

ORDINANCE NO. 1213-12-19

AN ORDINANCE ESTABLISHING GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT INCENTIVES PURSUANT TO CHAPTER 312 OF THE TEXAS TAX CODE WITHIN THE CITY LIMITS OF THE CITY OF HONDO, TEXAS, PROVIDING FOR A SEVERABILITY CLAUSE, ESTABLISHING AN EFFECTIVE DATE, AND SUPERSEDING AND REPLACING ORDINANCE 1137-09-17 OF THE CITY OF HONDO, DATED SEPTEMBER 25, 2017.

WHEREAS, State law, at Texas Tax Code Chapter 312 states that a taxing unity may not enter into a tax abatement unless the governing body has established guidelines and criteria governing tax abatements; and

WHEREAS, Texas Tax Code Section 312.002 (c) provides that guidelines and criteria adopted are effective for two years from the date adopted and during that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body; and

WHEREAS, the Hondo City Council adopted guidelines and criteria governing tax abatements on September 25, 2017 through Ordinance 1137-09-17 and the City Council now wishes to adopt similar guidelines and criteria governing tax abatements for the City; and

WHEREAS, the City of Hondo must compete with other localities across the nation and state currently offering tax inducements to attract new and modernization projects; and

WHEREAS, the abatement of property taxes, when offered to attract primary jobs or investments in industries that bring in money from outside a community has been shown to be an effective method of enhancing and diversifying an area's economy; and

WHEREAS, these guidelines and criteria will govern tax abatements in Hondo, Texas and the abatements are designed to benefit the City by encouraging and supporting economic investment and job growth and to apply to both new facilities and the expansion of or modernizing present facilities in the City; and

WHEREAS, these guidelines shall not be construed as implying or suggesting that the City of Hondo is under any obligations to provide tax abatement or other incentives to any applicant, and all applicants shall be considered on a case-by-case basis; and

WHEREAS, these guidelines are approved for circulation to all affected taxing jurisdictions for consideration as a common policy for all jurisdictions that choose to participate in tax abatement agreements;

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

SECTION 1. The City Council hereby publicly elects to participate in tax abatement and adopts The Tax Abatement Guidelines, attached hereto as Exhibit A for granting tax abatements within the City of Hondo, Texas and its extraterritorial jurisdiction and the Guidelines and Criteria hereby adopted pursuant to Section 312.002 (a) of the Texas Tax Code.

SECTION 2. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as findings of fact

SECTION 3. CONFLICTING ORDINANCES OR RESOLUTIONS. All resolutions or ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby REPEALED to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other resolution, code or ordinance of the City, or parts thereof, the terms and provisions of this ordinance shall govern.

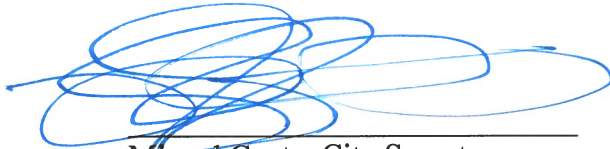
SECTION 4. EFFECTIVE DATE. This ordinance shall become effective immediately after passage.

PASSED, APPROVED AND ADOPTED THIS 9TH DAY OF DECEMBER 2019.



JAMES W. DANNER, SR., MAYOR

ATTEST:



Miguel Cantu, City Secretary



GUIDELINES AND CRITERIA CITY OF HONDO TAX ABATEMENT POLICY

PROGRAM GOALS

The City of Hondo is committed to the promotion and development of new business and seeks to offer programs that will attract investment into the City thereby improving the quality of life for its citizens. In an effort to enhance the City's tax base and expand the local economy, the City will give consideration to tax abatements of real property and personal property for certain new construction and building renovations located within a designated reinvestment zone. The abatements are designed to benefit the City by encouraging and supporting economic investment and job growth and to apply to both new facilities and the expansion of or modernizing present facilities in the City.

The abatements are governed by Chapter 312 of the Texas Tax Code Property Redevelopment and Tax Abatement Act. The City is prohibited from entering into a tax abatement agreement unless the City has established guidelines and criteria governing tax abatements.

DEFINITIONS

- (a) "*Abatement*" means the full or partial exemption from ad valorem taxes of eligible properties in a reinvestment zone designated as such for economic development purposes in accordance with Chapter 312 of the Texas Tax Code.
- (b) "*Eligible Jurisdiction*" means the City of Hondo, Medina County, Texas and any other local taxing jurisdictions eligible to abate taxes according to Texas law, the majority of which is located in the City of Hondo that levies ad valorem taxes and provides services to a reinvestment zone designated by the City Council.
- (c) "*Agreement*" means a contractual agreement between a property owner and/or lessee and the City of Hondo for the purpose of providing a tax abatement.
- (d) "*Base Year Value*" means the assessed value of eligible property in a designated reinvestment zone on January 1 preceding the execution of an abatement 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 the improvements necessary for continued operations, which do not improve productivity or alter the process technology.
- (f) "*Distribution Center Facility*" means buildings and structures, including machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator where a majority of the goods or services are distributed to points at least fifty (50) miles from its location in the City of Hondo.

