

ORDINANCE NUMBER 2022-005

ORDINANCE OF THE CITY OF ROBINSON, TEXAS ADOPTING TAX ABATEMENT GUIDELINES AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Robinson has elected to become eligible to participate in tax abatement under Chapter 312 of the Tax Code; and

WHEREAS, Chapter 312 of the Tax Code contains various requirements relating to municipal tax abatement; and

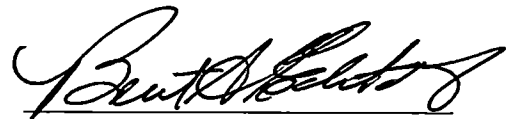
WHEREAS, Chapter 312 of the Tax Code also requires that a municipality participating in tax abatement must adopt guidelines and criteria governing tax abatement agreements entered into by the municipality; and

WHEREAS, the City Council finds it necessary and proper to adopt guidelines which both serve as a guide to the legal requirements for tax abatement and establish criteria and requirements for tax abatement.

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

1. the "City of Robinson Tax Abatement Policies and Guidelines" attached hereto as EXHIBIT A, and incorporated by reference herein, are ADOPTED and shall govern the City's participation in tax abatement under Chapter 312 of the Texas Property Tax Code.
2. this Ordinance [and the Tax Abatement Guidelines adopted hereby] is effective on passage.

PASSED THIS 4th DAY OF JANUARY 2022.

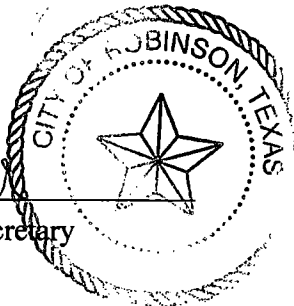


Bert Echterling, Mayor

Attest:



Misty Cryer, City Secretary



**CITY OF ROBINSON
TAX ABATEMENT POLICY & GUIDELINES
2022**

I. General Purpose and Objectives

The City of Robinson 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 of Robinson will, on a case-by-case basis, consider providing tax abatements as an economic development tool to encourage balanced economic development in Robinson. It is the policy of the City of Robinson to make available tax abatement for both new facilities and for the expansion or modernization of existing buildings and structures. It is the policy of the City of Robinson that said consideration will be provided in accordance with the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that the City of Robinson is under any obligation to provide tax abatement to any applicant.

The City of Robinson may grant a tax abatement on the increment in value added to a property by a specific development proposal, which meets the economic development goals and objectives of the City of Robinson. Tax abatements are granted to the owners of real property; for projects where property is leased, special terms and conditions may be set in the agreement governing each specific tax abatement. Capital investment as provided in Chapter 312 of the Texas Property Tax Code is required. Tax abatement is only available for properties located within a Reinvestment Zone created by the City by ordinance after compliance with the procedures provided in Chapter 312 of the Texas Property Tax Code.

This City of Robinson Policy Statement for Tax Abatement should be reviewed on even numbered years to evaluate and adjust to ensure the economic needs of our city are being met to promote a strong and balanced economy.

II. Definitions.

“Abatement” means the partial or full abatement of City property taxes, during the Abatement Period, on the increase in the Certified Appraised Value of a Property

over its Base Year Certified Appraised Value which increase is attributable to real and/or personal property additions to the Property created by Capital Investment.

“Abatement Period” or “Term of Abatement” means the number of Tax Years for which an Abatement is granted in the Tax Abatement Agreement.

“Abatement Period Start Date” or “Start Date” means January 1 of the calendar year immediately following the Completion Date.

“Abatement Percentage” is the percentage of the increase in the Certified Appraised Value over the Base Year Certified Appraised Value on which City property taxes will be abated. The Abatement Percentage is not required to be the same for each Abatement Year. Indeed, most Tax Abatement Agreements will provide for different Abatement Percentages in each Abatement Year.

“Abatement Year” means a Tax Year covered by the Abatement Period.

“Base Year” means the tax year proceeding the execution of the Tax Abatement Agreement.

“Base Year Valuation” means the Certified Appraised Value of the Property on January 1 preceding the execution of the Tax Abatement Agreement. [If applicable, the valuation will also include the estimated tax value of improvements added after January 1, but before execution of the Tax Abatement Agreement].

“Capital Investment” means expenditures on constructing and/or installing real and/or personal property additions to a property. It does not include soft costs.

