for nonpayment of the tax or for failure to properly display the decal evidencing the payment of the tax. Upon proof of payment of the occupation tax provided for in the division, the penalties provided for in section 44-85, and the five dollars ($5.00) release fee, the tax assessor-collector or his departmental employees will remove the seal.
(Code 1968, § 44-76; Ord. No. 75-1800, § 1, 10-7-75)

Sec. 44-87. Penalty for removal of sealed machine.

It shall be unlawful to remove from the premises any machine that has been sealed pursuant to section 44-86. Whoever shall remove a machine that is sealed shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00).
(Code 1968, § 44-77; Ord. No. 75-1800, § 1, 10-7-75; Ord. No. 92-1449, § 61, 11-4-92)

Charter reference—Penalty for ordinance violation, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Sec. 44-88. Penalty for breaking seal.

Whoever shall break the seal affixed pursuant to section 44-86, or exhibit, display or remove any machine on which such seal has been broken, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00).
(Code 1968, § 44-78; Ord. No. 75-1800, § 1, 10-7-75; Ord. No. 92-1449, § 62, 11-4-92)

Charter reference—Penalty for ordinance violation, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Sec. 44-89. Exemptions.

(a) Service coin-operated machines, merchandise coin-operated machines, gas meters, cigarette vending machines which are now subject to an occupation or gross receipts tax, and coin-operated machines designed for and utilized exclusively by children are expressly exempt from the tax levied in this division.

(b) Coin-operated machines that have been remanufactured or altered not to accept coins are expressly exempt from the tax levied in this division unless they are operated by payment of a fee, as described in section 44-82, coin-operated machines.

(c) Coin-operated machines operated solely in a private residence and not available to the general public are expressly exempt from the tax levied in this division.
(Code 1968, § 44-79; Ord. No. 75-1800, § 1, 10-7-75)

Sec. 44-90. No authorization for illegal machines.

Nothing contained in this division shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table or coin-operated machine, the keeping, exhibition, operation, displaying or maintenance of which is illegal or in violation of any article of the Penal Code of this state, or the constitution of this state.
(Code 1968, § 44-80)

Secs. 44-91—44-100. Reserved.

ARTICLE III. HOTEL OCCUPANCY TAX

Sec. 44-101. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Consideration* shall mean the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

(2) *Hotel* shall mean any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The

term shall include hotels, motels, tourist homes, houses, or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums, or nursing homes.

(3) *Occupancy* shall mean the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than thirty (30) days.

(4) *Occupant* shall mean anyone, who, for a consideration uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

(5) *Person* shall mean any individual, company, corporation, or association owning, operating, managing or controlling any hotel.

(6) *Quarterly period* shall mean the regular calendar quarters of the year, the first quarter being composed of the months of January, February and March, the second quarter being the months of April, May and June, the third quarter being the months of July, August and September, and the fourth quarter being the months of October, November and December.

(Code 1968, § 44-91; Ord. No. 69-637, § 1, 4-23-69; Ord. No. 72-300, § 1, 2-16-72)

Sec. 44-102. Tax levied; amount.

There is hereby levied within the corporate limits of the city a tax upon the cost of occupancy of any room furnished by any hotel where such cost of occupancy is at the rate of two dollars ($2.00) or more per day, such tax to be equal to seven (7) percent of the consideration paid by the occupant of such room to such hotel.

(Code 1968, § 44-92; Ord. No. 69-637, § 2, 4-23-69; Ord. No. 72-300, § 2, 2-16-72; Ord. No. 77-1876, § 1, 9-21-77; Ord. No. 83-2054, § 1, 12-21-83; Ord. No. 84-65, § 1, 1-17-84; Ord. No. 91-89, § 1, 1-16-91)

Sec. 44-103. Collection of tax.

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed by section 44-102 hereof for the city.

(Code 1968, § 44-93; Ord. No. 69-637, § 3, 4-23-69)

Sec. 44-104. Quarterly reports to tax assessor-collector.

On the last day of the month following each quarterly period, every person required in section 44-103 hereof to collect the tax imposed herein, shall file a report with the tax assessor-collector showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the tax assessor-collector may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report.

(Code 1968, § 44-94; Ord. No. 69-637, § 4, 4-23-69)

Sec. 44-105. Rules and regulations of tax assessor-collector; access to books and records.

The tax assessor-collector shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied hereby, and shall upon reasonable notice have access to books and records necessary to enable him to determine the correctness of any report filed as required by this article and the amount of taxes due under the provisions of this article.

(Code 1968, § 44-95; Ord. No. 69-637, § 5, 4-23-69)

Sec. 44-106. Penalties, interest and attorneys fees for delinquent reports and payments.

