

**CITY OF HENRIETTA, TEXAS  
TAX ABATEMENT  
GUIDELINES AND CRITERIA  
Adopted October 13, 2008**

**SECTION A - DEFINITIONS**

- (a) **“Abatement”** means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated by an affected jurisdiction for economic development purposes.
- (b) **“Affected Jurisdiction”** means City of Henrietta and any governmental entity, the majority of which is located in Henrietta, that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone designated by the City of Henrietta.
- (c) **“Agreement”** means written contractual agreement between a property owner and/or lessee and an affected jurisdiction for the purposes of tax abatement.
- (d) **“Base Year Value”** means the assessed value of eligible property January 1 preceding the execution of the agreement plus (if applicable) the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.
- (e) **“Deferred Maintenance”** means 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 25 miles from its location in Henrietta.
- (g) **“Downtown Development District”** means an area of Downtown Henrietta as shown by the map (attached).
- (h) **“Expansion”** means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.
- (i) **“Facility”** means property improvements completed or in the process of construction which together compromise an integral whole.
- (j) **“Manufacturing Facility”** means buildings and structures, including fixed in place 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.
- (k) **“Initiating Governing Body”** shall be either the Henrietta City Council or the Clay County Commissioner’s Court depending on whether applicant’s project is located in the City of Henrietta or within the City’s extraterritorial jurisdiction in Clay County.
- (l) **“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 in place machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing except in the Downtown Development District, where modernization includes painting of exterior wall, restoring or installing a façade and related interior and/or exterior improvements designed to improve, visually and aesthetically, the exterior of a building or block.
- (m) **“New Facility”** means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

(n) **“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 Henrietta area and result in the creation of new permanent jobs and create new tax base in the City of Henrietta.

(o) **“Productive Life”** means the number of years a property improvement is expected to be in service.

(o) **“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.

(p) **“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 are domiciled at least 25 miles from the facility’s location in Henrietta.

(q) **“Reinvestment Zone”** is a specific parcel of property designated by the City or the County (as applicable) within which a tax abatement can be granted.

#### **SECTION B – STATEMENT OF PURPOSE**

The City is committed to the promotion of high quality commercial and industrial development in all parts of the City, and an ongoing improvement of the quality of life of its citizens. These objectives may be served by the enhancement and expansion of the local economy. The City will consider, on a case-by-case basis, granting property tax abatement as a stimulus for economic development in accordance with the criteria and guidelines established herein. Nothing herein shall imply or suggest that the City is under any obligation to provide tax abatement to any applicant, that any applicant has a property right or interest in tax abatement, or that the City is precluded from considering other options which may be in the best interest of the City.

#### **SECTION C – DESIGNATION OF TAX ABATEMENT REINVESTMENT ZONES**

The City will consider designating areas within the City limits of the City as tax abatement reinvestment zones which meet one or more of the criteria for designation of a reinvestment zone under Section 312.202 of the Tax Code, and where the property owner meets the minimum qualifications to qualify for a tax abatement. Designation of an area as a tax abatement reinvestment zone is a prerequisite to entering into a tax abatement agreement with the owner of the property in a particular area. Property located within a City created (and State-approved) Enterprise Zone is eligible for consideration for tax abatement agreements without the necessity of separate designation as a tax abatement reinvestment zone.

#### **SECTION D – ABATEMENT AUTHORIZED**

(a) **Authorized Facility.** A facility may be eligible for abatement if it is a: Manufacturing Facility, Research Facility, Distribution Center or Regional Service Facility, or Other Basic Industry.

For the Downtown Development District the following facilities are eligible to be considered for tax abatement:

- Antique shop;
- Art Gallery/Studios;
- Bookstore;
- Candy or Cake Shop, Coffee Shop or Diner;
- Drapery Shop;
- Dry Cleaning Establishments;
- Florist;
- Generally recognized retail businesses which supply commodities on the premises, such as

groceries, meats, dairy products, baked goods, clothing, and notions, or hardware and similar uses;

- Health Fitness Facility;
- Hotels, Motels, and bed and breakfast facilities, multi-family dwellings, loft housing;
- Mixed use facilities, including but not limited to residential, retail or restaurant combinations;
- Personal service establishments which perform services on the premises such as repair shops; tailor shops; beauty parlor or barber shop; photo studio or similar uses;
- Printing and newspaper printing shops;
- Restaurants, Cafes and Private Clubs;
- Specialty Retail such as home décor, gifts, specialty foods etc;
- Theatres, auditoriums and similar facilities; and
- Other similar uses, not specifically listed, determined appropriate for the Downtown Development District.

