

**COMMERCIAL TAX ABATEMENT
GUIDELINES AND CRITERIA**

PROCEDURES

AND

APPLICATION

CITY OF FREEPORT, TEXAS

ECONOMIC DEVELOPMENT INCENTIVES CITY OF FREEPORT

I. Introduction

The City of Freeport is committed to desirable economic development. A successful economic development program depends on a viable working relationship between all aspects of the public and private sector. In addition to insuring the protection of the environment and other natural resources as high priority, any attempts to stimulate the economy should be relatively assured of eventful positive economic effects on the City of Freeport's revenue raising capabilities.

This document describes guidelines and criteria to opportunities that the City may consider in attempts to assert positive economic development. Nothing herein shall imply or suggest that the City of Freeport is under obligation to afford these opportunities to any applicant.

All applicants shall be reviewed on a case by case basis. The customized design of a total incentives package is intended to allow maximum flexibility in addressing the unique concerns of each applicant while enabling the City to respond to the changing needs of the community. Consideration will be given to applicants according to the criteria listed in this document.

II. TAX ABATEMENT

A. Definitions

1. *Abatement* means the full or partial exemption from ad valorem taxes on certain real property in a reinvestment zone designated by the city council for economic development purposes.
2. *Affected jurisdiction* means Brazoria County and any school district, the majority of which is located in the county and levies ad valorem taxes upon and provides services to property located within the proposed or any existing reinvestment zone designated by the city council.
3. *Agreement* means a contractual agreement between a property owner and/or lessee and an affected jurisdiction for the purposes of tax abatement.

4. *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 execution of the agreement.
5. *City* means Freeport, Texas.
6. *Deferred maintenance* means improvements necessary for continued operations which do not improve productivity or alter the process technology.
7. *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 50 miles from its location in Brazoria County, Texas.
8. *Expansion* means the addition of buildings, structures, machinery or equipment purposes of increasing production capacity.
9. *Facility* means property improvements completed or in the process of construction which together compromise an integral whole.
10. *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.
11. *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.
12. *New facility* means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
13. *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 Brazoria Primary Metropolitan Statistical Area (PMSA) and result in the creation of new permanent jobs and create new wealth in the PSMA.

14. *Personal property* means tangible personal property located on the real property, excluding that personal property located on the real property prior to the period covered by the abatement agreement with the City, and other than inventory or supplies.

15. *Productive life* means the number of years a property improvement is expected to be in service.

16. *Regional entertainment facility* means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of users reside at least 50 miles from its location in Brazoria County.

17. *Research facility buildings* 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.

18. *Reinvestment zone* means any area of the City which has been designated a reinvestment zone for tax purposes and which is located within the taxing jurisdiction of the City. It is the intent of the City to designate reinvestment zones on case by case basis in order to maximize the potential incentives for eligible enterprises to locate or expand within the City.

19. *Regional Service facility* means buildings and structures, including machinery and equipment, used or to be used to service goods where a majority of the goods being serviced originate at least 50 miles from the facilities location in Brazoria County.

20. *Value of property* means the assessed value of eligible property for purposes of ad valorem taxation.

B. General Criteria - All applicants should meet the following criteria before being considered for abatement.

1. The project expands the local tax base.

2. The project creates permanent full time employment opportunities.
3. The project in all likelihood would not otherwise be developed.
4. The project makes a contribution to enhancing further economic development.
5. The project must remain in good standing to all reasonable aesthetic and environmental concerns.
6. The project has not begun and no construction has commenced at time of application approval.
7. Companies seeking to qualify for tax abatement on the basis of job retention shall document that without the creation of a reinvestment zone and/or tax abatement, it will either reduce or increase operations.
8. The project should not have any of the following objections:
 - a. There would be substantial adverse affect on the provision of government service or tax base.
 - b. Insufficient financial capacity.
 - c. Planned or potential use of the property would constitute a hazard to public safety.
 - d. Planned or potential use of the property would give adverse impacts to adjacent properties; or,
 - e. Any violation of laws of the U.S. or State of Texas or ordinances of the City would occur.
 - f. Property owned or used by the State of Texas or its political subdivisions.
 - g. Property owned by an organization owned, operated or directed by a state political subdivision.

C. Specific Criteria - If the project in the application meets the general criteria, is a facility of a targeted enterprise and has a capital cost that exceeds \$50,000.00, then abatement of any or all of the increased value will be considered. In no case would tax abatement exceed the maximum allowed by state law, presently 100% for 10 years.

