Chapter 44

TAXATION*

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ARTICLE I. IN GENERAL

Sec. 44-1. Prior provisions saved.

In the compilation of this Code various provisions of chapter 44 (taxation) of the prior (1968) edition of the Code of Ordinances, as amended were deleted by virtue of their having been superseded by the Texas Property Tax Code; the said provisions which were deleted are expressly saved from repeal, not withstanding the adoption of this Code or any provision contained in the ordinance adopting this Code, to the extent that they remain applicable to any delinquent taxes which have not been collected or to any cause of action relating thereto.

Sec. 44-2. Annual levy; effect of failure to levy.

It shall be the duty of the city council, at its first meeting in January of each and every year, to levy such ad valorem and occupation taxes as may be necessary to cover the expenses of the city government for the current year; provided, the failure to levy such taxes at such meeting shall not prevent the same being levied at any such subsequent meeting of the council, and if the council should fail or neglect to pass a tax ordinance for any year, levying the taxes for that year, the tax ordinance last passed will be considered in force, and the failure to pass such ordinance shall in no wise invalidate the collection of the tax for that year.
(Code 1968, § 44-2)

Sec. 44-3. Property subject to taxation; applicability of state law.

All real, personal or mixed property held, owned or situated in the city, except such as may be expressly exempted in or pursuant to this article, is subject to taxation, and the same shall be rendered and listed in the manner prescribed by the general laws in regard to general state taxation, when applicable. The definition of property and terms, as defined by the general state laws under the head of taxation, and what is subject to taxation, as prescribed by the general laws of this state, shall apply to the taxation of this city.
(Code 1968, § 44-3)

Sec. 44-4. Tax exemption for resident homesteads.

(a) There is hereby exempted from all ad valorem taxes hereafter levied by the city a portion of the appraised value of residence homesteads of persons, married or unmarried, including those living alone, who are under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance, or its successor, or of married or unmarried persons 65 years of age or older, including those living alone. Effective January 1, 2002, the amount of the aforesaid exemption shall be $40,000.00 for the tax year 2002. Effective January 1, 2003, the amount of the aforesaid exemption shall be $44,000.00 for the tax year 2003. Effective January 1, 2004, the amount of the aforesaid exemption shall be $48,400.00 for the tax year 2004. Effective January 1, 2005, the amount of the aforesaid exemption shall be $53,240.00 for the tax year 2005. Effective January 1, 2006, the amount of the aforesaid exemption shall be $58,564.00 for the tax year 2006. Effective January 1, 2007, the amount of the aforesaid exemption shall be $64,420.00 for the tax year 2007 and for each year thereafter.

*Cross references—Payment of ad valorem taxes as prerequisite to automobile wrecker license, § 8-144; payment of ad valorem taxes as prerequisite to putting taxicabs in operation, § 46-19.

(b) An owner of a residence homestead is hereby granted an exemption of 40 percent of the market value of such residence homestead for the years 1982 through 1984, 30 percent for the years 1985 through 1987, and 20 percent in 1988 and each subsequent year. Any exemption granted under this subsection shall be administered in a manner consistent with the applicable provisions of the state Property Tax Code.

(Code 1968, § 44-4; Ord. No. 72-2298, § 1, 12-13-72; Ord. No. 73-1783, § 1, 9-5-73; Ord. No. 74-1433, § 1, 8-14-74; Ord. No. 75-584, § 1, 4-15-75; Ord. No. 77-502, § 1, 3-15-77; Ord. No. 77-900, § 1, 5-10-77; Ord. No. 78-1294, § 1, 6-28-78; Ord. No. 80-675, § 1, 3-26-80; Ord. No. 82-481, § 1, 3-23-82; Ord. No. 88-1700, § 1, 10-26-88; Ord. No. 94-673, § 1, 7-6-94; Ord. No. 02-647, § 1, 7-10-02)

Sec. 44-5. Tax relief for historical sites.

(a) The city council may, by ordinance, grant tax relief in the form of an exemption from ad valorem taxation to any "historic site," which for purposes of this section means a structure that has been designated as a landmark or as a contributing structure or a potentially contributing structure in a historic district pursuant to article VII of chapter 33 of this Code. The historic site must meet the first of the following qualifications, and, in the case of any historic site that is designated as a potentially contributing structure, the second qualification:

(1) At any time following the designation of the historic site by the city council pursuant to article VII of chapter 33 of this Code, the owner must perform restoration or preservation of the historic site to encourage its preservation. The work performed must be at a cost of at least 50 percent of the assessed value of the historic structure or improvements, not including the value of any land associated with the historic site. The required expenditure shall be determined by the director of finance and administration, based upon the assessed value of the historic structure or improvements not including the value of any land associated with the historic site prior to the work ("the base value"). Only expenditures made for work performed following the designation of the property by the city council pursuant to article VII of chapter 33 of this Code may be applied.

(2) For a potentially contributing structure, the restoration or preservation made or proposed to be made must have the effect of reversing incompatible alterations or deteriorating conditions of the structure, as evidenced by a certificate of appropriateness issued by the Houston Archaeological and Historical Commission.

The denial of any application for a certificate of appropriateness under article VII of chapter 33 of this Code shall be grounds for denial or revocation of any tax exemption authorized by this ordinance.