(a) Any person who fails to file a report as required herein or fails to pay to the tax assessor-collector the tax imposed herein when said report or payment is due, shall be liable, in addition to the amount of tax owed under this article for interest on the principal amount due at the rate of ten (10) percent per annum, and a civil penalty equal to fifteen (15) percent of the total amount of the tax owed. In the event that a suit is instituted for the recovery of the taxes, the person shall also

be liable for the city's reasonable attorneys fees and costs incurred for the recovery of the tax, penalties and interest.

(b) Any person who fails to timely file a report as required by this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $100.00 nor more than $500.00. Each day that any violation continues shall constitute and be punishable as a separate offense.

(c) The provisions of subsections (a) and (b) of this section are cumulative. However, no testimony or other evidence provided by a person in a civil prosecution under subsection (a) may be used against that person in a criminal prosecution under subsection (b).
(Code 1968, § 44-96; Ord. No. 69-637, § 6, 4-23-69; Ord. No. 69-925, § 1, 5-21-69; Ord. No. 82-2005, § 1, 12-21-82; Ord. No. 94-808, § 1, 8-17-94)

Sec. 44-107. Use of funds derived from tax.

The revenue derived from the hotel occupancy tax shall be used for the following purposes and none other:

(1) The acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities, including, but not limited to, convention and entertainment facilities convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) The furnishing of facilities, personnel and materials for the registration of convention delegates or registrants;

(3) For advertising for general promotional and tourist advertising of the city and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the city or through contracts with persons or organizations selected by the city;

(4) The encouragement, promotion, improvement, and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) Historical preservation and restoration.

Provided that a portion of the said tax revenue equal to at least one percent of the cost of occupancy of hotel rooms shall be reserved for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities, and for promotion of tourism and advertising of the city and its vicinity either by the city or through contract with organizations or persons selected by the city.
(Code 1968, § 44-97; Ord. No. 72-300, § 3, 2-16-72; Ord. No. 77-1876, § 2, 9-21-77; Ord. No. 96-50, § 2, 1-17-96)

Secs. 44-108—44-120. Reserved.

ARTICLE IV. TAX ABATEMENT

Sec. 44-121. Definitions.

As used in this article, the following terms shall have the meanings ascribed in this section unless the context of their usage clearly indicates another meaning:

Abatement means the full or partial exemption from ad valorem taxes of certain real and/or personal property in a reinvestment zone.

Abatement recipient means the owner of real or personal property, the lessee of real or personal property, or both, as applicable, who receive an abatement pursuant to this article.

Agreement means a contractual agreement authorized by the city council between an abatement recipient and the city for the purpose of a tax abatement.

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, or, in the case of a residential development facility, the assessed value of the land that comprises the residential development facility on January 1 preceding the date of execution of the agreement.

Brownfield facility means real property or tangible personal property located on the real property used as an authorized facility as provided in sections 44-133 and 44-134 of this Code.

Competitively-sited project means a project where the applicant has studied competing locations for expansion, relocation, or new operations to evaluate operating cost differentials and incentives available.

Contract employee means a person who is not an employee of the abatement recipient, but who does work for the abatement recipient in the reinvestment zone on a contract basis, either on a full or part-time basis.

Deferred maintenance means improvements necessary for continued operations that do not improve productivity or alter the process technology.

Department means the city planning and development department or its successor department.

Director means the director of the department, or the director's designee.

Economic life means the number of years a property improvement is expected to be in service in a facility.

Eligible jurisdiction means any county, municipality or college district that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.

Expansion means the addition of buildings, structures, fixed machinery or equipment for purposes of increasing production capacity.

Facility means property improvements completed or in the process of construction which together comprise an integral whole.

Full time equivalent job means a job that is equal to 1,750 hours of work annually performed in the reinvestment zone by contract employees or part-time employees.

Manufacturing facility means buildings and structures, including fixed 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.

Modernization means the replacement and upgrading of existing facilities that increase the productive input or output, extend the economic life of a facility, update the technology or substantially lowers the unit cost of the operation of a facility. Modernization may result from the construction, alteration or installation of buildings, structures or fixed machinery or equipment, but shall not be for the purpose of reconditioning, refurbishing or repairing to meet local, state, or federal regulations.

New facility means improvements on property previously undeveloped that is placed into service by means other than or in conjunction with expansion or modernization.

Other basic industry facility means buildings and structures, including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services that primarily serve a market outside the Houston Consolidated Metropolitan Statistical Area and result in the creation of new permanent jobs and additional investment.

Owner of taxable real property shall mean the person responsible for paying property taxes on certain property or an interest therein including a leasehold interest or interests.