<u>Total Investment</u>	<u>Abatement Per Year</u>
\$50,000 to \$100,000	90% 85%
\$100,000 to \$1,000,000	90% 85% 80%
Over \$1,000,000	90% 85% 80% 75% 70% 65% 60%

DESIGNATION OF A REINVESTMENT ZONE

The City Council by ordinance must designate an area as a reinvestment zone. Prior to adopting such an ordinance the City Council must conduct a public hearing on the designation that entitles all interested persons to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

1. Published in a newspaper having general circulation in the City.
2. Delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.
3. 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 the reinvestment zone, the granting of the abatement or both.

TAX ABATEMENT AGREEMENT

The City by resolution may enter into a tax abatement agreement in accordance with the criteria contained in this document. At least seven days before entering into the agreement, the City will deliver written notice of its intent to each taxing unit that is included in the reinvestment zone.

1. Any agreement will include, but not be limited to, the following specific Items.
 - a. All appropriate stipulations included in the application as outlined by this document for a reinvestment zone and tax abatement agreement; and
 - b. The amount and duration of the tax abatement; and
 - c. A method for determining the qualifications of meeting the criteria and applicant's promise to meet and maintain

these qualifications over the term of the agreement; the City will be allowed, upon written request and reasonable notice, to inspect and audit such records of the applicant as are necessary to substantiate that the applicant is meeting criteria agreed upon during the term of the abatement; and

d. A provision that in the event the agreement is not kept, the tax abatement agreement will be determined null and void and all abated taxes will be paid immediately to the City and all other taxing units participating in the agreement; and

e. Any and all other statutory requirements pertaining to municipal tax abatements agreements, including but not limited to those requirements set forth in Section 312.205 of the State Tax Code (Vernon's 1992 with 1976 supplement), as amended.

2. Eligible Property. Abatement may be extended to the value of buildings, structures, fixed machinery, equipment, 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 and improvements must exceed the life of the abatement agreement.

a. Abatement may be granted to new facilities; and,

b. Abatement may be granted for improvements to existing facilities for purposes of modernization and expansion.

3. 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 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.

b. The taxes otherwise abated for the calendar year shall be paid to the City within (60) days from the termination.

c. 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 (60) days from the date of such notice, then the agreement shall be terminated.

d. 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 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 with 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 (60) days of the termination.

4. Upon completion of construction, the City shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the City Council and the City Attorney.

5. The City must deliver a report to the Texas Comptroller's Office describing the guidelines and criteria, reinvestment zone, terms of any abatement agreements, and any other information required by the Comptroller. The reports will be submitted by March 31 of the year following the designation of a zone or the execution of a tax abatement.

APPLICATION FOR TAX ABATEMENT INSTRUCTIONS

1. Attach additional pages if there is not enough space allotted to answer questions on the application.

2. Applicants and projects must meet the requirements established by the City of Freeport Guidelines and Criteria in order to receive positive consideration.

3. Applicants must submit an application processing fee in the amount of Five Hundred Dollars (\$500) or one percent (1%) of the value of the proposed improvement(s), whichever is less, to cover cost to the City of attorney's fees and legal notices to be published.

4. Applicants must submit an adequately definitive legal description that sufficiently describe the tract(s) of land comprising the proposed reinvestment zone (tax abatement area) upon which the new facility, expansion or modernization project will be located. Applications with insufficient or indefinite legal descriptions will be returned to the applicant for

amendment such applications will not be considered for hearing until corrected.

5. Applicant must submit the attached *Certification of Appraised Value of Properties* form which is part of this application. This certification should cover the proposed tax abatement area and it is the responsibility of the applicant to obtain this information from the Brazoria County Appraisal District.

APPLICANT INFORMATION

The taxing unit may consider applicant's financial capacity in determining whether to enter into an abatement agreement. Established companies for which public information is available, or the wholly owned businesses of such companies, should include with the new application a copy of their latest annual report to the stockholders. Other applicants and new companies should attach a statement showing:

- (1). when the company was established
- (2). business references (name, contact person, accountant, attorney)
- (3). may be required to submit an audit financial statement and business plan.

PROJECT INFORMATION

Only facilities listed in the General Criteria of the Guidelines may receive abatement. Check guidelines definitions to see if project qualifies.

If the project is a Regional Entertainment Facility, Regional Service Facility, Regional Distribution Center Facility or other basic industry, include the following items;

- (1). market studies

- (2). business plans
- (3). agreements or other materials demonstrating that the facility is intended to serve a market of which the majority is substantially outside the City of Freeport.

ECONOMIC MARKET

Permanent Employment Estimates

In estimating the permanent employment, include the total number of jobs retained or created at this site by your firm as well as known permanent jobs of service contractors required for operation.