(b) Each historic site for which a tax exemption is sought must meet the applicable qualifications set out in subsection (a) hereof. The historic site must not be or have been the subject of a certificate of appropriateness, as defined in section 33-201 of this Code, issued pursuant to sections 33-247 or 33-250 of this Code, which shall be grounds for denial or revocation of the exemption. Each owner desiring the tax exemption must make sworn application to the director of finance and administration of the city. The application shall be in a form approved by the director of finance and administration and shall set forth facts sufficient to show that the historic site is eligible for tax relief hereunder.

(c) An exemption granted hereunder by the city council shall exempt the historic structure or improvements not including the value of any land associated with this historic site from ad valorem taxation on the basis of qualifying expenditures made for bona fide restoration or preservation, as determined by the director of finance and administration upon demonstration by the owner. The exemption shall be computed on the following basis:

(1) If the said qualifying expenditures are at least 50 percent but less than 100 percent of the base value, then the exemption for each tax year on the assessed value of the structure shall be equal to the amount of the qualifying expenditures; or

(2) If the said qualifying expenditures are 100 percent or more of the base value of the improvements, then the exemption for each tax year shall be one hundred percent of the assessed value of the historic structure or improvements not including the value of any land associated with this historic site.

In any event, however, the exemption granted to any historic site pursuant to this section shall be subject to a limitation in the form of a maximum dollar amount. The maximum dollar amount shall be the assessed value of the historic structure in the year following demonstration of completion of the restoration or preservation work and demonstration of the qualifying expenditures to the director of finance and administration. The amount of the exemption allowed on a historic structure shall not exceed the aforesaid maximum dollar amount in any tax year for the duration of the exemption period.

The duration of the aforesaid exemption shall be for a period of 15 years if the restoration project receives no financial incentive from the city funded by municipal hotel occupancy taxes, or ten years if the restoration project receives a financial incentive from the city funded by municipal hotel occupancy taxes. The exemption shall begin on January 1 of the year following the date that the director of finance and administration makes the determination that the owner of the historic site has met all of the requirements of this section for an exemption.

The director of finance and administration, in consultation with the planning official, shall establish and promulgate written procedures for the implementation of the exemption provided herein and the review of applications, and the said officials shall jointly make a recommendation to the city council regarding each application that is duly submitted for consideration.

(d) An exemption granted under this section shall be effective as of January 1 of the year following demonstration of completion of the restoration or preservation work and demonstration of the making of the qualifying expenditures to the director of finance and administration. If sufficient restoration work on a designated historic site has not been completed to satisfy either subdivision one or two of subsection (c) above within five years of the passage of a historic site tax exemption ordinance, then said ordinance shall expire. After the expiration of any such ordinance under the terms of this provision, upon a showing of good cause for the delay, the owner of the historic site may apply for a new tax exemption ordinance.

(e) The exemption shall be automatically continued as of January 1 of each year succeeding the year the exemption was first granted for the duration of the ten or 15 year period. The exemption shall be continued in the event of a transfer of an ownership interest or a portion of an ownership interest in the historic structure during such ten or 15 year period. However, the exemption shall be terminated in the event of a second transfer of an ownership interest or a portion of an ownership interest in a historic structure, other than a single-family property containing no more than four residential units, during such ten or 15 year period. In the case of a condominium or other multi-family residential building, the second transfer of an ownership interest or a portion of an ownership interest in an individual unit shall cause the termination of the exemption pertaining to that particular unit. As used in this section, a "transfer" of an ownership interest or portion of an ownership interest shall not include such transfers as a lease, a mortgage, a transfer by inheritance, a creation of a trust for the benefit of the owner, or other transaction not ordinarily regarded as a "sale" of property.

A person who has an ownership interest in property that has been granted a historic site exemption from ad valorem taxation shall record a copy of the ordinance providing for such exemption in the real property records of the county in which the property is located. Failure on the part of the applicant to deliver a copy of such recorded ordinance, showing the date of recordation in the appropriate real property records, to the director of finance and administration within 90 days of the date of passage of the ordinance providing for a tax exemption shall cause the expiration of the exemption at the end of such 90-day period.

(f) The director of finance and administration shall conduct an annual review of each property granted an exemption hereunder, and, if he finds that any city taxes assessed on the subject property are delinquent, the historic site has deteriorated, has been demolished or destroyed, or has been the subject of a certificate of appropriateness issued pursuant to sections 33-247 or 33-250 of this Code, then the changed condition shall constitute grounds for revocation of the exemption.

(g) Tax receipts and tax certificates issued for any historic site receiving tax relief pursuant to this section shall be clearly marked: "Historic site—Subject to recapture of additional taxes under Code of Ordinances." Each year during which the property is granted tax relief, the director of finance and administration shall note on his records the valuation which would have been made and the taxes that would have been due had the historic site not qualified for tax relief under this section. If the historic site is subsequently damaged, demolished, or destroyed, or if a certificate of appropriateness is issued for the historic site pursuant to sections 33-247 or 33-250 of this Code, then the property shall be subject to an additional tax. The additional tax shall be equal to the difference between taxes paid or payable hereunder and the amount of the tax payable for the preceding five years had the property not been granted tax relief. Until paid, there shall be a lien for additional taxes, penalty, and interest on the property granted tax relief under the provisions of this section. Additionally, the property shall not be entitled to tax relief for the years in which the damage or demolition occurred.

