

RESOLUTION NO. 2018-078

**RESOLUTION ADOPTING GUIDELINES AND  
CRITERIA FOR TAX ABATEMENT AGREEMENTS AS  
AUTHORIZED BY CHAPTER 312 OF THE TEXAS TAX  
CODE; AUTHORIZING THE CITY SECRETARY TO  
SUBMIT A COPY OF THIS RESOLUTION TO THE  
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS**

WHEREAS, the Council finds it to be in the public interest to adopt guidelines and criteria which would allow the City to consider requests for tax abatement;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF MIDLAND, TEXAS:**

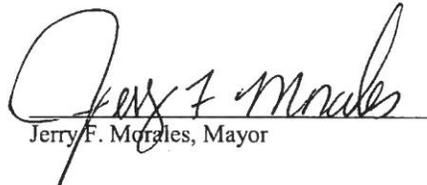
**SECTION ONE.** That the Guidelines and Criteria for Tax Abatement Agreements, which are attached hereto as Exhibit "A" and made a part hereof for all legal purposes, are hereby approved and adopted as authorized by Chapter 312 of the Texas Tax Code.

**SECTION TWO.** That the City Secretary is hereby authorized and directed to submit a copy of this resolution to the Texas Comptroller of Public Accounts, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528.

On motion of Council member Love, seconded by Council member Lacy, the above and foregoing resolution was adopted by the City Council of the City of Midland at a special meeting on the 27th day of February, A.D., 2018, by the following vote:

Council members voting "AYE": Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett

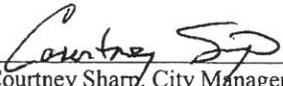
Council members voting "NAY": None

  
Jerry F. Morales, Mayor

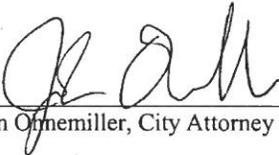
ATTEST:

  
\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

  
\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED ONLY AS TO FORM:

  
\_\_\_\_\_  
John O'Connell, City Attorney

**CITY OF MIDLAND, TEXAS  
GUIDELINES AND CRITERIA  
FOR TAX ABATEMENT AGREEMENTS**

The guidelines and criteria contained herein were adopted on the 27th day of February, 2018, by the City Council of the City of Midland, Texas, in accordance with Texas Tax Code, Chapter 312, "Property Redevelopment and Tax Abatement Act". These guidelines and criteria are effective for two years from the date adopted unless amended as provided for in the above referenced act.

1. The City of Midland may agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation all or a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed ten years, subject to the rights of holders of outstanding bonds of the municipality, on the condition that the owner of the property make specific improvements or repairs to the property. As used herein, a "reinvestment zone" is an area designated by the City Council of the City of Midland as a reinvestment zone in accordance with the Texas Tax Code §312.201, and meeting the criteria for a reinvestment zone set forth in the Texas Tax Code §312.202.

2. An agreement may provide for the exemption of the real property in each year covered by the agreement only to the extent its taxable value as determined by the Midland Central Appraisal District for that year exceeds its value on January 1 of the year in which the agreement is executed.

3. An agreement may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality.

4. An improvement, repair, development, or redevelopment taking place under a tax abatement agreement must conform to the comprehensive zoning ordinance.

5. The agreements made with the owners of property in the same reinvestment zone must contain identical terms for the portion of the value of the property that is to be exempt and the duration of the exemption.

6. The property subject to a tax abatement agreement may be located in the extraterritorial jurisdiction of the municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.

7. Property that is in a reinvestment zone and that is owned or leased by a member of the City Council of the City of Midland, Texas, or by a member of a zoning or planning board or commission of the City of Midland is excluded from property tax abatement.

8. The City Council of the City of Midland may agree in writing with the owner or lessee of real property, which is located in a reinvestment zone, to exempt from taxation for a period not to exceed ten years, a portion of the value of the real property or of personal property owned or leased by a certificated air carrier. The certificated air carrier must make specific improvements on the property. A lessee, to be eligible for tax abatement, must lease the property for at least ten years and agree to make certain improvements to the property. All of the guidelines and criteria herein shall apply to an agreement with the certificated air carrier.

9. All tax abatement agreements must:

- a. list the kind, number, and location of all proposed improvements of the property;
- b. provide access to and authorize inspection of the property by City of

- Midland employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;
- c. limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect;
  - d. provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement;
  - e. contain each term agreed to by the owner of the property;
  - f. require the owner of the property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement; and
  - g. provide that the governing body of the City of Midland may cancel or modify the agreement if the property owner fails to comply with the agreement.

10. The City Council of the City of Midland may include in the tax abatement agreement provisions for:

- a. improvements or repairs by the City of Midland to streets, sidewalks, and utility services or facilities associated with the property, except that the agreement may not provide for lower rates than are made for other services or properties of a similar character, though refundable utility deposits may be adjusted as part of the agreement;
- b. an economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all

estimated costs, and the time when related costs or monetary obligations are to be incurred;

- c. a map showing existing uses and conditions of real property in the reinvestment zone; and
- d. a map showing proposed improvements and uses in the reinvestment zone.

11. The Midland City Council will consider capital investment, increased employment and additional payroll when considering tax abatement.

12. An agreement with a lessee may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, including inventory or supplies.

13. An agreement may provide for the recapture of all or a portion of property tax revenue abated as a result of the agreement if the owner of the property fails to create all or a portion of the number of new jobs provided by the agreement, and may provide for payment of a penalty or interest, or both, on that recaptured property tax revenue.

14. An agreement may provide for the recapture of all or a portion of property tax revenue abated as a result of the agreement if the appraised value of the property subject to the agreement does not attain the value specified in the agreement, and may provide for payment of a penalty or interest, or both, on that recaptured property tax revenue.

15. An agreement may provide that the City may offset any amounts due and payable under a Tax Abatement Agreement against any debt, (including financial incentives and taxes) lawfully due the City from the person, individual, corporation or entity receiving the tax abatement, regardless of whether the amount due arises pursuant to the terms of the

Tax Abatement Agreement or otherwise and regardless of whether or not the debt due the City has been reduced to judgment by a court.

16. The property owner who is given an abatement is solely responsible for timely filing an exemption application for the tax abatement each year with the appraisal district.

17. To be designated as a reinvestment zone under the subchapter, an area must be reasonably likely, as a result of the designation, to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality or the other criteria listed in Section 312.202 of the Texas Tax Code.

18. These guidelines and criteria may be amended or repealed only by a vote of three-fourths of the Midland City Council.

19. These criteria and guidelines provide for the availability of tax abatement for both new facilities and structures and for the expansion or modernization of existing facilities and structures.

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

21. The adoption of these guidelines and criteria by the Midland City Council does not create any property, contract, or other legal right in any person to have the Midland City Council consider or grant a specific application or request for tax abatement.

22. The City Secretary shall provide a copy of these guidelines and criteria to the Texas Comptroller of Public Accounts, and shall file all required forms with the Texas Comptroller of Public Accounts, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528.