Part-time employee means a person who works for, and is an employee of, the abatement recipient in the reinvestment zone, but is not a permanent employee.

Permanent employee means a person who works for, and is an employee of, the abatement

recipient and works a minimum of 35 hours in a seven day period, and reports to work in the reinvestment zone. The term does not include a contract employee, seasonal employee or part-time employee.

Regional distribution center facility means buildings and structures, including fixed 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 100 miles from any part of Harris County, unless there is no facility in Harris County that receives, services or distributes such goods and services to businesses and residents of Harris County.

Regional entertainment facility means buildings and structures, including fixed 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 100 miles from any part of Harris County, unless there is no facility providing the same or similar entertainment in Harris County.

Regional service facility means buildings and structures, including fixed machinery and equipment, used or to be used to service goods, where a majority of the goods being serviced originate at least 100 miles from any part of Harris County, unless there is no facility in Harris County where businesses and residents of the county can obtain such service.

Research and development facility means buildings and structures, including machinery and equipment, used or to be used primarily for research or experimentation to improve or develop current technology in bio-medicine, electronics or pre-commercial emerging industries.

Research facility means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop the production processes therefor.

Residential means pertaining to the use of permanent buildings containing habitable rooms for nontransient occupancy, designed and used primarily for living, sleeping, cooking and eating, which are intended to be used or occupied as a dwelling place, whether or not attached.

Residential development facility means a minimum of three buildings, used or to be used for residential purposes, constructed in an area designated as an enterprise zone pursuant to the Texas Enterprise Zone Act, provided that the buildings are constructed after the city approves an agreement authorizing the grant of an abatement to qualified owner(s) who have received a homestead exemption pursuant to Section 11.13, Texas Tax Code, for residential unit(s) in the residential development facility.

Revitalization strategy shall mean a plan prepared by the department to guide in the development of a designated redevelopment reinvestment zone for the purpose of creating a viable and cohesive area in which to live and work. The revitalization strategy shall take into consideration input from interested individuals, civic associations and business groups from the proposed reinvestment zone.

Texas Enterprise Zone Act means Chapter 2303 of the Texas Government Code, as amended from time to time.

TCEQ means the Texas Commission on Environmental Quality or other agency of the state of Texas that administers the voluntary cleanup program authorized in subchapter S, Chapter 361, Texas Health & Safety Code.

(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-122. Reinvestment zones.

(a) Tax abatement shall only be allowed in a reinvestment zone.

(b) Reinvestment zones in the city for the purpose of tax abatement shall be considered for designation by city council upon the recommendation of the director subject to the criteria of this section. The city council shall approve the creation of reinvestment zones on a zone-by-zone basis after a public hearing before the city council. Following the public hearing, the city council may consider the ordinance creating a new reinvestment zone in the proposed area.

(c) The city council shall not adopt an ordinance designating a reinvestment zone until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be given not later than the seventh day before the date of the hearing by:

(1) Publication in a newspaper of general circulation in the city; and

(2) Delivery in writing to the presiding officer of each eligible jurisdiction.

The notice shall contain the location, time, and place of the public hearing and a description of the proposed boundaries of the reinvestment zone.

(d) To be designated as a reinvestment zone an area must:

(1) Substantially impair or arrest the sound growth of the city, retard the provision of housing accommodations or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use by reasons of the presence of:

a. A substantial number of substandard, slum, deteriorated, or deteriorating structures;

b. The predominance of defective or inadequate sidewalks or streets;

c. Faulty size, adequacy, accessibility or usefulness of lots,

d. Unsanitary or unsafe conditions;

e. The deterioration of site or other improvements;

f. Tax or special assessment delinquency exceeding the fair value of the land;

g. Defective or unusual conditions of title;

h. Conditions that endanger life or property by fire or other cause; or

i. Any combination of these factors or conditions;

(2) Be predominantly open and, because of obsolete platting, deterioration of structures or site improvements or other factors, substantially impair or arrest the sound growth of the city;

(3) Be designated a local or state-federal enterprise zone under the Texas Enterprise Zone Act;

(4) Be located wholly within an eligible area under Section 119 of the Housing and Community Development Act of 1974, as identified from time to time by city council; or

(5) 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 city.

(e) The goals and objectives expressed above and the standards and restrictions expressed in Chapter 312 of the Texas Tax Code, as amended, are not exhaustive and shall be supplemented by such further and additional goals, objectives, rules, standards and restrictions as the city council may from time to time impose.