(h) A historic site for which an exemption has expired or has been withdrawn, revoked, or terminated may not requalify hereunder except as allowed under subsection (d).

(i) It is the policy of the city to facilitate the issuance of building permits for work to be performed under this section. Consistent with the terms of the Construction Code, the building official shall work with persons who are performing preservation and restoration work to allow alternative methods of construction and alternative materials that are determined to be suitable under the provisions of the Construction Code and shall waive strict conformance with the Construction Code as authorized by Section 3406.1 of the Building Code.

(j) Notwithstanding any other provision of this code, a structure that has been designated as a landmark or as a contributing structure or a potentially contributing structure in a historic district pursuant to article VI of chapter 33 of this Code and that is owned by the State of Texas or a political subdivision thereof is entitled to an exemption equal to 100 percent of the assessed value of the historic structure and the land necessary for access and use of such structure. If an application for an exemption pursuant to this subsection is granted prior to the adoption of the ad valorem tax rate for the tax year in which the application is granted, the exemption shall be effective as of January 1 of that tax year. If such an application is granted after the adoption of the ad valorem tax rate for the tax year in which the application is granted, the exemption shall be effective as of January 1 of the tax year following the date the application was granted. An exemption granted pursuant to this subsection shall remain effective until the property is sold. The director of finance and administration shall conduct an annual review of each property granted an exemption pursuant to this subsection, and if he finds that a historic site has deteriorated or has been demolished or destroyed, then such changed condition shall constitute grounds for revocation of the exemption.

(Code 1968, § 44-4.1; Ord. No. 81-625, § 1, 4-1-81; Ord. No. 95-227, § 2, 3-1-95; Ord. No. 01-212, § 2, 3-7-01; Ord. No. 02-399, § 91, 5-15-02; Ord. No. 02-838, § 2, 9-4-02; Ord. No. 03-159, § 10, 2-12-03; Ord. No. 04-955, § 1, 9-15-04)

Sec. 44-6. Property liable for taxes due by owners.

All real, personal and mixed property held, owned or situated in the city shall be liable for all taxes due by the owners thereof, including taxes on real estate, franchises, personal and mixed property.

(Code 1968, § 44-5)

Sec. 44-7. Power of tax assessor-collector to enter premises and inspect property.

In the performance of his duties, the tax assessor-collector, or any of his deputies or duly and legally

authorized representatives, shall have the power and authority to enter upon and into the premises, after having demanded entrance, of any person for the purpose of ascertaining what property such person has on hand that is subject to taxation. The tax assessor-collector, or any of his deputies or duly and legally authorized representatives, shall have the power and authority to inspect all property located on the premises for the purpose of obtaining an inventory to be filed for the purpose of taxation of the property included in such inventory and for the purpose of fixing the taxable value of the property found thereon. It shall be unlawful for any person to refuse to allow the tax assessor-collector for the city, or any of his deputies or duly and legally authorized representatives, to enter upon and into the premises as above provided after demand has been made by such person for admittance. (Code 1968, § 44-11)

Sec. 44-8. Invalid city tax assessments.

(a) The tax assessor-collector shall notify the city council of any city tax assessments on real or personal property that he shall discover to be invalid, as defined and provided herein.

(b) An invalid assessment, within the meaning of this subsection is one that is:

(1) On property outside the taxing jurisdiction, hereinafter referred to as "outside jurisdiction";

(2) On property that is exempt from taxation, hereinafter referred to as "exempt";

(3) A second or double assessment on property properly assessable, hereinafter referred to as "double".

In notifying the council of such invalid city tax assessments under this subsection, the tax assessor-collector shall prepare lists and on each list show the name and address of the property owner, the account number, the property description, the amount of the assessment, the taxes, and the reason that the assessment is invalid. The reasons, above, for an assessment being invalid may be indicated on each list by the words "outside jurisdiction," "exempt," "double." Each list shall be certified to by the tax assessor-collector as follows:

"This is a correct list of invalid assessments as provided for by the ordinances of the City of Houston."

One or more lists shall be forwarded to the city council attached to a form of ordinance which contains in its caption the reasons that the assessments are invalid and which provides for the city council:

(i) To find the city tax assessment invalid, and

(ii) To order such assessments and the city taxes based thereon cancelled.

(c) An invalid assessment, within the meaning of this subsection, is one that is:

(1) Grossly excessive, for example, the assessment of property at 100 percent or more above its fair market value, hereinafter referred to as "grossly excessive";

(2) Discriminatory, for example, the use of a different appraisal standard than used for similar property, hereinafter referred to as "discriminatory"; and

(3) An assessment that is illegal for any other reason, hereinafter referred to as "illegal";

In notifying the council of such invalid city tax assessments under this subsection, the tax assessor-collector shall prepare lists and on each list show the name and address of the property owner, the account number, the property description, the amount of the assessment, the taxes, and the reason that the assessment is invalid. The reasons, above, for an assessment being invalid may be indicated on each list by the words "grossly excessive," "discriminatory," and "illegal," respectively. Each list shall be certified to by the tax assessor-collector as follows:

"This is a correct list of invalid assessments as provided for by the ordinances of the City of Houston."

