

# **TAX ABATEMENT GUIDELINES**

## **FOR**

### **CITY OF LUFKIN, TEXAS**

*Effective January 1, 2023 through December 31, 2024*



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## INTRODUCTION

The growth, sustainability and diversity of a regional economy are goals that are critical to the long-term prosperity of a community and its citizens. Communities must strategically plan and implement policies and incentive programs to achieve these goals.

These Tax Abatement Guidelines ("Guidelines") demonstrate an effort by the City of Lufkin ("City" or "City of Lufkin") to help attract, retain and expand targeted industries, increase employment and wages, expand the tax base, and create long-term capital investment and new wealth opportunities in the community.

The Lufkin City Council has adopted these Guidelines and will utilize them to ensure that any abatement of property taxes achieves the community's economic development goals.

Chapter 312 of the Texas Tax Code authorizes local governments to abate ad valorem property taxes on the value of new improvements to the property, including real property, tangible personal property, and inventory and supplies. Taxing jurisdictions (e.g., the City of Lufkin and Angelina County) are required by this statute to develop and review guidelines at least every two years for the eligibility and award of this tax incentive.

State law further requires that each taxing jurisdiction enter into a Tax Abatement Agreement with each owner of property or the owner of a leasehold interest in real property receiving an abatement or portion thereof. These agreements are binding legal documents between all parties involved. Additional provisions and requirements are included in those agreements.

The Lufkin City Council has nominated land within the City of Lufkin and its extraterritorial jurisdiction as an Enterprise Zone (see Enterprise Zone Map, attached as Exhibit "A"). The official Enterprise Zone, by such designation, is automatically a Reinvestment Zone. The City Council has also designated one standalone Reinvestment Zone (see also Exhibit "A"). These Guidelines apply to property located in the City's Enterprise Zone and/or Reinvestment Zone, and persons or entities seeking tax abatement on property owned in the Enterprise Zone or Reinvestment Zone should be aware that state law requires the governing bodies of all taxing jurisdictions in an Enterprise Zone and/or Reinvestment Zone to approve a City tax abatement agreement on property located therein before the agreement can take effect.

Within the City's Enterprise Zone, the City Council has designated two revitalization areas (see Exhibit A) for particular attention: (1) Kurth Drive Revitalization Area and (2) Downtown Revitalization Area. As incentives to invest in the revitalization of these areas, the minimum Threshold Eligibility Requirements for tax abatement require a smaller capital investment and fewer full-time jobs.

## SECTION I: ABATEMENT AUTHORIZED

**1.1 Enterprise/Reinvestment Zone:** To be eligible for tax abatement the owner must own taxable real property that is the subject of the tax abatement within the City's Enterprise Zone and/or Reinvestment Zone and must enter into a written Agreement with the City, wherein the owner agrees to make specified improvements or repairs to the property in conformity with the City's comprehensive plan.

**1.2 Authorized Facility:** A facility may be eligible for tax abatement if it is a Manufacturing Facility, Research Facility, Distribution Center, Service Facility, or Retail Facility located in a designated Enterprise/Reinvestment Zone.

**1.3 Creation of New Value:** Tax abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in a Tax Abatement Agreement between the City of Lufkin and the property owner, subject to such limitations as the City may require. The productive life of the improvements must exceed the term of the abatement.

**1.4 New and Existing Facilities:** Tax abatement may be granted for new facility and improvements to existing facility for purposes of modernization or expansion.

## SECTION II: ELIGIBILITY CRITERIA

Under these Guidelines, to be eligible for consideration for a tax abatement, a company or project must meet and/or exceed all of the criteria, as described below:

**2.1 Eligible Property:** Tax abatement may only be granted to the owners of real property improvements, personal property improvements, and taxable leasehold interests in tax-exempt real property located in an Enterprise/Reinvestment Zone to the extent allowed by state law. Real property improvements include the construction of a new facility and the expansion/modernization of an existing facility. If a leased facility is granted tax abatement, the Agreement shall be executed by both the lessor and the lessee.

