of the improvements or repairs. The public notice of the meeting must be given in the manner required by Chapter 551, Texas Government Code, except that the notice must be provided at least thirty (30) days before the scheduled time of the meeting.

- (b) The City shall formally pass a resolution and execute an agreement with the owner of the facility and the lessee involved, if any, which shall include:
 - (1) Estimated value to be abated and the base year value.
 - (2) Percent of value to be abated each year.
 - (3) The commencement date and the termination date of Tax Abatement incentive.
 - (4) The proposed use of the facility, nature of construction, time schedule for undertaking and completing the planned improvements, map, property description and improvements list as provided in Application Process, Part V.
 - (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by state law.
 - (6) Amount of investment and average number of jobs involved for the period of the Tax Abatement incentive.
 - (7) Said agreement shall meet all of the requirements of Texas Tax Code Chapter 312.
- (c) Such agreement shall be executed within ninety (90) days after the later of 1) the date applicant has forwarded all necessary information to the City or 2) the date of the approval of the application.
- (d) The City shall make its own determination of the property Tax Abatement incentive which shall not bind any other jurisdiction.

VIII. ADMINISTRATION

Each Tax Abatement incentive project will be monitored annually for compliance. The

agreement will require the applicant to provide a sworn statement and documents verifying compliance each year. Failure to provide the required documents in the manner outlined herein shall result in termination of the Tax Abatement incentive agreement.

The terms of the agreement shall include the right of the City to review and verify the applicant's employment records and payroll records in each year during the term of the agreement, and to conduct an on-site inspection of the project in each year during the duration of the Tax Abatement incentive, and to review such other items as may be reasonable to verify compliance with the terms of the agreement.

The agreement shall stipulate that employees and/or designated representatives of the City will have access to the Reinvestment Zone during the term of the Tax Abatement incentive to inspect the facility to determine compliance with the terms and conditions of the agreement. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation the facility. All City inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

All proprietary information acquired by any affected jurisdiction for purposes of monitoring compliance with the terms and conditions of a property Tax Abatement incentive agreement shall be considered confidential to the extent allowed by law.

Compliance will be monitored in the following manner:

- (a) A Compliance Review Committee shall collect from the applicant a sworn statement of compliance and verifying documents and conduct any inspections on or before June 30th of each calendar year. The company/individual receiving the property Tax Abatement incentive shall furnish the Committee with such information as may be necessary to verify compliance, including the number of new or retained employees associated with the facility and their salaries.

The Compliance Review Committee shall be comprised of the Executive Committee of the City Administrator, Mayor, and two Councilmembers appointed by the Mayor. The City Council may designate a different Compliance Review Committee as part of their reauthorization of the Tax Abatement Policy every two years. However, notwithstanding the two-year reauthorization period the City Council reserves the right to redesignate the Compliance Review Committee at any time by Resolution of the City Council. A member of the Compliance Review Committee that is directly impacted by a Tax Abatement incentive, or indirectly as an employee or shareholder of said company, is expected to recuse themselves from any discussion regarding the compliance of the Tax Abatement for that particular Tax Abatement agreement.

- (b) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property in the Reinvestment Zone. This shall be done on or before October 1 of each calendar year.
- (c) The Committee shall provide a report on the status of all Tax Abatement incentive agreements to the City Council on or before December 15 of each calendar year.

IX. DEFAULT

Should the City determine that a company or individual is in default according to the terms and conditions of its agreement, the City shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days or begun to be cured (in the case of a default that cannot reasonably be cured within 30 days) from the date of such notice ("Cure Period"), then the agreement shall be terminated.

In the event that the company or individual:

- (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
- (2) does not create jobs as outlined in the agreement; or
- (3) violates any of the terms and conditions of the Tax Abatement incentive agreement and fails to cure same during the Cure Period; or
- (4) if the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster, for a period of more than one (1) year during the Tax Abatement incentive period;

then the agreement shall terminate and so shall the Tax Abatement incentive of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to the City within sixty (60) days from the date of termination.

X. ASSIGNMENT

- (a) The Tax Abatement incentive 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, subject to the financial capacity of the assignee and provided that all conditions and obligations in the Tax Abatement incentive agreement are guaranteed by the execution of a new agreement with the City.
- (b) The agreement with the new owner or lessee shall not exceed the termination date of the Tax Abatement incentive 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 for outstanding taxes or other obligations.
- (d) Approval shall not be unreasonably withheld.

XI. SUNSET PROVISION

- (a) This policy is effective upon the date of the adoption and will remain in force for two (2) years, at which time all Reinvestment Zones and Tax Abatement incentive agreements created pursuant to its provisions may be reviewed by the City to determine whether the goals have been achieved. Based on that review, this policy may be modified, renewed or eliminated, providing that such actions shall not affect existing agreements.
- (b) Prior to the date for review, as defined above, this Policy Statement may be modified by a three fourths (3/4) vote of members each governing body, as provided for under the laws of the State of Texas.

XII. SEVERABILITY AND LIMITATIONS

- (a) In the event that any section, clause, sentence, paragraph or any part of this Policy Statement 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 this Policy Statement.
- (b) Property that is owned or leased by the following is excluded from the property Tax Abatement incentive:
 - (1) a member of the governing body of the City of Snook or a member of a planning board or commission of the City; or
 - (2) a member of the Commissioners Court or a member of a planning board or commission of Burleson County.
- (c) If this Policy Statement has omitted any mandatory requirements of the applicable Tax Abatement incentive laws of the State of Texas, then such requirements are hereby incorporated as a part of this Policy Statement.

XIII. VARIANCE

Requests for any variances from this Policy may be made in written form to the City Administrator. Such request shall include a complete description of the circumstances explaining why the applicant, company or individual should be granted a variance. Approval of a request for variance requires a three- fourths (3/4) majority vote of the governing body of the City.

GLOSSARY

- (a) "City" means the City of Snook, Texas that levies ad valorem taxes upon and/or provides services to property located within the City limits.
- (b) "Agreement" means an agreement between a property owner and/or lessee and the City for the purpose of the Tax Abatement incentive.

- (c) "Base year employment" means the average number of employees for each quarter at an existing local business of the year prior to the execution of the agreement.
- (d) "Base year value" means the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application for the Tax Abatement incentive.
- (e) "Committee" means the Compliance Review Committee, consisting of representatives appointed by the City to annually review documents verifying compliance of all projects receiving the Tax Abatement incentive.
- (f) "Deferred maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) "Existing Local Business" means a business that has been located in the City of Snook and has paid property taxes for at least one full year prior to submitting any application for the property Tax Abatement incentive.
- (h) "Expansion" means the addition of buildings, employees, structures, machinery or equipment for purposes of increasing production capacity.
- (i) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (j) "Job(s)" shall represent a newly created or a retained employment position on a full-time permanent basis at an average base salary of \$36,000 or higher, including any benefits, whether hired directly or leased through an employee leasing service.
- (k) "Modernization" means the upgrading and or replacement of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- (l) "New Facility" means improvements to real estate previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- (m) "Productive Life" means the number of years a property improvement is expected to be in service in a facility.