Estimated Appraised Value on Site

The value on January 1 preceding abatement should be the value established by the Brazoria County Appraisal District. If the applicant must estimate value because taxable value is not known or is combined with other properties under a single tax account, please so state. To qualify, the abated properties must be expected to result in an addition to the tax base of at least fifty thousand dollars (\$50,000) after the period of abatement expires. Projections of value should be a best estimate" based on taxability in Texas. The projection of project values not abated should include personal property and ineligible project related improvements such as an office in excess of that used for plant administration, housing, etc.

APPLICATION FOR TAX ABATEMENT
COMMERCIAL/INDUSTRIAL

This application should be filed at least ninety (90) days prior to the beginning of construction or the installation of equipment. This application will become part of any later agreement or contract and knowingly false representations thereon will be grounds for the voiding of any later agreement or contract.

Original copy of this application and attachments should be submitted to:

City Manager
City of Freeport
200 West Second Street
Freeport, TX 77541

APPLICANT INFORMATION

Company Name: _____ Submittal Date: _____

Address: _____

Name/Address/Telephone of Company contact on this project: _____

PROJECT INFORMATION

Check type of facility to be abated:

Manufacturing	()	Regional Distribution	()
Regional Service	()	Regional Entertainment Center	()
Research	()	Other Basic Industry	()

Proposed facility address and legal description: (attach exhibit if necessary):

Attach a map showing the site. (Attach as Exhibit)

Proposed facility located in the following taxing jurisdictions:

School District	Brazoria Independent School District
Drainage District	Velasco Drainage District
City	City of Freeport

Other Taxing Jurisdictions: Brazoria County; Port Freeport; etc.

Describe product or service to be provided: _____

This application is for a: New Facility () Expansion ()

PROJECT DESCRIPTION

Please attach a statement which:

1. fully explains the project;
2. describes the site and existing improvements;
3. describes all proposed improvements;
4. provides a list of improvements and fixed equipment for which abatement is requested.

ECONOMIC IMPACT INFORMATION

A. Estimated cost of improvements:

Real Estate \$ _____

Personal Property \$ _____

B. Permanent employment estimates:

If existing facility, current plant employment: _____

Estimated number of jobs retained: () jobs created: ()

Number of employees anticipated at start up: () within
1yr. ()

C. Construction employment estimates:

Construction to start: Month: _____ Year: _____

Construction to be completed: Month: _____ Year: _____

Number of construction jobs anticipated: At start: _____

Peak _____ Finish: _____

D. School District impact estimates: (for projects
over \$5,000,000)

Number of families transferred to area: _____

Number of students added to ISD: _____

E. City Impact estimates:

Volume of treated water required from city: _____

Volume of effluent water to be treated by city: _____

Has permitted been started? Yes () No ()

F. Estimated appraised value on site:

LAND PERSONAL IMPROVEMENTS
PROPERTY

Valuation of existing property as of
January 1, preceding this abatement
Application

\$ _____ \$ _____ \$ _____

Valuation of Personal Property
and Improvements, not subject to
Abatement, excluding exempt Pollution
Control Equipment, upon completion
of the project subject to this application

\$ _____ \$ _____ \$ _____

Estimated value, upon completion of
project of exempt pollution control

equipment.	\$ _____	\$ _____	\$ _____
Estimated value of abated improvements after abatement agreement expires	\$ _____	\$ _____	\$ _____

G. Statement of planned efforts to use City of Freeport Vendors and services:

Please attach a statement describing willingness and planned efforts to use qualified City of Freeport vendors and services where applicable in the construction and operation of the facility.

DECLARATION

To the best of my knowledge, the above information is an accurate description of project details.

Company Official Signature

Printed Name and Title of
Company Official

Date Signed

CERTIFICATION OF APPRAISED VALUE OF PROPERTIES
AS OF JANUARY 1, _____

To: City of Freeport

Fm: Brazoria County Appraisal District

Date: _____

The Brazoria County Appraisal District hereby certifies that the following appraised values as of January 1, _____ for property of _____ . Described in Exhibit "A"

attached hereto are listed in the records of Brazoria County Appraisal District and indicated by the following Account Numbers:

PERSONAL PROPERTY

APPRAISAL VALUE

Account No. _____ \$ _____

Account No. _____ \$ _____

LAND

Account No. _____ \$ _____

Account No. _____ \$ _____

Account No. _____ \$ _____

IMPROVEMENTS

Account No. _____ \$ _____

Account No. _____ \$ _____

Account No. _____ \$ _____

Certified this _____ day of _____, _____

Chief Appraiser
Brazoria County Appraisal District

By: _____