(g) “*Expansion*” means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.

(h) “*Facility*” means property improvements completed or in the process of construction which together comprise an integral whole.

(i) “*Manufacturing Facility*” means buildings and structures, including machinery and equipment, 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.

(j) “*Modernization*” means the replacement and upgrading 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.

(k) “*New Facility*” means a property previously undeveloped, which is placed into service by means other than or in conjunction with expansion or modernization.

(l) “*Other Basic Industry*” means buildings and structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services, which serve a market primarily outside the City of Hondo.

(m) “*Research Facility*” means buildings and structures, including machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

(n) “*Economic Development*” means participation in or support of an organized program or entity which, for the purpose of its mission, engages in activities designed to encourage employment opportunities, development commercial and manufacturing business/industry to locate and/or expand in the City of Hondo, thus expanding and diversifying the tax base as well as increasing the economic strength and stability of the City of Hondo.

(o) “*Reinvestment Zone*” means an area designated as such for the purpose of a tax abatement as authorized by the City in accordance with Chapter 312 of the Texas Tax Code.

GENERAL CRITERIA

The abatements will be provided through a schedule of Tax Phase-In Incentives on a graduated scale over a period of years not to exceed ten years. The minimum investment for which an abatement will be allowed is \$100,000 and the minimum number

of added employees for which an abatement will be allowed is ten (10) full-time employees with an average salary level of \$30,000 or more including benefits averaged during the twelve calendar months prior to the tax assessment date of January 1. For eligible investment under \$1 million the abatements shall not exceed five years and will be in accordance with Exhibit A attached hereto. For eligible investments of \$1,000,000 or more separate Tax Phase-In Incentive schedules shall be provided based on new investment and based on added employees and the amount of tax abatement to be allowed will be determined by combining the schedule for eligible improvements and a schedule for eligible jobs created or retained. A format of such schedules is attached as Exhibit B for illustration purposes only.

Only the increases in the value of the property over its base value shall be subject of an abatement or incentives. The "base value" of the property as carried on the rolls of the Medina County Tax Office on January 1, in the year immediately preceding the effective date of the abatement agreement. Generally, such base value should be stated as a part of any abatement agreement in order to avoid any misunderstanding.

Ineligible Property. Property that is not eligible for abatement or incentives include: animals, aircraft, vehicles, marine vessels, housing or residential property, hotels/motels, retail facilities. Tax abatements will be considered but not limited to the following: (1) manufacturing facilities; (2) distribution facilities; (3) corporate offices; and (4) research parks.

Application Process. A facility is eligible for the abatements or incentives if it has submitted an application to the City before construction begins. NO Application will be accepted once constructions has commenced. Application shall be made by filing a written request with the City Manager. The written request shall consist of a general description of the proposed use and the general nature and extent of the modernization, expansion, or new improvements which will be a part of the facility; a map and property description; and, a time schedule for undertaking and completing the planned improvements. In the case of modernizing, 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. The application form shall require such financial and other information as the City of Hondo deems appropriate for evaluating the financial capacity and other factors of the applicant. The written application must be accompanied by the required application fee to assist the City in covering its legal costs in preparing the necessary abatement documents

Upon receipt of a written request for creation of a reinvestment zone or an application for an abatement, the City Manager, or his or her designee, together with the City's Economic Development Director, shall consider the feasibility and the impact of the proposed tax abatement. The review of feasibility shall include, but not be limited to, an estimate of the economic effect of the abatement of taxes, the benefit to the eligible jurisdictions, and the property to be covered by such an abatement. Upon the completion of the feasibility review, such application may be presented to and considered by the City Council. If accepted, the business or facility receiving the abatements or incentive will be required to provide a sworn statement and documents, verifying compliance each year.

Failure to do so will result in termination of the abatement or incentive agreement. All abatement applications must meet the following general criteria before being considered for tax abatement:

- The project expands the local tax base.
- The project creates permanent full time employment opportunities.
- The project would not otherwise be developed without an abatement.
- The project makes a contribution to enhancing further economic development.
- The project has not been started and no construction by the applicant has commenced at the time the application is received or at the time that an Abatement Agreement is approved.

The adoption of these guidelines and criteria does not limit the discretion of the City Council to decide whether to enter into a specific tax abatement agreement.

The guideline and criteria adopted hereby are effective for two years from the date adopted and may be amended or repealed *only* by a vote of three fourths of the numbers of the City Council. Any agreement entered into pursuant to these guidelines and criteria shall not be affected by the amendment, repeal, or expiration of these guidelines and criteria.

Information provided to the City in connection with an application or request for tax abatement or incentive and which describes the specific processes or business activities to be conducted or the equipment or other property to be located at the facility for which the abatement is sought is confidential and not subject to public disclosure pursuant to Section 312.003 of the Texas Tax Code.