(f) The designation of a reinvestment zone hereunder shall expire five years after the date of its designation and may be renewed for periods not to exceed five years. The expiration of a designation, however, shall not affect existing agreements entered into pursuant to sections 44-128, 44-130, 44-132 or 44-134 of this Code. (Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-123. Abatement application.

(a) Any present or potential owner of taxable property in the city may request tax abatement by filing a written request with the director.

(b) The application shall consist of a completed application form accompanied by:

(1) A general description of the new improvements to be undertaken;

(2) A descriptive list of the improvements for which abatement is requested;

(3) A list of the kind, number and location of all proposed improvements of the property;

(4) A map and legal description of the property; and

(5) A time schedule for undertaking and completing the proposed improvements.

(c) The application for an economic development or redevelopment abatement shall also include:

(1) A certification of the current number of permanent, part-time and contract employees of the applicant, by category, at the time of the application;

(2) Information regarding the project's competitive siting;

(3) For a project located in a leased facility, the name and address of the lessor and, if executed, a copy of the lease; and

(4) For modernization, a statement of the assessed value of the existing facility for the tax year immediately preceding the application year, separately stated for real and personal property.

(d) The application for a residential development abatement shall also include:

(1) A general description of the type of residential development facility proposed;

(2) A statement of the number of residential units to receive an abatement; and

(3) A statement of the estimated value of the residential development facility and the residential units included therein.

(e) The application for a brownfield development abatement shall consist of a completed application form accompanied by:

(1) A description of the intended use of the proposed brownfield facility; and

(2) A copy of a voluntary cleanup agreement with the TCEQ for the proposed brownfield facility or a certificate of completion for the property issued by TCEQ for the proposed brownfield facility.

(f) The application form may require such financial and other information as the director deems appropriate for evaluation of the financial capacity and other factors of the applicant.

(g) The city shall not enter into an agreement 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. An applicant is ineligible for abatement if a decision to commence a modernization, expansion or new facility in the city has been formally announced on or before an application for abatement has been filed with the city.

(h) Upon receipt of a complete application for abatement, the director shall notify in writing the presiding officer of the governing body of each eligible jurisdiction of the abatement application, which notice shall include a copy of the application.
(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-124. Cost/benefit analysis.

After receipt of a complete application for abatement, the director shall prepare a cost/benefit impact analysis setting out the impact of the proposed tax abatement. The cost/benefit impact analysis shall include, but need not be limited to, an estimate of the economic effect of the abatement of taxes, the benefit to the city and the property to be included in the zone and any other pertinent measures of the project's overall projected effects on the city's revenue stream both during and after the abatement period.
(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-125. Variances.

Requests for a variance from the provisions of subsections (a), (b), (e), (f), (g) and (i) of section 44-127 of this Code shall be made in writing to the director; provided however, the total duration of an abatement authorized in section 44-127 shall in no instance exceed ten years, and the total duration of an abatement authorized under section 44-129 of this Code shall in no instance exceed five years. A request for a variance shall include a complete description of the circumstances explaining why the applicant should be

granted a variance and how the grant of abatement will lead to the creation or retention of job opportunities and new investment in the zone. Approval of a request for variance requires a majority vote of the city council members present. (Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-126. Public hearing and approval.

(a) Prior to entering into an agreement, the city council may, at its option, hold a public hearing at which interested persons shall be entitled to speak and present written materials for or against the approval of the agreement. Notice of the public hearing shall be published in a local daily newspaper of general circulation not later than the seventh day before the date of the hearing. Notice of the public hearing may be given, posted or published in other places or by other means as the director deems appropriate, including giving notice to civic associations in the area surrounding the proposed zone.

(b) In order to enter into an agreement, the city council must find that the terms of the proposed agreement meet the applicable criteria of this article and that:

(1) There will be no substantial potential adverse effect on the provision of city services or tax base; and

(2) The planned use of the property will not constitute a hazard to public safety, health or morals.

(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-127. Economic development abatement authorized.

(a) *Authorized facility.* A facility is eligible for economic development abatement if it is a manufacturing facility, regional distribution facility, regional service facility, regional entertainment facility, research facility, research and development facility, or other basic industry facility.

(b) *Creation of new value.* Abatement shall only be granted for the additional value of eligible property improvements made subsequent to and listed in an agreement, subject to such limitations as the city council may require.

(c) *New and existing facilities.* Abatement may be granted for new facilities or the expansion of existing facilities. Improvements to existing facilities for purposes of modernization may receive abatement if proven to be essential to the entity's or facility's economic survival.

(d) *Eligible property.* The following types of property shall be eligible for abatement:

(1) Buildings;

(2) Structures;

(3) Fixed machinery and equipment;

(4) Site improvements;

(5) Office space and related fixed improvements necessary to the operation and administration of the facility; and

(6) Tangible personal property when in conjunction with leased facilities.