**2.2 Ineligible Property:** Any property that is not specifically identified in the tax abatement agreement will not receive tax abatement. Inventory, supplies, and/or office equipment are not eligible for tax abatement. Personal property that was located on the real property at any time before the execution of the abatement agreement will not be eligible for abatement. Any property that is in a Tax Increment Financing Zone will not be eligible for abatement.

**2.3 Abatement Periods:** Eligible real and/or personal property improvements may qualify for abatement periods lasting between 2 to 10 years. The economic life of the eligible property must exceed the abatement period.

**2.4 Exceptional Cases:** Where the applicant's investment in real and/or personal property improvements substantially exceeds the eligibility thresholds, the City Council may consider terms and/or percentages that exceed these guidelines. However, the maximum period for any tax abatement agreement is limited to 10 years in accordance with state law.

**2.5 Local Hire Requirement:** Any project seeking a tax abatement must hire a minimum of 25% of its new full-time employees at the project location from residents of Angelina County, regardless of project size. Residents, for the purpose of this policy, are those employees who reside in Angelina County, whether through relocation or existing residency.

**2.6 Employee Health Care Benefits:** The applicant seeking a tax abatement under these Guidelines must offer a health benefit plan to its full-time employees at a rate that is reasonable to the majority of its employees and which allows access to the plan by the employees' dependents. For additional consideration, the company may provide information on other employee benefits provided, such as retirement/pension programs and subsidies for education, job-training, transportation assistance and child/elderly care.

**2.7 Wage Requirements:** In order to be eligible for a tax abatement, all (100%) of the company's new and existing employees at the project location must earn no less than 101% of the Angelina County average salary for the type of industry throughout the full term of the Tax Abatement Agreement.

**2.8 Companies and Projects Not Eligible for Tax Abatement:** These Guidelines do not apply to companies that sell products and/or services to the final consumer such as: Restaurants, Retail Stores, Malls, Hotels, Motels, Professional Services, and similar facilities, unless located in a designated Revitalization Area.

**2.9 Timing:** In order to be eligible for consideration, the applicant must submit an application prior to commencement of the project. No tax abatement for a proposed project will take effect until a final negotiated agreement has been approved and fully executed. The timing and acquisition of personal property related to this project will impact its eligibility for abatement.

**2.10 Additional Terms and Conditions:** The applicant will enter into separate Tax Abatement Agreements with the City of Lufkin and Angelina County and these agreements will require separate approval by each governing authority. Consequently, each jurisdiction reserves the right to negotiate additional terms and conditions on a case-by-case basis.

**2.11 Recapture of Abated Taxes:** Tax abatement agreements will provide for recapture of abated property taxes in the event contract terms and requirements are not met. These recapture provisions will survive any subsequent assignment of the Agreement.

### SECTION III: ELIGIBILITY THRESHOLDS AND ABATEMENT SCHEDULES

**3.1 General Enterprise/Reinvestment Zone Schedule:** To qualify for real and personal property tax abatement, the project *must meet one or more of the following minimum threshold eligibility requirements* in regard to capital investment (new construction or the value of the improvements as valued by the Angelina County Appraisal District) or new job creation.

Minimum Threshold Eligibility Requirements		
Capital Investment	New Full-Time Jobs Created	Abatement Schedule

\$1 – 5 million	21 – 50	Year 1: 100% (construction)
		Year 2: 100%
		Year 3: 80%
		Year 4: 60%
		Year 5: 40%
		Year 6: 20%
\$5 – 10 million	51-100	As above, but allowed one additional year at 100% abatement during construction
\$10 million +	101 +	Up to 100% for up to 10 years, at the discretion of the City Council

**3.2 Retention of Existing Business Schedule:** To qualify for real and personal property tax abatement, the project *must meet one or more of the following minimum threshold eligibility requirements* in regard to capital investment (new construction or the value of the improvements as valued by the Angelina County Appraisal District) or new job creation.

Minimum Threshold Eligibility Requirements Existing Businesses		
Capital Investment	New Full-Time Jobs Created	Abatement Schedule
\$750,000 – \$3.75 million	16 – 38	Year 1: 100% (construction)
		Year 2: 100%
		Year 3: 80%
		Year 4: 60%
		Year 5: 40%
		Year 6: 20%
\$3.75 – 7.5 million	39 -75	As above, but allowed one additional year at 100% abatement during construction
\$7.5 million +	76 +	Up to 100% for up to 10 years, at the discretion of the City Council

**3.3 Revitalization Areas Schedule:** To qualify for real and personal property tax abatement in either of the Revitalization Areas, the project *must meet both of the following minimum threshold eligibility requirements* in regard to capital investment (new construction or the value of the improvements as valued by the Angelina County Appraisal District) and new job creation.