Ineligible Facilities in the Downtown Development District –A facility is ineligible for tax abatement if it is a:

- Bail Bond service;
- Bus Station or terminal;
- Gasoline Services Station;
- Pawn shop; and
- Other uses, not specifically listed, which are determined inappropriate for the Downtown Development District

(b) **Creation of New Value.** Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between the affected jurisdiction and the property owner or lessee, subject to such limitations as governing body may require.

(c) **New and Existing Facilities.** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.

(d) **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility. In the Downtown Development District, abatement will be extended to include personal property (excluding inventory and supplies) with a productive life of ten years or more.

(e) **Partially Eligible.** Partially eligible for abatements are modernization projects and manufacturing facilities which are intended to replace existing equipment or facilities when the existing equipment and facilities will be removed, thus eliminating existing value from the tax rolls. In this event, the value of the existing facility and equipment shall be frozen at the time of the abatement agreement and shall remain frozen throughout the abatement period. The eligible abatable value of the new project shall be the difference between the total new investment amount and the existing tax value of the equipment and/or facility to be removed.

(f) **Ineligible Property.** The following types of property shall be fully taxable and ineligible for abatement: land, inventories, supplies, tools, furnishings, and other forms of movable personal property, vehicles, vessels, aircraft, housing, hotel accommodations, retail facilities, deferred maintenance investments, property to be rented or leased to third parties except as provided in section 2(g); or property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas

except in the Downtown Development District where. In the Downtown Development District, the following types of property shall remain fully taxable and ineligible for tax abatement: supplies; inventory; deferred maintenance; property to be rented or leased to third parties except as provided for in section (g); and other property which has a productive life of less than ten (10) years.

(g) **Leased Facilities.** If a new facility is to be constructed by a third party owner for lease to an applicant otherwise eligible for abatement, then the building owner may also be eligible for abatements. To calculate the applicable category for abatement, the investment of both entities will be added and each shall be eligible to receive abatement at the same rate as would have been available if the entire project were being accomplished by one owner.

(h) **Term of Abatement.** Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the agreement. The term shall be no longer than as set out in the schedule shown in Section E for each stated range of investment.

(i) **Economic Qualifications.** In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement must be reasonably expected to increase the value of the property.

(j) **Taxability.** From the execution of the abatement contract to the end of the agreement period, taxes shall be payable as follows: (1) the value of ineligible property as provided in section (f) shall be fully taxable; (2) the base year value of existing eligible property as determined each year shall be fully taxable; and (3) the additional value of new eligible and partially eligible property shall be taxable in the manner described above.

(k) **Non-Transferability.** In the event property is sold which is under a tax abatement agreement, said agreement shall terminate and the abated property shall become fully taxable for the year in which the sale is consummated and all subsequent years. This provision does not apply to transfers of title between corporate entities that have common ownership.

(l) **Standards for Consideration of Tax Abatement in Downtown Development District.** The City will consider tax abatement on projects which improve the aesthetic appearance of the District; bring new jobs to the District; stimulate desired commercial or residential activity; and/or contribute to preservation efforts, special area plans or strategic economic development plans and investment in the District.

## **SECTION E – STANDARDS FOR TAX ABATEMENT**

(a) **Minimum Standards.** The City will consider tax abatement only on eligible facilities which meet at least two of the following criteria.

(1) The project involves a minimum increase in property value of three hundred percent (300%) for construction of a new facility; or fifty percent (50%) increase in value for expansion of an existing facility; or an overall new investment leading to increased real property improvements of at least \$250,000 in taxable assets. For eligible facilities in any reinvestment zone within the Downtown Development District, the project must involve either a minimum increase in property value of one hundred and fifty percent (150%) for construction of a new facility; or twenty-five percent (25%) for expansion of an existing facility; or an overall new investment leading to increased real property improvements of at least \$25,000 in taxable assets.

(2) The project makes a substantial contribution to redevelopment efforts, special area plans, or strategic economic development programs by enhancing either functional or visual characteristics, e.g., historical structures, traffic circulation, parking facades, materials, signs.

(3) The project has high visibility, image impact, or is of a significantly higher level of development quality.

- (4) The project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.
- (5) The project can serve as a prototype and catalyst for other development of a higher standard.
- (6) The project stimulates desired concentrations of employment or commercial activity.
- (7) The project generates greater employment than would otherwise be achieved, e.g., commercial/industrial versus manufacturing versus warehousing.
- (8) For eligible facilities in any reinvestment zone within the Downtown Development District, the project improves the aesthetic appearance of the neighborhood, brings new jobs to the Downtown area, increases the availability of public parking, or increases the amount of green space (landscaping).