(e) *Ineligible property.* The following types of property shall be ineligible for abatement:

(1) Land;

(2) Inventory;

(3) Supplies;

(4) Tools;

(5) Vehicles, vessels and aircraft;

(6) Housing;

(7) Hotel accommodations;

(8) Tangible personal property when not in conjunction with leased facilities;

(9) Deferred maintenance investments;

(10) Improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion;

(11) Any improvements, including those to produce, store or distribute natural gas, fluids or gases, that are not integral to the operation of the facility;

(12) Property owned or used by the State of Texas or its political subdivisions or by an organization owned, operated or directed by a political subdivision of the State of Texas; and

(13) Property that is owned or leased by a member of city council or by a member of the city planning commission.

(f) *Value and term of the abatement.* Abatement shall be granted effective upon the January 1 valuation date immediately following the effective date of the agreement. Projects (other than modernizations) that meet these guidelines and criteria are eligible for abatement on the value of the new properties on a sliding scale as follows:

Year abated	*Percentage of value abated*
1—3, including construction	100%
4	80%
5	60%
6	40%
7—10	20%

Provided, however, that no abatement shall be given in any year in which the facility fails to meet the employment minimum set forth in subsection 44-127(h)(4), unless the director determines that employment has fallen below minimum due to accident, casualty, fire, explosion or natural disaster.

If the period of construction exceeds two years, the facility shall be considered complete for purposes of abatement at the end of two years, and in no case shall the period of abatement inclusive of construction and completion exceed ten years.

If a modernization project includes facility replacement, the value upon which abatement shall be determined shall be the value of the new unit(s) less the value of the old unit(s). Modernization projects are eligible for abatement according to the above formula with the exception that abatement shall not exceed 80 percent of value in any year.

(g) *Economic qualifications.* Except as provided in subsections (h) and (i), to be eligible for tax abatement, the planned improvement shall:

(1) Provide an economic benefit to the city, taking all relevant factors into consideration, including:

a. Size of the abatement;

b. Income from sales tax and franchise fees generated by the planned improvement; and

c. Any additional expense to the city in providing city services as a result of the improvement;

(2) Be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements;

(3) Be reasonably expected to increase the value of the property in the amount of $1,000,000.00 upon completion of construction; and

(4) Be expected to either:

a. Prevent the loss of permanent employment, retain or create permanent employment for at least 25 people on a permanent basis in the designated zone beginning three years after the effective date of abatement and continuing through the remaining term of the agreement; or

b. Result in an abatement equivalent to a maximum investment of $500,000.00 per job created or retained.

(h) *Economic qualifications in enterprise zone.* If the property is located in an area designated as an enterprise zone pursuant to the Texas Enterprise Zone Act and the city has not created a reinvestment zone, that includes property described under the provisions of section 44-127 or 44-129 of this Code, to be eligible for tax abatement the planned improvement shall:

(1) Be reasonably expected to increase the value of the property by a minimum amount of $500,000.00 upon completion of construction;

(2) Be expected to create additional permanent employment for at least five people on a permanent basis who are residents of the enterprise zone or who are economically disadvantaged as that term is defined in the Texas Enterprise Zone Act;

(3) Not be expected to solely or primarily have the effect of transferring employment from one part of the city to another;

(4) Be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements; or

(5) Be made by an entity operating an authorized facility that meets the criteria established for a qualified business under the Texas Enterprise Zone Act.

(i) *Research and development projects.* If the planned improvement is for a research and development facility, to be eligible for tax abatement the planned improvement shall:

(1) Be reasonably expected to increase the value of the property by a minimum amount of $500,000.00 upon the completion of construction; and

(2) Be expected to create permanent employment for at least five people on a permanent basis in the designated zone, provided that this employment qualification shall take effect two years after the effective date of abatement and continue through the term of the agreement. The abatement period shall not exceed five years from the effective date of abatement, and the percentage of value to be abated shall be 100 percent throughout the abatement period.

(j) *Taxability.* From the date of execution of the abatement agreement to the end of the abatement period, taxes shall be payable as follows:

(1) The value of ineligible property as provided in section 44-127(e) of this Code 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 property shall be taxable in the manner described in section 44-127(g) of this Code.

(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-128. Agreement for economic development abatement.