Before acting upon the application, the City shall through public hearings afford the applicant an opportunity to show cause why the abatement should be granted. Notice of the public hearing shall be clearly identified on an agenda of the City Council receiving such application and shall be posted at least 10 days prior to the public hearing. At least seven (7) days prior to the public hearing the City must send written notice to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought and must publish notice of the hearing time, place and subject in the local newspaper.

No abatement 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 violates the laws of the United States, State of Texas, ordinances of the City of Hondo, or orders of Medina County.
4. Planned or potential use of the property would constitute a hazard to the public safety, health or morals.

Agreement. After a public hearing in accordance with Chapter 312, the City Council of the City of Cibolo shall approve the application and authorize the negotiation and execution of a mutually acceptable agreement with the owner of the property and/or lessee as required, which shall include:

1. The base year amount;
2. The proposed investment;
3. The percent of value to be abated each year;
4. The commencement date and the termination date of the abatement;
5. The proposed use of the facility including the nature of construction, time schedule, map of the proposed improvements, property description, and improvement list as provided in the Application;
6. Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment;
7. The amount of the proposed investment and average number of jobs to be created or retained for the period of an abatement; and
8. A provision that the Property Owner or Lessee shall annually provide any information necessary for the City's evaluation of the Property Owner's or Lessee's compliance with the terms and conditions of the tax abatement agreement.

RECAPTURE

In the event that 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 six (6) months 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 that calendar year shall be paid to the affected jurisdiction within sixty (60) days from the date of termination.

Should the City establishing a tax abatement agreement 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 is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the agreement shall be terminated; provided, however, if such failure cannot be cured within such sixty (60) day period and the company or individual has commenced remedial action to cure such failure (and continued to diligently and timely pursue the completion of such remedial

action), the company or individual shall be entitled to a total of one hundred eighty (180) days after receipt of notice within which to cure such default. In the event that the company or individual allows its ad valorem taxes owed the City or an affected jurisdiction to become delinquent after all applicable notice and cure periods and fails to timely and properly follow the legal procedures for their protest and/or contest; or violates any of the terms and conditions of the abatement agreement and fails to cure same during the Cure Period, the agreement may then be terminated **and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.**

ASSIGNMENT

Abatement may be transferred and assigned by the holder to a new owner 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 abatement agreement are guaranteed by the execution of a new contractual agreement with the City. The contractual agreement with the new owner shall not exceed the termination date of the abatement agreement with the original owner. No assignment or transfer shall be approved if the parties to the existing agreement are liable to the City for outstanding taxes or other obligations.

EXHIBIT A

TAX PHASE-IN INCENTIVE SCHEDULES

The tables below cover tax phase-in incentives for aggregate amount of new value invested under \$1 million and jobs created and retained in excess of nine:

Term	Percent Abated	Percent Abated
	\$250,000 - \$500,000 Investments plus 10 jobs	\$500,001 - \$1,000,000 Investments plus 10 Jobs
Year 1	50%	80%
Year 2	40%	60%
Year 3	30%	40%
Year 4	20%	20%
Year 5	10%	20%

For investments resulting in excess of \$1,000,000 in new taxable value see Exhibit B herein.

EXHIBIT "B"
TAX PHASE-IN INCENTIVE SCHEDULES

Applicants may receive property Tax Phase-In incentive according to the schedules in Tables 1 and 2, depending on their combination of property value creation and job creations/retention.

TABLE 1 (earns 50% of incentive)

IA - Property Improvements by a New Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of <u>property</u> tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	Less than	\$1,000,000	See Exhibit A									
2	\$1,000,001	\$2,500,000	45	45	40	40	30	30	20	20	0	0
3	\$2,500,001	\$5,000,000	45	45	45	40	40	30	30	20	20	0
4	\$5,000,001	\$10,000,000	45	45	45	45	40	40	40	30	30	20
5	More than	\$10,000,000	45	45	45	45	45	40	40	40	30	30

IB - Property Improvements by an Existing Local Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	Less than	\$1,000,000	See Exhibit A									
2	\$1,000,001	\$2,500,000	45	45	40	40	30	20	0	0	0	0
3	\$2,500,001	\$5,000,000	45	45	45	40	40	30	20	0	0	0
4	\$5,000,001	\$10,000,000	45	45	45	45	40	40	30	30	20	0
5	More than	\$10,000,000	45	45	45	45	45	40	40	30	30	20

TABLE 2 - Jobs Created & Retained - by Existing Businesses or New/Relocating Businesses (Earns 50% of incentive)

Level	The number of new and/or retained full-time employees with an average salary level of \$30,000+/year including benefits averaged during the twelve calendar months prior to the tax assessment date of <u>January 1</u> :		To be used in conjunction with Table 1 only									
	From	To	1	2	3	4	5	6	7	8	9	10
1	10	19	45	40	30	30	20	20	0	0	0	0
2	20	29	45	45	40	40	30	30	20	20	0	0
3	30	39	45	45	45	40	40	30	30	20	20	0
4	40	49	45	45	45	45	40	40	40	30	20	20
5	50 and more		45	45	45	45	45	40	40	40	30	30