Every such invalid assessment shall be accompanied by affidavits and an opinion from the city

attorney, based upon the facts set out in such affidavits, stating it to be his opinion that the assessment could properly be found invalid by the council. One or more lists shall be forwarded to the city council attached to a form of ordinance which contains in its caption the reasons that the assessments are invalid and which provides for the city council:

(i) To find the city tax assessment invalid; and

(ii) To order such assessments and the city taxes based thereon cancelled.

(d) The tax assessor-collector shall immediately reassess all taxable property on which the assessment has been cancelled under the terms hereof and place the same on the supplemental roll to be equalized prior to the next time the tax roll is approved by the board of appraisement.
(Code 1968, § 44-16.1; Ord. No. 68-1163, §§ 1—3, 7-17-68; Ord. No. 81-690, § 1, 4-14-81)

Sec. 44-9. Partial payment of current taxes based on a proposed reassessment.

(a) The tax assessor-collector is hereby authorized to accept a partial payment of current taxes on property if:

(1) It appears that the tax assessment for the current year on the property is invalid, and the tax assessor-collector has affidavits or other documents proving that the assessment for the current year is invalid as provided by the section on invalid assessments; and

(2) The tax assessor-collector has recommended that the assessment be cancelled by the city council; and

(3) The tax assessor-collector has also received full, true and complete information upon which a valid reassessment can be made; and

(4) The payment is equal to what a payment in full on the reassessment would be.

After the partial payment in the amount aforesaid has been made, the tax assessor-collector shall issue a tax receipt clearly marked "partial payment receipt." It shall also contain the following notation:

"This receipt represents a partial payment of taxes originally assessed for the year shown and the amount thereof is tendered by the taxpayer and accepted by the City of Houston and/or Houston Independent School District with the express understanding that it will not in any way impair the balance of the taxes due for the year nor the lien securing same."

(b) In the event that a prior assessment is cancelled, a reassessment made and the assessment roll has been changed to show the new value, a copy of the portion of the roll showing the new amount and the "partial payment receipt" shall constitute a receipt in full for the tax for that year.
(Code 1968, § 44-17; Ord. No. 79-1809, § 1, 10-23-79)

Sec. 44-10. Tax assessor-collector to be charged with total amount of taxes due.

After the certificates of the board of appraisement and the tax assessor-collector have been entered in the minutes of the meeting of the city council, it shall be the duty of the city controller to charge to the account of the tax assessor-collector the total amount of taxes due the city for the current year, as shown on such assessment roll and by his certificates, which amount shall be a valid claim against such tax assessor-collector and the sureties on his official bond, until the same shall be properly accounted for.
(Code 1968, § 44-28)

Sec. 44-11. When taxes due and payable; penalty and interest on delinquent taxes.

(a) All taxes, except occupation and license taxes, are hereby declared to become due and payable on the first day of each and every year, and if not paid by the thirty-first day of December following, shall be deemed delinquent, and beginning with the delinquent taxes for the year 1933 and every year thereafter, a penalty of two (2) percent upon the amount of the taxes due shall be added and paid, if paid during the month of January following such delinquency; four (4) percent if paid during the month of February following such delinquency; six (6) percent if paid during the month of March following such delinquency; eight (8) percent if paid during the month of April following such delinquency; nine (9) percent if paid during the month of May following such delinquency; and ten (10) percent if paid thereafter; and interest shall be charged upon the gross amount of the tax and penalty due until paid, at the rate of six (6) percent per annum.

(b) On all assessments made after the year of the tax, the six (6) percent per annum interest shall be calculated the same as if the assessment had been made during the year of the tax and the ten (10) percent penalty shall be calculated as if the tax did not occur until the year in which the assessment was made. All assessments for prior years made during the month of December shall be considered for purposes of calculating penalty to have been made during the calendar year next succeeding.

(c) The provisions of the foregoing subsection (a) and (b) shall not apply to the calculation of penalty and interest from and after January 1, 1982, being the effective date of Chapter 33 of the Texas Property Tax Code.
(Code 1968, § 44-30; Ord. No. 70-1813, § 1, 1-14-70)

Sec. 44-12. Where taxes payable.

All city taxes shall be payable at the office of the tax assessor-collector.
(Code 1968, § 44-31)

Sec. 44-13. Extension of time for payment, remitting, etc., of taxes and holding city position while owing taxes prohibited.

In no case shall the city council or any member of the city council, or any other officer of the city, extend the time for the payment of the taxes; nor shall any officer of the city remit, discount or compromise any taxes legally due the city; nor shall any person be elected mayor or councilman of the city, or hold any position, office or employment thereunder who is in arrears, or due and owing to the city any sum of money for taxes or otherwise.
(Code 1968, § 44-34)

Sec. 44-14. Payment of taxes to be credited on property; receipt for payment.