(b) **Minimum Required Investment.** An applicant requesting tax abatement shall agree as a condition of any tax abatement ultimately approved by the City Council to expend a certain minimum amount of funds on real or personal property improvements, or to provide a certain number of jobs, as provided below:

Projects involving an investment in real property in excess of \$10,000,000 (\$250,000 in the Downtown Development District), in eligible personal property of more than \$40,000,000 (\$1,000,000 in the Downtown Development District), or the creation of more than 175 (25 in the Downtown Development District) new full time jobs, or requests for tax abatement for more than five (5) years, will be individually negotiated. If a request for tax abatement is justified on the basis of the purchase and maintenance of eligible personal property or on the creation of jobs, the applicant must agree to maintain the personal property or jobs for a period of not less than twice the period for which tax abatement is granted. For example, if an applicant requests and receives 75% tax abatement for five years based on the purchase and maintenance of eligible personal property, the applicant must agree in the tax abatement agreement, subject to recapture of all abated taxes, to maintain the personal property on the property tax roll for not less than ten years.

\*Personal property with a useful life of less than ten years is not eligible for tax abatement.

Personal property on site prior to the effective date of the tax abatement agreement is not eligible. Supplies and inventory are ineligible for tax abatement under this policy and State law.

† As used herein, the creation of jobs refers to the creation of a job paying not less than \$10 per hour, the approximate median salary for employees in Clay County. To qualify for a level of tax abatement, e.g., 25%, based on the creation of a specific number of jobs, you must commit to hiring the required effective number of employees by the end of year 2 of the agreement. To calculate the effective number of jobs created: (1) calculate the total annual payroll created (based on the number of employees you will hire at various annual salaries); (2) divide this annual payroll by \$20,640 (our calculated annual salary for a \$10/hr employee); and (3) round this figure to the nearest whole integer.

(c) **Additional or Enhancement Factors.** In addition to the minimum investment or job creation criteria listed in (2) above, the following factors, among others, shall be considered in determining whether to grant tax abatement, and if so, in what percentage of value to be abated and the duration:

- (1) value of land and existing improvements, if any;
- (2) type and value of proposed improvements;
- (3) productive life of proposed improvements;
- (4) number of existing jobs to be retained by proposed improvements;
- (5) number, salary, and type of new jobs to be created by proposed improvements;

- (6) amount of local payroll to be created;
- (7) whether the new jobs to be created will be filled by persons residing or projected to reside within the City;
- (8) amount of local sales taxes to be generated directly;
- (9) the costs, if any, to be incurred by the City to provide facilities or services directly resulting from the new improvements;
- (10) the amount of ad valorem taxes to be paid the City during the abatement period considering the existing values, the percentage of new value abated, the abatement period, and the projected property value after expiration of the abatement period;
- (11) population growth that occurs directly as a result of new improvements;
- (12) the types and value of public improvements, if any, to be constructed and paid for by the applicant seeking abatement;
- (13) the extent to which the proposed improvements compete with existing businesses;
- (14) the positive or negative impact on the opportunities of existing businesses;
- (15) the attraction of other new businesses to the area;
- (16) the overall compatibility with the City's zoning and subdivision regulations, and overall comprehensive plan; and
- (17) whether the project is environmentally compatible with the community (no appreciable negative impact on quality-of-life perceptions). Each eligible facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

***Tax Abatement:***

<b><i>Year</i></b>	<b><i>Percent of Value</i></b>
<b><i>1- 3 (including construction)</i></b>	<b><i>100%</i></b>
<b><i>4</i></b>	<b><i>80%</i></b>
<b><i>5</i></b>	<b><i>60 %</i></b>
<b><i>6</i></b>	<b><i>40 %</i></b>
<b><i>7 &amp; beyond</i></b>	<b><i>20%</i></b>

(d) **Abatement barred in certain circumstances.** Neither a reinvestment zone nor an abatement agreement shall be authorized, if the City Council determines that:

- 1) there would be a substantial adverse effect on the provision of government service or tax base;
- 2) the applicant has insufficient financial capacity to meet the requirements of the proposed abatement agreement;
- 3) planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- 4) approval of a reinvestment zone or abatement agreement would violate State or Federal laws or regulations; or
- 5) there exists any other valid reason for denial deemed appropriate by the City.

**SECTION F – APPLICATION**

(a) Any present or potential owner of taxable property in an affected jurisdiction may request the creation of a reinvestment zone and tax abatement by filing a written request with the affected jurisdictions and attaching a plat and metes and bounds description effectively describing said reinvestment zone.

(b) The application (form attached) shall consist of a completed application form accompanied by: a general description of the proposed use and the general nature and extent of the

modernization, expansion or new improvements to be undertaken; a descriptive list of the improvements which will be a party 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 also include such financial and other information necessary for the governing body to evaluate the financial capacity and other factors of the applicant.