“Certified Appraised Value” means the appraised value of the Property for property tax purposes as certified by the McLennan County Central Appraisal District.

“City” means the City of Robinson, Texas.

“Completion Date” means the date that the construction and installation of the real and/or personal property additions have been substantially completed as certified by the owner to the City.

“Employment Positions” shall mean non-temporary, full-time employee positions. Full-time employees are regularly scheduled to work at least 32 hours per week. Two (2) non-temporary part-time employees regularly scheduled to work at least 20 hours per week can be considered the equivalent of one (1) full-time position if part-time employees have access to health benefits similar to full-time employees.

“Expansion” means the addition of buildings, structures, fixed machinery or equipment for purposes of increasing production capacity of an existing operation.

“Modernization” means the replacement and upgrading of existing facilities that 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 purposes of reconditioning, refurbishing, or repairing.

“New Capital Investment” means capital investment on the Property that represents the creation of a new business operation as opposed to Modernization or Expansion.

“Project” means the construction and/or installation of real and/or personal property additions to the Property.

“Property” means real property located within a Reinvestment Zone and made the subject of a Tax Abatement Agreement, and any taxable real property improvement or taxable personal property located thereon. [Inventory and furnishings are not eligible for Abatement].

“Proposed Tax Abatement Agreement” is the expected form of the Tax Abatement Agreement. It is approved by the City Council for purposes of notifying other entities of the City’s intent to grant Abatement, but is not a binding contract.

“Reinvestment Zone” means a zone created by a City Council Ordinance and created in accordance with the procedures set forth in Chapter 312 of the Texas Property Code, wherein Abatement of property taxes may be granted subject to the terms of a Tax Abatement Agreement.

“Tax Abatement Agreement” means the agreement between the City and the Owner of the Property which sets forth the terms and conditions of any Abatement of City property taxes granted by the City and which contains all provisions required by Chapter 312 of the Texas Property Tax Code.

“Tax Year” is the equivalent of a calendar year—starting on January 1 and ending on December 31.

III. Eligibility for Abatement

The following categories are created:

A. Regional Business Operations. Operations that produce or provide products, goods, or services where most of the products, goods, or services are for consumption outside of the City. This would include, but not necessarily be limited to, manufacturing plants that ship the majority of the product manufactured to areas outside the City, regional or national distribution centers, service centers which serve a region of the State or Nation, large retail centers or outlets which are estimated to

generate most of their revenues from customers living outside of the City, and other industry that serves a primarily regional or national customer base.

B. Research and Technology Facilities. Facilities developed for the primary purpose of research and experimentation of regional or nationwide importance to advance technology, develop new products, improve products, and create technology solutions.

C. For-Profit Regional Medical Facilities. For-profit regional medical facilities that serve a region and draw patients from throughout that region.

D. Other Industry. This includes manufacturing concerns, industrial concerns, and other commercial operations that do not have a regional or national impact or have a minimal regional or national impact.

E. Clean Energy. Solar farms and other sustainable energy producing operations are eligible for limited Abatement.

Categories III, A, B, and C are collectively referred to as “Regional Facilities” and are preferred projects for purposes of Abatement.

IV. Determination of Abatement Period and Abatement Percentage.

A. The Maximum Abatement Period and Maximum Abatement Percentage scales are established by category herein. Not every Project approved for Abatement will receive the maximum Abatement Period or Abatement Percentages for its category.

B. Tax abatement is primarily aimed at encouraging economic development through 1) incentivizing Capital Investment; and 2) creating or retaining jobs.

C. Where a Project falls on the scale applicable to its category is the product of the rationale review of the benefits to the local economy, level of Capital Investment, and level of job creation/retention. Also considered are any detriments the Project may create for the local area. For example, at similar levels of Capital Investment, a Project creating or retaining a significant number of jobs should receive more consideration than a Project that involves only Capital Investment, or very little job creation/retention; and Projects creating higher paid jobs should generally be given more consideration than Projects creating minimum wage jobs at similar levels of Capital Investment. As another example, Projects involving only personal property additions should be given less consideration than Projects that include real property additions.

- D. Factors considered include:
- Level of capital investment;
 - Nature of Capital Investment;
 - Level of job creation/retention;
 - Indirect impact on the local economy;
 - Economic life of the Project;
 - Property tax depreciation rules;
 - Effect of the Project on local public infrastructure;
 - Effect of the Project on the environment, noise levels, or the overall aesthetic of the City; and
 - Possibility of later sale to tax-exempt entity.