Upon designation of a reinvestment zone, the city shall enter into an agreement, which shall include:

(1) Estimated value to be abated and the base year value;

(2) Percent of value to be abated each year as provided in this article;

(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 as provided in this article;

(5) Contractual obligations regarding the event of default, violation of terms or conditions, delinquent taxes, recapture, administration, and assignment as provided in this article and other provisions that may be required for uniformity or by state law;

(6) Amount of investment and total permanent employees to be retained or created and total full-time equivalent jobs to be retained or created;

(7) A requirement that the abatement recipient, on or before February 1 of each year the tax abatement agreement is in effect, provide the director a sworn statement that includes a delineation of the number of permanent employees, contract employees and part-time employees of the abatement recipient as of the immediately preceding January 1, who report to work in the reinvestment zone at each site covered by the agreement;

(8) A requirement that the abatement recipient annually file the form 11.28 with the appropriate county appraisal district to qualify for the abatement;

(9) A provision that contract employees and part-time employees may be used to comply with the abatement recipient's contractual obligation to create/retain jobs on a full-time equivalency basis for any number of jobs; provided that full-time equiv-

alents shall only be used to satisfy the abatement recipient's contractual obligation if the abatement recipient maintains a minimum of 25 permanent employees who work on the project within the reinvestment zone; and

(10) A requirement that property in a reinvestment zone that is owned or leased by a member of the city council or by a member of the city planning commission is excluded from tax abatement.

(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-129. Redevelopment tax abatement authorized.

A redevelopment tax abatement program is hereby created to be administered in accordance with Chapter 312 of the Texas Tax Code, as amended from time to time, for improvements or repairs to property that are consistent with the revitalization strategy.

(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-130. Agreement for redevelopment tax abatement.

(a) Upon designation of a reinvestment zone, the city shall enter into redevelopment agreements with interested owners of taxable real property located within the reinvestment zone. Upon the city's execution of an agreement hereunder, the base year value shall be determined. The agreement shall be conditioned on the owner of the property making certain improvements or repairs to the property that are certified by the director as being consistent with the revitalization strategy.

(b) In addition, the agreement shall be conditioned on those improvements or repairs being completed within two years from the effective date of the agreement. The abatement allowed under the agreement shall be 100 percent of the increase in the certified appraised value of the building or buildings or the portion of the building or buildings used for commercial or industrial purposes above the base year value. The agreement shall provide that abatement shall begin on January of the year following the completion of the improvements or repairs contemplated by the agreement. The maximum duration of a tax abatement approved under sections 44-129 and 44-130 of this Code shall not exceed five years.

(c) Property in a reinvestment zone that is owned or leased by a member of the city council or by a member of the city planning commission is excluded from abatement.

(d) The city may enter into an agreement with the interested owners of taxable real property for improvements or repairs completed before the city's approval of the agreement if:

(1) The applicant has complied with the requirements of section 44-123 of this Code;

(2) The applicant provides evidence of good cause as to why the city should grant tax abatements for improvements or repairs completed before the city's approval of the tax abatement agreement; and

(3) The agreement is consistent with the requirements of subsections (a) through (c), except as provided in paragraph (2) of this subsection.

Notwithstanding any other provision of this section, for agreements approved under this subsection, the city council shall determine the year that abatement shall begin.

(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-131. Residential development abatement authorized.

(a) *Creation.* A property tax abatement program is hereby created for residential development abatements to be administered in accordance with Chapter 312 of the Texas Tax Code, as amended from time to time.

(b) *Authorized facility.* A facility shall be eligible for residential development abatement if it is a residential development facility containing a minimum of three residential buildings, subject to the limitations set forth below.

(c) *Creation of new value.* Abatement shall only be granted for the value of eligible property improvements exceeding the base year value of the real property on which the eligible improvement is constructed, subject to the limitations of subsection (g). Abatement shall only be granted

for property described in and approved to receive abatement by an agreement authorized by city council.

(d) *Eligible property.* Abatement shall be extended to the value of one or more residential buildings located in a designated residential development facility.

(e) *Ineligible property.* The following types of property, buildings or residential building types shall be ineligible for abatement:

(1) Land;

(2) Hotel or motel accommodations;

(3) Boardinghouses;

(4) Group homes;

(5) Half-way houses;

(6) Nursing homes;

(7) Hospitals;

(8) Nursery schools;

(9) Schools;

(10) Child care facilities;

(11) Condominiums;

(12) Apartments;

(13) Expansions of existing residential buildings;

(14) Buildings renovated and/or converted for residential use;

(15) Residential property that is owned or used by the State of Texas or its political subdivisions or by an organization owned, operated or directed by a political subdivision of the State of Texas; and

(16) Property that is owned or leased by a member of city council or by a member of the city planning commission.