All sums of money received by the tax assessor-collector in payment of taxes, other than occupation or license taxes, shall be credited on the particular tract of land or parcel of property, or the specific item of personal property, upon which the tax is due, and a proper receipt shall be given therefor.
(Code 1968, § 44-35)

Sec. 44-15. Partial payment of current taxes on homestead.

(a) The tax assessor-collector is hereby authorized to accept a partial payment of current taxes on a homestead or veteran's property if:

(1) The taxpayer claims a partial homestead or veteran's exemption after the assessment roll has been approved; and

(2) The tax assessor-collector has been furnished a proper claim document proving that the taxpayer is entitled to the exemption.

After the partial payment has been made based on the proposed net taxable value of the property the tax assessor shall issue a tax receipt clearly marked: "partial payment receipt." It shall also contain the following notation:

"This receipt represents a partial payment of taxes originally assessed for the year shown

and the amount thereof is tendered by the taxpayer and accepted by the City of Houston and/or Houston Independent School District with the express understanding that it will not in any way impair the balance of the taxes due for the year nor the lien securing same."

(b) In every event where the tax assessor-collector has been furnished the foregoing document proving the taxpayer's right to a partial tax exemption and as provided by the constitution and laws of this state, the tax assessor-collector shall correct the roll to show the correct net taxable value. As soon as practicable after the close of the tax year, the tax assessor-collector shall report in writing to the city council the total dollar amount of such corrections to the assessment roll.

(c) In the event that the assessment roll has been corrected to show the correct taxable value, a copy of the portion of the roll showing the corrected amount and the "partial payment receipt" shall constitute a receipt in full for the tax for that year.
(Code 1968, § 44-35.1; Ord. No. 79-1810, § 1, 10-23-79)

Sec. 44-16. Partial payment of delinquent taxes, penalty and interest.

The tax assessor-collector of the city is hereby authorized to accept partial payment on delinquent taxes and the penalty and interest due thereon, subject to the conditions set out herein; provided, each partial payment shall be credited against the oldest delinquent tax year or years, and provided further, that each payment shall be divided into the part of the tax actually paid and the penalty and interest due on such part to the date of the partial payment. The tax assessor-collector shall issue a "partial payment receipt" to the taxpayer showing the actual amount paid broken down into tax, penalty and interest. Such partial payments shall be apportioned ratably to the city and school taxes due for the year or years to which they are applied and they shall be in amounts which will clear the delinquency within a reasonable time.
(Code 1968, § 44-40.1; Ord. No. 69-966, § 1, 5-28-69)

Sec. 44-17. Assignment of tax judgments.

Upon the payment of any person of all taxes, penalties, interest and costs due to the city in any judgment recovered by the city against delinquent taxpayers for city taxes to the tax assessor-collector, the mayor and city secretary are hereby authorized to transfer and assign such judgment to the person so paying; provided, such transfer shall not be made except by consent of the delinquent taxpayer.
(Code 1968, § 44-48)

Sec. 44-18. Purchase of property sold to city for taxes.

(a) Any person who desires to buy any property which has been sold to the city for city taxes at an execution sale, shall except as heretofore provided, first pay to the tax assessor-collector the entire amount of taxes, penalties, interest and costs that may be due on such property.

(b) After such payment by such person the tax assessor-collector shall certify to the delinquent tax attorney that such payment has been made; and the city delinquent tax attorney, upon receipt of such certificate or statement, shall prepare a quitclaim deed to such property to the person making the payment, reciting in the deed as consideration the payment shown by the certificate of the tax assessor-collector and shall endorse on such deed his approval thereof.

(c) The delinquent tax attorney shall transmit the quitclaim deed, together with the certificate of the city tax assessor-collector, to the city secretary, who shall retain possession of such certificate as a permanent record of the office of the city secretary, and it shall thereupon be the duty of the mayor and city secretary to execute such deed in behalf of the city.
(Code 1968, § 44-52)

Sec. 44-19. Claims for refunds of ad valorem taxes.

(a) If a taxpayer applies to the tax assessor-collector of the city for a refund of an overpayment or erroneous payment of city ad valorem taxes and the city treasurer determines that the

payment was erroneous or excessive, the tax assessor-collector shall refund the amount of the excessive or erroneous payment from available current city tax collections or from funds appropriated by the city council for making refunds.

(b) Each claim shall be in the form of an affidavit by the claimant describing in full the circumstances of the payment. Each claim shall be accompanied by a valid tax receipt or other acceptable proof of payment.

(c) No refund shall be made to a taxpayer who is delinquent in the payment of any tax collected by the city tax assessor-collector or who otherwise owes any sum of money whatsoever to the city.

(d) No refund of any tax shall be made under any circumstances unless and until the same has been approved in writing by the legal department.

(e) If the amount of the refund exceeds $500.00, the tax assessor-collector shall not make the refund unless the city council also determines that the tax payment was erroneous or excessive and approves the refund.

(f) A written application for a refund must be received by the tax assessor-collector within three years after the date of the payment or the refund shall not be allowed.

(g) No warrant shall be issued in payment of any claim unless and until all the above requirements have been complied with.
(Code 1968, § 44-52.1; Ord. No. 68-1162, §§ 1, 2, 7-17-68; Ord. No. 71-93, § 1, 1-13-71; Ord. No. 77-1068, § 1, 5-13-77; Ord. No. 80-144, § 1, 1-29-80)

Sec. 44-20. Paving assessment lien releases—Authority to execute.