[Important Notes:

In considering Capital Investment it is important to ensure that only hard costs are being included in the number (soft costs like design professional fees, broker fees, closing costs, permitting, feasibility studies, environmental studies, etc should be removed). Further, the real and personal property additions should be reviewed to assure that such are not entitled to tax exemption. For example, some pollution control equipment is tax exempt. Any exempted additions must be removed from the Capital Investment total.]

The City Council reserves the right to vary the maximum Abatement Period and Abatement Percentage where the applicant shows unique circumstances, upon a favorable vote of a super-majority vote by the members of the Council. Under no circumstances shall the maximum Abatement Percentage exceed 100% and the maximum Abatement Period may never exceed 10 years.]

E. Maximum Abatement Scales by Category:

New Investment---Regional Facilities

Capital Investment	Maximum Abatement Percentage	Maximum Abatement Period
\$2 million-\$5 million	65%	5 years
>\$5 million-\$10 million	80%	5 years
>\$10 million-\$25 million	90%	7 years
>\$25 million	100%	10 years

IMPORTANT: The Maximum Abatement Percentage stated is the Abatement Year 1 maximum percentage. The maximum Abatement Percentages applicable in future Abatement Years is part of the rationale review process to arrive at the incentive to be offered. And, as stated above, the Abatement Period may be less than the maximum based on that same review process. The *actual* Abatement Period and *actual* Abatement Percentages for each Abatement Year will be set forth in the Tax Abatement Agreement.

New Investment---Other Industry

Capital Investment	Maximum Abatement Percentage	Maximum Abatement Period
\$2 million-\$5 million	65%	5 years
>\$5 million-\$10 million	80%	5 years
>\$10 million-\$25 million	90%	7 years
>\$25 million	90%	10 years

IMPORTANT: The Maximum Abatement Percentage stated is the Abatement Year 1 maximum percentage. The maximum Abatement Percentages applicable in future Abatement Years is part of the rationale review process to arrive at the incentive to be offered. And, as stated above, the Abatement Period may be less than the maximum based on that same review process. The *actual* Abatement Period and *actual* Abatement Percentages for each Abatement Year will be set forth in the Tax Abatement Agreement.

Expansion and/or Modernization---All Categories

Capital Investment	Maximum Abatement Percentage	Maximum Abatement Period
\$500,000-\$1 million	50%	3 years
>\$1 million-\$5 million	65%	5 years
>\$5 million-\$10 million	80%	5 years
>\$10 million - \$25 million	90%	7 years
>\$25 million	90%	10 years

IMPORTANT: The Maximum Abatement Percentage stated is the Abatement Year 1 maximum percentage. The maximum Abatement Percentages applicable in future Abatement Years is part of the rationale review process to arrive at the incentive to be offered. And, as stated above, the Abatement Period may be less than the maximum based on that same review process. The *actual* Abatement Period and *actual* Abatement Percentages for each Abatement Year will be set forth in the Tax Abatement Agreement.

Clean Energy. This category generally provides limited job creation and involves rapid depreciation in value for property tax purposes. Therefore, standard Abatement Periods and Percentages are set. The minimum Capital Investment to be considered for Abatement is \$2,000,000.

Between \$2,000,000 and \$10,000,000 of Capital Investment

Abatement Year	Abatement Percentage
1	55%
2	50%
3	50%
4	45%
5	40%

Between \$10,000,000 and \$20,000,000 of Capital Investment

Abatement Year	Abatement Percentage
1	70%
2	60%
3	55%
4	50%
5	50%
6	30%

Greater than \$20,000,000 of Capital Investment

Abatement Year	Abatement Percentage
1	90%
2	80%
3	65%
4	55%
5	50%
6	35%
7	30%

V. Process for Seeking and Receiving Tax Abatement

A. Application for Tax Abatement. To be considered for Abatement, an Owner must submit to the City an Application for Tax Abatement on the form required by the City. The Applicant will be required to provide the following information:

- a legal description and common description of the Property;
- a general description of the Project;
- a description of any real property additions to be constructed as part of the Project for which tax abatement is sought;
- a description of any personal property additions to be installed/provided as part of the Project for which tax abatement is sought;
- the proposed total Capital Investment together with a breakdown of the Capital Investment by real property additions and personal property additions, and by estimated expenditures by general category;
- a rendering of the proposed location on the Property of any real property addition;
- the name, address, e-mail address, and telephone number of the applicant;
- the most recent Certified Tax Value of the Property;
- number of full-time employment positions to be created by the Project;

- expected water and sewer requirements of the operations; and
- all other information required by the Application

The form of the Application for Tax Abatement is available on the City's website.