(c) The initial application for the creation of a reinvestment zone and tax abatement shall be made to the Mayor of Henrietta, through the Economic Development office, if the project is to locate within the incorporated territory of the City of Henrietta. If the project is to be located within Clay County but inside the extraterritorial jurisdiction of the City of Henrietta, then the initial application shall be made to the Clay County Judge. Upon receipt of a completed application, the Mayor or County Judge, as applicable, shall notify in writing the presiding officer of the legislative body of each affected jurisdiction and provide each presiding officer with a copy of the application. The Mayor or County Judge shall then set a public hearing before the initiating governing body to afford the applicant an opportunity to describe his project and request the abatement. All interested parties will have the opportunity to publicly state why the abatement should or should not be granted at this hearing. Notice of the public hearing shall be clearly identified on a governing body agenda and be timely posted as provided by law. After the initiating governing body creates the reinvestment zone, the other affected jurisdictions may set their public meetings in the same manner as described above to grant or not grant the applied for abatement.

(d) After receipt of an application for creation of a reinvestment zone and application for abatement, the City of Henrietta/Henrietta Growth Corporation shall provide the affected jurisdictions a feasibility study setting out the impact of the proposed reinvestment zone and tax abatement. The feasibility study shall include, but not be limited to, an estimate of the economic impact on each jurisdiction of the creation of the zone and the abatement of taxes on the property to be included in the zone.

(e) The governing body shall not establish a reinvestment zone for the purpose of abatement if it finds that the request for the abatement was filed after the commencement of construction, alteration, or installation of improvements related to a proposed modernization, expansion or new facility.

#### **SECTION G – PUBLIC HEARING**

(a) Should any affected jurisdiction be able to show cause in its public hearing why the granting of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity or the provision of service, that showing shall be the reason for the governing body to deny any designation of the reinvestment zone, the granting of abatement, or both.

(b) Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:

(1) there would be a substantial adverse affect on the provision of government service or tax base;

(2) the applicant has insufficient financial capacity; (3) planned or potential use of property would

constitute a hazard to public safety, health or morals; or (4) violation of other codes or laws.

## **SECTION H – AGREEMENT**

After approval, the governing body shall formally pass a resolution and execute an agreement with the applicant, and if applicable the owner of the facility, which shall include: (1) estimated value to be abated and the base year value; (2) percent of value to be abated each year; (3) the commencement date and the termination date of abatement; (4) the proposed use of the facility; nature of construction, time schedule, map, property description and improvement list ; (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment .Such agreement shall be executed within 60 days after the applicant has forwarded all necessary information and documentation to the governing body, or at such later date as may be agreed between applicant and the governing body.

## **SECTION I – RECAPTURE**

(a) 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 one year during the abatement period, then the abatement agreement shall terminate and so shall the abatement of the taxes for the current and any future calendar year during which the facility no longer produces. The taxes which were to be abated for that calendar year shall be paid to the affected jurisdictions within 60 days from the date of termination.

(b) Should the governing body determine that the company or individual is in default according to the terms and conditions of its agreement, the governing body shall notify the company or individual in writing at the address stated in the agreement, and if such is not cured within 60 days from the date of such notice (“cure period”), then the agreement may be terminated.

(c) In the event that the company or individual (1) allows its unabated ad valorem taxes owed any of the affected jurisdictions to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or (2) fails to continue to operate beyond the term of abatement for a period half as long as their abatement; or (3) violates any of the terms and conditions of the abatement agreement with any of the affected jurisdictions and fails to cure during the curing period, the agreement then may be terminated by every affected jurisdiction and all taxes previously abated by virtue of every agreement will be recaptured by each affected jurisdiction and shall be paid by applicant to each affected jurisdiction within 60 days of the termination.

## **SECTION J – ADMINISTRATION**

(a) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for abatement. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions which levies taxes on the amount of the assessment.

(b) The agreement shall stipulate that employees and/or designated representatives of the affected jurisdictions will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

(c) Upon completion of construction, the affected jurisdictions shall annually evaluate each facility and report possible violations to the contract and agreement to the governing body and its attorney.

#### **SECTION K – SUNSET PROVISION**

(a) These guidelines and criteria are effective upon the date of their adoption and will remain in force for two years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the governing body to determine whether the goals have been achieved. Based on that review, the guidelines and criteria will be modified, renewed or eliminated providing that such actions shall not affect existing contracts.

(b) This policy is mutually exclusive of existing industrial district contracts and owners of real property in areas deserving of special attention as agreed by the affected jurisdictions.

#### **APPLICATION FOR TAX ABATEMENT IN HENRIETTA, TEXAS FILING INSTRUCTIONS**

This application should be filed prior to the beginning of construction or the installation of equipment. This filing acknowledges familiarity and assumed conformance with “CITY OF HENRIETTA, TEXAS TAX ABATEMENT GUIDELINES AND CRITERIA”. This application will become a 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 EITHER TO:**

Henrietta Growth Corporation  
101 North Main  
P. O. Box 409  
Henrietta, TX 76365