(f) *Owned and leased facilities.* The owner of each residential building included in a designated residential development facility shall execute an agreement for the eligible property of such owner; provided, however, if any eligible property is not occupied by the owner of the eligible property, the abatement shall be granted for the eligible property only if at least one building in the designated residential development facility is occupied by the owner of the eligible property for the term of the agreement, and only if the owner has filed documentation with the director verifying that a homestead exemption has been granted by the appraisal district for the building in the residential development facility that is occupied by the owner. The owner of a residential development facility consisting of one or more duplexes, triplexes or quadraplexes under single ownership shall be eligible for abatement on the value of the entire residential development facility.

(g) *Value and term of abatement.* Abatement shall be granted effective upon the January 1 valuation date immediately following the date the director certifies that a homestead exemption has been granted to the owner of the eligible property. A residential development facility is eligible for abatement according to the following sliding scale:

Year abated	*Percentage of value abated*
1 and 2	100%
3	90%
4	80%
5	60%
6	40%
7	20%

The abatement period shall not exceed seven years from the effective date of abatement, and the percentage of value to be abated shall be in accordance with the sliding scale established in this subsection.

(h) *Economic qualifications.* To be eligible for residential development tax abatement, the planned improvement shall:

(1) Be in a designated residential development facility consisting of a minimum of three buildings. In a residential development facility that includes duplexes, triplexes or quadraplexes, each building shall be deemed to contain only one residential unit for purposes of complying with the requirements of this subsection;

(2) Be located within the boundaries of an area designated as an enterprise zone pursuant to the Texas Enterprise Zone Act;

(3) Have a value for each building subject to abatement that does not exceed ten percent above the median price for a single-family house in the City of Houston, Texas, as certified in the annual report of the Real Estate Center, Texas A&M University;

(4) Be occupied during the abatement period by the owner of the property as listed on the most recent certified tax roll for Harris County or be an eligible property in a designated residential development facility where the owner of the eligible property occupies one building in the residential development facility as a homestead; and

(5) Have a copy of an exemption notification from the appraisal district establishing that the qualifying residential unit is the designated homestead of the abatement recipient on file with the director by February 1 of each year of the abatement period.

(i) *Taxability.* From the date of execution of the agreement to the end of the abatement period, taxes shall be payable as follows:

(1) The value of ineligible property as provided in subsection (e) 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 property shall be taxable in the manner described in subsection (g).

(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-132. Agreement for residential development abatement.

Upon designation of a residential development facility, the city shall enter into an agreement with the owner of the eligible property. The agreement shall include:

(1) The estimated value to be abated and the base year value;

(2) The percent of value to be abated each year as provided in section 44-131 of this Code;

(3) The commencement date and the termination date of the abatement;

(4) The proposed used of the facility, type and number of residential buildings to be constructed, time schedule for construction of eligible improvements, map showing location of residential development facility, and property description of eligible improvements;

(5) Contractual obligations regarding the event of default, violation of terms or conditions, delinquent taxes, recapture, administration, and assignment as provided in this article and other provisions that may be required for uniformity or by state law;

(6) A requirement that the owner of the eligible property subject to abatement annually file with the appraisal district the appropriate form for qualifying for homestead exemption and the appropriate form to qualify for the abatement; and

(7) A requirement that property in a designated residential development facility that is owned or leased by a member of the city council or by a member of the city planning commission is excluded from tax abatement.

(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-133. Brownfield development abatement authorized.

(a) *Creation.* A property tax abatement program is hereby created for brownfield abatements to be administered in accordance with Chapter 312 of the Texas Tax Code, as amended from time to time.

(b) *Authorized facility.* A facility shall be eligible for brownfield abatement if it is real property or tangible personal property located on real property:

(1) That is located in a reinvestment zone;

(2) That is not an improvement project financed by tax increment bonds; and

(3) That is the subject of a voluntary cleanup agreement under Section 361.606 of the Texas Health & Safety Code.

(c) *Eligible property.* The following types of property are eligible for brownfield development abatement:

(1) Land;

(2) Buildings;

(3) Structures;

(4) Fixed machinery and equipment;

(5) Site improvements; and

(6) Tangible personal property located on the real property.

(d) *Ineligible property.* The following types of property are ineligible for brownfield development abatement:

(1) Property that is owned or used by the State of Texas or its political subdivisions or by an organization owned, operated or directed by a political subdivision of the State of Texas; and

(2) Property that is owned or leased by a member of city council or by a member of the city planning commission.

(e) *Value and term of the abatement.* Abatement shall be granted effective upon the January 1 valuation date immediately following the date the owner of the brownfield facility receives a certificate of completion for the property under Section 361.609 of the Texas Health and Safety Code. A brownfield facility is eligible for abatement according to the following sliding scale:

Year abated	*Percentage of value abated*
1	100%
2	75%
3	50%
4	25%

Provided, however that no abatement shall be given in a year in which the use of the brownfield facility is changed from the use specified in the certificate of completion and the city council determines that the new use may result in an increased risk to human health or the environment.