[Note: In certain circumstances where enough information has already been provided through other means, the City Manager may waive the formal application requirement and put together an information packet]

[Important Note: Even if the City desires to move forward after the Application Review Process, No Tax Abatement Agreement can be entered for a Property not contained within a Reinvestment Zone, therefore a boundary description should be provided for the area to be included in the Reinvestment Zone.]

B. Filing and Review.

1) The Application or information packet is filed with the City Manager. The City Manager will perform a preliminary review for completeness, eligibility, and accuracy. Additional information may be requested by the City Manager. Assistance of other staff or professionals in the preliminary review may be enlisted by the City Manager.

2) Copies of the Application or information packet and staff comments are forwarded to the City Council for consideration, and direction is given to the City Manager as to how to proceed.

3) If a Reinvestment Zone has not already been created which encompasses the Property, a Reinvestment Zone must be created in full compliance with Chapter 312 of the Texas Property Tax Code before proceeding on to the Approval and Contracting Process set forth below. **[Important Note: Generally, if the Project is one likely to receive Abatement, the Reinvestment Zone creation process should begin at receipt of the application or information packet, or even before if the Project has been discussed, to avoid delays required the statutory process]**

C. Approval and Contracting.

1. Based on the Council's directives the City Manager shall negotiate a Proposed Tax Abatement Agreement to be approved by the City Council. **This step can be combined with the initial presentation to the Council if the City Manager has already negotiated a Proposed Tax Abatement Agreement. INDEED, the preferred process would be for the Proposed Tax Abatement Agreement to be considered at the meeting where the Reinvestment Zone is created.**

2. The City Council's approval of the Proposed Tax Abatement Agreement IS NOT a contract. This approval is for the purpose of giving notice to the other applicable taxing units of the proposal to grant the Abatement.

3. If approved, the City Manager sends out notices of the City's intent to enter into an agreement granting abatement of taxes to all the entities required to receive notice under Chapter 312 of the Texas Property Tax Code. The notice shall include a copy of the Proposed Tax Abatement Agreement.

4. After the time required by Chapter 312 has passed, the City Council holds a meeting to consider approval of a Tax Abatement Agreement and authorization of execution thereof.

D. Tax Abatement Agreements.

1. Tax Abatement Agreements must contain all terms and provisions required by Chapter 312 of the Texas Property Tax Code, including specifically claw-back provisions to recover abatement incentives if the owner fails to provide the Project benefits promised.

2. ALL Tax Abatement Agreements must be in the form and contain the terms required by the City Attorney. All Tax Abatement Agreements must be reviewed and approved by the City Attorney.

3. No Abatement can be granted absent the formal approval of a Tax Abatement Agreement by the City Council at a meeting held in compliance with the Texas Open Meetings Act. No employee or official of the City may bind the City to grant Abatement without the formal approval of a Tax Abatement Agreement by the City Council.

VI. Requirements of Chapter 312 Must Be Followed.

Chapter 312 contains strict requirements that must be met to grant Abatement. The creation of a Reinvestment Zone itself involves published notices, a public hearing, and that certain findings be made in the Ordinance creating the zone. Careful consideration of Chapter 312's requirements, and consultation with the City Attorney is expected.

VII. Additional Public Hearing Requirements.

A. Meetings at which a tax abatement is considered by the City Council must be posted and held in accordance with the Open Meetings Act (Chapter 551 of the Government Code). (added by H.B. 3143, 2019) The City Council must give the public notice of the meeting at which the City Council will consider approval of a Tax Abatement Agreement. The notice is posted for the meeting in the manner required by the Texas Open Meetings Act (Ch. 551, Texas Government Code) at least 30 days before the time of the meeting scheduled to consider the Tax Abatement Agreement. The Notice must contain:

- 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 where the subject property is located;
- 3) A general description of the improvements or repairs required to be made under the Tax Abatement Agreement; and
- 4) The estimated cost of the improvements or repairs.

B. An adoption, re-adoption, amendment, repeal, or reauthorization of these Guidelines must only occur after a public hearing is held at which members of the public have the opportunity to be heard.