(a) In any instance in which the record in the office of the city's tax assessor-collector reflects the fact that an assessment against a particular parcel of property in connection with any particular paving project has been paid in full, he is hereby authorized to execute in the name of the city and to acknowledge and deliver to any person requesting the same, a due and proper release reciting the fact of such payment and releasing the particular parcel of property involved from the assessment lien; and in any instance in which he is assured, either by the city controller, the city engineer, or the city attorney or a responsible assistant to him, that any paving assessment, the detailed record in connection with which is not being kept in his office, has been paid in full, he is also hereby authorized to execute, acknowledge and deliver such due and proper release. A request in writing to the tax assessor-collector, by the city controller, the city engineer, or the city attorney or any of his responsible assistants, shall constitute and have the effect of a certificate to him that the assessment in question has in fact been paid in full and that a release is in order.

(b) In any instance in which it is made to appear to the finance and administration director of the city or to the mayor that any paving assessment owned or held by the city has been paid in full, they and either of them are hereby also authorized to execute, acknowledge and deliver such a release, being also entitled to rely for their assurance that the assessment has been paid in full, upon a written request therefor by the city controller, the city engineer, the city attorney or a responsible assistant to him, or a responsible assistant to the tax assessor-collector.

(c) In any instance in which the ordinance levying assessments with respect to a particular project indicates that no assessment was levied against a particular parcel of property included within the originally initiated limits of such project, the director of treasury is hereby authorized, upon approval by the city attorney or one of his assistants, to execute, acknowledge and deliver a due and proper release of the apparent lien against such property arising by virtue of the recording of the notice prescribed by article 1220a, Revised Civil Statutes of Texas.

(d) In any instance in which it is made to appear to the satisfaction of the city attorney, by affidavits or otherwise, that a particular parcel of property included within the originally initiated limits of an assessment street-improvement project was, on the effective date, the exempt homestead of the owner or owners of such parcel, then the director of treasury is hereby authorized, upon approval by the city attorney or one of his assistants, to execute, acknowledge and deliver a due

and proper release of the apparent lien against such property arising by virtue of the recording of the notice prescribed by article 1220a, Revised Civil Statutes of Texas. Any such release shall include a provision that the execution and delivery thereof shall not affect the personal liability of the true owners of the property with respect to the assessment.

(e) A fee shall be imposed for each release of lien provided hereunder as specified in section 2-125 of this Code.
(Code 1968, § 44-53; Ord. No. 74-831, §§ 1, 4, 5-21-74; Ord. No. 90-635, § 147, 5-23-90)

Cross reference—Paving assessments, § 40-250 et seq.

Sec. 44-21. Same—Attestation under city seal.

None of the releases authorized by section 44-20 of this Code shall require for their validity that they be attested by the city secretary or be under the seal of the city; provided, in any instance in which a particular person may desire and express a request that a release be furnished which is so attested under the city's seal, the city secretary is hereby authorized, upon there being presented to him duly signed by any of the foregoing authorized persons, a release releasing any such paving assessment, to attest the same under the city's seal.
(Code 1968, § 44-54)

Sec. 44-22. Residence homestead exemption.

(a) An owner of a residence homestead is hereby granted an exemption of 30 percent of the market value of such residence homestead for the year 1987.

(b) Any exemption granted hereunder shall be administered in a manner consistent with the applicable provisions of the state Property Tax Code.
(Code 1968, § 44-55; Ord. No. 83-1945, § 1, 12-1-83; Ord. No. 84-1839, § 1, 11-27-84; Ord. No. 85-1828, § 1, 10-15-85; Ord. No. 86-605, § 1, 4-29-86; Ord. No. 87-598, § 1, 4-28-87)

Sec. 44-23. Reserved.

Editor's note—Former § 44-23 was repealed by § 3 of Ord. No. 88-104, enacted Jan. 20, 1988. The repealed provisions pertained to a tax abatement program and derived from Ord. No. 85-55, § 1, enacted Jan. 15, 1985 and Ord. No. 87-1304, § 1, enacted July 29, 1987.

Sec. 44-24. Definition.

As used in this chapter, the term ad valorem property tax revenues means all revenues collected as a result of the taxation of real and personal property in the city, both current and delinquent.
(Ord. No. 03-737, § 1, 8-6-03)

Sec. 44-25. Tax rate limitation.

The city council shall not, except by ordinance approved by two-thirds of the full city council, levy ad valorem taxes at a rate expected to increase the city's ad valorem property tax revenues for the then current fiscal year in an amount greater than five percent more than the ad valorem property tax revenues collected during the immediately preceding fiscal year.
(Ord. No. 03-737, § 1, 8-6-03)

Sec. 44-26. Verification.

Each year before the adoption of an ordinance levying ad valorem taxes in the city, the city controller must furnish written verification as to whether the ad valorem tax rate proposed is expected to produce ad valorem property tax revenue collections during the then current fiscal year of no more than five percent more than the ad valorem property tax revenues collected in the immediately preceding fiscal year.
(Ord. No. 03-737, § 1, 8-6-03)

Sec. 44-27. Notice.