Minimum Threshold Eligibility Requirements for Kurth Drive Revitalization and Downtown Revitalization Areas		
Capital Investment	New Full-Time Jobs Created	Abatement Schedule



\$50,000 - \$100,000	5 - 10	Year 1: 100% (construction)
		Year 2: 100%
		Year 3: 80%
		Year 4: 60%
		Year 5: 40%
		Year 6: 20%
\$100,000 - \$500,000	11-15	As above, but allowed one additional year at 100% abatement during construction
\$500,000 +	16 - 20	Up to 100% for up to 10 years, at the discretion of the City Council

#### SECTION IV: APPLICATION PROCEDURE

**4.1 Application Submission:** Applicants for tax abatement must submit a completed Application for Tax Abatement with the Economic Development Corporation Office. Incomplete applications will not be considered. The Economic Development staff will review/verify the applicant's financial statements and request additional information in determining the economic feasibility and long-term benefit of the overall project. Following this review, the Economic Development Corporation Board will evaluate the application on the merit and value of the proposed project. Based on the outcome of the evaluation, the Economic Development Corporation may present the application to the City Council for consideration. Certain information provided by a property owner regarding a request for tax abatement is considered confidential for a limited time period. The confidentiality of the information continues until the tax abatement agreement is executed. This confidentiality may be waived by the mutual consent of both the taxing unit and the property owner.

**4.2 City Council Consideration:** All the projects brought to City Council for consideration will be presented at meetings conducted pursuant to the Open Meetings and Property Redevelopment and Tax Abatement Acts. A public hearing must normally be held before the City of Lufkin City Council approves a property or facility for tax abatement. If the subject property is in a current Reinvestment Zone, no public hearing is necessary. The City Council retains sole authority to approve or deny any tax abatement agreement and is under no obligation to approve any tax abatement agreement.

#### SECTION V: COMPLIANCE VERIFICATION

**5.1 Certificate of Compliance:** After the initial requirements of the agreement have been completed (i.e. construction/installation of improvements), the Owner must submit an executed Certificate of Compliance to the City.

**5.2 City Staff Inspection:** After receipt of an executed Certificate of Compliance, city staff shall make an inspection to verify that all initial contract requirements are complete. Upon

verification the City Manager will approve the Certificate of Compliance, authorize the commencement of the tax abatement, and notify the Angelina County Appraisal District.

**5.3 Annual Certification:** The Owner must submit a statement, per the tax abatement agreement, that provides information about the project's achievement during the prior year regarding the improvements and/or job creation covered by the tax abatement agreement. The following items must be included in the statement: (i). the added square footage and/or improvement value made; (ii). the value of the construction/installation (most recent value by the Angelina County Appraisal District); (iii). the total number of jobs created (full-time), to date; (iv). the amount of property taxes paid on the facility during the prior year; and (v). any tax protests that have been filed regarding ad valorem taxes and a description of the reasons for the tax protest.

#### **SECTION VI: ASSIGNMENT**

Abatement agreements may be assigned to a new owner or lessee of the improvements with the written consent of the City authorizing the new assignment. Any new assignment shall provide that the assignee shall irrevocably and unconditionally assume all duties and obligations of the assignor as set out in the agreement. No assignment shall be approved if the assignor or assignee are indebted for ad valorem taxes or other obligations.

#### **SECTION VI: DEFAULT AND RECAPTURE**

Should the City determine that an applicant is in default with regard to the items specified in the abatement agreement, the City may declare a default and may terminate the abatement agreement.

#### **SECTION VII: PREVIOUS TAX ABATEMENT AGREEMENTS NOT AFFECTED**

These Guidelines for Tax Abatement approved by the City of Lufkin Resolution Number 2022-0030 shall not affect any tax abatement previously approved by the City of Lufkin City Council.