(f) *Taxability.* From the date of execution of the abatement agreement to the end of the abatement period, the value of eligible property shall be taxable in the manner described in subsection (e). (Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-134. Agreement for brownfield abatement.

After approval, the city shall enter into an agreement with the owner of the brownfield facility. The agreement shall include:

(1) The estimated value to be abated;

(2) The percent of value to be abated each year as provided in section 44-133(e);

(3) The commencement date and the termination date of abatement;

(4) The proposed used of the facility as indicated on the certificate of completion issued pursuant to section 361.609 of the Texas Health and Safety Code, a map showing the location of the brownfield facility, and a property description of eligible improvements;

(5) Contractual obligations regarding the event of default, violation of terms or conditions, delinquent taxes, recapture, administration, and assignment as provided in this article and other provisions that may be required for uniformity or by state law;

(6) A requirement that the owner of the eligible property subject to abatement annually file with the appraisal district the appropriate form for qualifying for the abatement; and

(7) A requirement that property that is owned or leased by a member of the city council or by a member of the city planning commission is excluded from tax abatement.

(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-135. Recapture.

(a) In the event that any facility is completed and begins producing or providing the product or service delineated in the agreement, but subsequently discontinues producing or providing the 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 director shall terminate the agreement and no taxes shall be abated for the calendar year during which the facility no longer produces the product or service. The abatement recipient shall pay to the city within 60 days any taxes abated during the calendar year during which the facility discontinued production or the provision of services as specified in the agreement.

(b) Should the director determine that the abatement recipient is in default according to the terms and conditions of the agreement, the director shall notify the abatement recipient in writing at the address stated in the agreement, and if the condition of default is not cured within the 60 days from the date of the notice ("cure period"), then the agreement may be terminated.

In the event of default, the agreement may be terminated and upon the termination all or a pro rata portion of the taxes previously abated by virtue of the agreement shall be recaptured and paid within 60 days of the termination. In addition, any amount of recaptured taxes owed that are not paid within 60 days of the termination shall be subject to payment of interest at a rate equal to the prime commercial lending rate of one of any major banks operating in the city. The pro rata recapture of abated taxes shall be based on the number of years that the abatement recipient was out of compliance and the degree to which the abatement recipient was out of compliance, with equal weight being given to job creation and investment.

(c) If the abatement recipient is in default under subsection (a) of this section, the abatement recipient shall notify the city within 90 days of the default and if the condition of default is not cured within the 60 days following the city's receipt of notice of default, the agreement shall be terminated.

(d) Notwithstanding the foregoing, the director and the city attorney are hereby authorized to negotiate and recommend to the city council amendments to agreements subject to termination under this section in lieu of termination.
(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-136. Administration.

(a) The chief appraiser of the county appraisal district shall annually determine the value of the real and personal property comprising the reinvestment zone. Each year, the abatement recipient shall furnish the city with any additional information applicable to the tax abatement that may be necessary for the administration of the abatement. Once the value of the real and personal property has been established, the chief appraiser shall notify the eligible jurisdictions of the amount of the assessment.

(b) The agreement shall stipulate that employees and/or designated representatives of the city will have access to the reinvestment zone during the term of the abatement to inspect the facility and all abatement recipient records related to the agreement and the project to determine if the abatement recipient is in compliance with the agreement. All inspections will be made only after the giving of 24 hours notice and will only be conducted in such a 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 director shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the contract and agreement.
(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-137. Assignment.

An agreement may be assigned to a new owner or lessee of the facility with the written consent of the city council, which consent shall not be unreasonably withheld. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of

the assignor upon the same terms and conditions as set out in the agreement. Any assignment of an agreement shall be to an entity that contemplates the same improvements or repairs to the property, except to the extent such improvements or repairs have been completed. No assignment shall be approved if either the assignor or the assignee is indebted to the city for ad valorem taxes or other obligations.
(Ord. No. 03-306, § 2, 4-2-03)

Sec. 44-138. Sunset provision.

These guidelines and criteria for tax abatement are readopted and will expire on April 2, 2005. These guidelines and criteria shall apply to all applications subsequently considered by city council prior to the expiration date. At the expiration of these guidelines and criteria, all reinvestment zones and agreements created and entered into pursuant to these provisions shall be reviewed to determine whether the goals have been achieved. Based on that review, the guidelines and criteria shall be modified, renewed or eliminated.
(Ord. No. 03-306, § 2, 4-2-03)

[The next page is 3051]