Before the passage of any ordinance required under section 44-25 of this Code, city council shall:

(1) Have published in the major Houston newspaper, at least 30 days prior to the date of passage, an analysis of anticipated increased revenues; and

(2) Hold at least three public hearings thereon no less than ten days before the date of passage, each at least a week apart from the other hearing, which may be combined with any hearing required by the

Texas Tax Code. Two of such required public hearings would be held in the evening and one during the day.

(Ord. No. 03-737, § 1, 8-6-03)

Sec. 44-28. Effect of annexation.

Ad valorem property tax revenues collected from any properties annexed after calendar year 2002 will be excluded from the calculation described in section 44-25 of this Code for the fiscal year in which the property is annexed.

(Ord. No. 03-737, § 1, 8-6-03)

Secs. 44-29—44-74. Reserved.

ARTICLE II. SPECIFIC OCCUPATION TAXES

DIVISION 1. GENERALLY

Secs. 44-75—44-81. Reserved.

DIVISION 2. COIN-OPERATED MACHINES

Sec. 44-82. Definitions.

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

(1) *Coin-operated machines.* The term "coin-operated machine" shall mean and include every machine or device of any kind or character which is operated by or with coins, metal slugs, tokens, checks or similar objects. A machine designed and manufactured to be so operat-

ed, but which is operated by payment of a fee for its use is included in this definition. Music coin-operated machines and skill and pleasure coin-operated machines, as those terms are hereafter defined, shall be included in such term.

(2) *Merchandise coin-operated machine.* The term "merchandise coin-operated machine" shall mean and include every coin-operated machine of any kind which dispenses or vends, or which is used or operated for dispensing or vending merchandise, commodities, or confections, and which is operated by or with coins, metal slugs, tokens or checks or similar objects. The following are expressly included within such term: Candy machines, gum machines, sandwich machines, handkerchief machines and sanitary drink cup machines.

(3) *Music coin-operated machine.* The term "music coin-operated machine" shall mean and include every coin-operated machine of any kind or character which dispenses or vends, or which is used or operated for dispensing or vending music and which is designed and manufactured to be operated by or with coins, metal slugs, tokens, checks or similar objects. The following are expressly included within such term: Coin-operated phonographs, pianos, gramophones, radios and all other coin-operated machines which dispense or vend music.

(4) *Operator.* The term "operator," shall mean and include any person who exhibits, displays or permits to be exhibited or displayed, in his or its place of business or upon premises under his or its control, any coin-operated machine in the city.

(5) *Owner.* The term "owner" shall mean and include any person owning or having the care, control, management or possession of any coin-operated machine in the city. The owner is solely responsible for paying to the city the occupation tax on each coin-operated machine exhibited or displayed within the city and for securing the city decal evidencing payment of such tax on each coin-operated machine.

(6) *Service coin-operated machine.* The term "service coin-operated machine" shall mean and include pay toilets, pay telephones and all other machines or devices which dispense service only and not merchandise, music, skill or pleasure.

(7) *Skill or pleasure coin-operated machine.* The term "skill or pleasure coin-operated machine" shall mean and include every coin-operated machine of any kind or character whatsoever, when such machine dispenses or is capable of being used or operated for amusement or pleasure, or when such machine is operated for the purpose of dispensing or affording skill or pleasure or for any other purpose other than the dispensing or vending of merchandise, music or service exclusively, as those terms are defined herein. The following are expressly included within such term: Marble machines, marble table machines, marble-shooting machines, miniature race track machines, miniature football machines, miniature golf machines, miniature bowling machines, billiard tables and all other coin-operated machines which dispense or afford skill or pleasure. Every machine or device of any kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of skill or pleasure shall be considered a skill or pleasure coin-operated machine.

(Code 1968, § 44-72; Ord. No. 75-1800, § 1, 10-7-75)

Sec. 44-83. Tax imposed; amount; registration.

(a) Every owner who exhibits or displays, or who permits to be exhibited or displayed in the city any coin-operated machine shall pay, and there is hereby levied on each coin-operated machine, except those that are exempt under section 44-89, an annual occupation tax in the amount of fifteen dollars ($15.00). All occupation taxes for coin-operated machines are payable annually in advance. Upon payment of the tax every owner shall register each machine by make, model and serial number with the tax assessor-collector or his designated agents.

(b) Whenever an owner shall exhibit or display, or permit to be exhibited or displayed, any

coin-operated machine for commercial use, there shall be securely attached thereto a decal issued by the tax assessor-collector evidencing payment of the tax applicable thereto. Each coin-operated machine is subject to the occupation tax when exhibited or displayed for commercial use within the city. Since the tax is payable in advance on an annual calendar year basis, the following pro rata tax rate schedule will be applicable to a coin-operated machine which is first exhibited or displayed for commercial use within the city during any quarter of the calendar year:

(1) First quarter: January 1 to March 31—An amount equal to the applicable annual occupation tax;

(2) Second quarter: April 1 to June 30—An amount equal to three-quarters of the applicable annual occupation tax;

(3) Third quarter: July 1 to September 30—An amount equal to one-half of the applicable annual occupation tax; and

(4) Fourth quarter: October 1 to December 31—An amount equal to one-quarter of the applicable annual occupation tax.

In computing any tax payable under the aforesaid pro rata tax rate schedule, amounts calculated thereunder shall be rounded to the next higher full cent amount as required.
(Code 1968, § 44-73; Ord. No. 75-1800, § 1, 10-7-75; Ord. No. 81-2477, § 1, 12-15-81; Ord. No. 82-26, § 1, 1-5-82; Ord. No. 91-1649, § 1, 11-26-91)

Sec. 44-84. To whom tax payable.

All occupation taxes provided for in this division shall be paid to the tax assessor-collector, or his authorized departmental employees.
(Code 1968, § 44-74; Ord. No. 75-1800, § 1, 10-7-75)

Sec. 44-85. Display and issuance of decal evidencing payment; penalties for noncompliance.

(a) The decal issued by the tax assessor-collector to evidence payment of the tax levied herein shall be securely attached with its own adhesive to be a fixed, noninterchangeable part of the coin-operated machine so as to be easily seen by the public. This decal shall be of such a nature that the word "void" will appear if one attempts to remove it.

(b) During the period commencing on December fifteenth and ending on December thirty-first of each year, owners shall pay the occupation tax, register the machines taxed, and thereby receive a decal for each coin-operated machine to be within the city on January first. At the same time, owners may also pay taxes and receive decals for unregistered machines, up to ten (10) percent over the number registered. As a decal is placed on an additional machine, the owner shall notify the tax assessor-collector of each machine's make, model, and serial number, thereby registering it.

(c) If, during each calendar year, an owner desires to secure more decals than the additional ten (10) percent which may be obtained during the period from December fifteenth through December thirty-first, such decals shall be issued upon payment of the tax applicable to the calendar quarter in which such decals are obtained.

(d) It shall be unlawful for an owner to permit to be exhibited or displayed for commercial use any coin-operated machine which does not have properly attached thereto a decal evidencing payment of the applicable occupation tax. The owner of a coin-operated machine on which the tax has not been paid or which does not have a decal thereon evidencing payment shall forfeit to the city as a penalty the sum of twenty-five dollars ($25.00). The penalty, if not paid, shall be recovered in a suit by the city attorney in a court of competent jurisdiction.
(Code 1968, § 44-75; Ord. No. 75-1800, § 1, 10-7-75; Ord. No. 81-2326, § 1, 11-24-81)

Sec. 44-86. Sealing machine for nonpayment, generally.

After January thirty-first of each year, the tax assessor-collector, or his departmental employees, will seal, in a manner that will prevent further operation, any coin-operated machine upon which the tax required by this division has not been paid or upon which the decal is not properly displayed. Any owner subject to this division shall be required to pay a fee of five dollars ($5.00) for the release of any machine sealed as provided herein

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 $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 $100.00 nor more than $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 $100.00 nor more than $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:

Consideration means the cost of the room in a 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.

Director means the director of the finance and administration department.

Hotel means 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, boarding houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but shall not include hospitals, sanitariums, or nursing homes.

Occupancy means 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 30 days.

Occupant means 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.

Person means any individual, company, corporation, or association owning, operating, managing or controlling any hotel.

Quarterly period means any one of 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; Ord. No. 06-946, § 2, 9-13-06)

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 $2.00 or more per day, such tax to be equal to seven 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. 44-103.1 Records; receipts; retention and inspection.

(a) Every person required to collect the tax imposed in this article shall keep the following information:

(1) For each room rental, the check-in and check-out dates, the consideration paid (including the state and local hotel occupancy taxes collected) on a per sleeping room rental basis, and the method of payment;

(2) Supporting documentation and certificates of exemption for guests who are exempt from the tax imposed in this article;

(3) Banking records that identify all room rental revenue collected; and

(4) Credit card records reflecting payments of room rentals.

(b) For room rentals paid by cash, every person required to collect the tax imposed in this article shall:

(1) Issue a customer an electronic or handwritten receipt that provides the date and time of the rental transaction, the room number, and the charges for room rental; and

(2) For handwritten receipts:

a. Issue the receipts in sequential, numeric order;

b. Retain a duplicate copy of the receipts; and

c. Mark spoiled receipts as void and retain such receipts as evidence of spoilage.

(c) A person subject to the requirements of this section shall retain all records provided for in this section in written or electronic form for a minimum of four years from the date of transaction.
(Ord. No. 06-946, § 3, 9-13-06)

Sec. 44-104. Quarterly reports to director.

On the last day of the month following each quarterly period, every person required in section 44-103 of this Code to collect the tax imposed by this article, shall file a report with the 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 director may reasonably require. Such person shall pay to the city 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; Ord. No. 06-946, §§ 1, 4, 9-13-06)

Sec. 44-105. Rules and regulations of director; access to books and records.

The director 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; Ord. No. 06-946, § 1, 9-13-06)

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 director 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 percent per annum, and a civil penalty equal to 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 attorney fees and costs incurred for the recovery of the tax, penalties and interest.

(b) Any person who fails to timely file a report or maintain a record or information 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; Ord. No. 06-946, §§ 1, 5, 9-13-06)

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, includ-

ing 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)