City of Houston, Texas, Ordinance No. 2018-391

AN ORDINANCE AMENDING CHAPTER 44 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO TAX ABATEMENT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, a municipality that desires to become eligible to participate in tax abatement must, pursuant to Section 312.002(a) of the Texas Tax Code, establish guidelines and criteria governing tax abatement agreements and elect to become eligible to participate in tax abatement; and

WHEREAS, Section 312.002(c) of the Texas Tax Code provides that the guidelines and criteria adopted by a municipality are effective for two years from the date adopted; and

WHEREAS, City Council last adopted tax abatement guidelines and criteria on March 30, 2016, approved by Ordinance No. 2016-252, which tax abatement guidelines and criteria became effective on March 30, 2016, and expired on March 30, 2018, as provided in section 44-137 of the Code of Ordinances, Houston, Texas; and

WHEREAS, City Council desires to continue to participate in tax abatement by adopting new tax abatement guidelines and criteria, to be codified in Article IV of Chapter 44 of the City Code; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Article IV of Chapter 44 of the Code of Ordinances, Houston, Texas, is hereby amended to read as set forth in Exhibit "A", attached hereto and incorporated herein.

Section 3. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 4. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 5. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 16th day of May, 2018.

APPROVED this 16th day of May, 2018.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

City Secretary

Prepared by Legal Dept.
KM:ems 5/8/2018
Requested by:
Andy Icken, Chief Development Officer
Mayor's Office
L.D. File No. 0421800021001

Senior Assistant City Attorney

AYE	NO	
✓		**MAYOR TURNER**
••••	••••	**COUNCIL MEMBERS**
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
ABSENT-OUT OF CITY CITY BUSINESS		MARTIN
ABSENT-ON PERSONAL BUSINESS		LE
	✓	TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		LASTER
✓		MARTHA CASTEX-TATUM
	✓	KNOX
✓		ROBINSON
✓		KUBOSH
✓		EDWARDS
✓		CHRISTIE
CAPTION	ADOPTED	

MAY 017 Rev. 12/15

CAPTION PUBLISHED IN DAILY COURT REVIEW DATE: MAY 22 2018

EXHIBIT A

Chapter 44

TAXATION

* * *

ARTICLE IV. TAX ABATEMENT

Sec. 44-120. Preamble—General policy and program requirements.

(a) The City of Houston Tax Abatement Program is created to encourage new development and the growth of existing development and to stimulate new job growth and investment in the city. The tax abatement program and other forms of economic development incentives are available to many types of businesses to address the city's economic development needs and objectives stated in this general policy and pursuant to the provisions of this article.

The city's principal economic development tools should be maintenance of the city's natural competitive advantages and provision of detailed information concerning the city's advantages compared to those of other cities for potential relocation of all or substantial portions of various businesses. For a wide variety of businesses and professional firms, Houston rarely should be at a cost disadvantage relative to large urban centers, particularly those outside of Texas.

The city and its metropolitan area offer significant competitive advantages and cost savings to businesses seeking to locate or expand in our region. These advantages include:

(1) A large, growing workforce with abundant skills appropriate for all levels of an organization;

(2) An affordable cost of living, which makes Houston attractive to workers and makes our personnel costs more competitive than most major urban areas;

(3) An abundance of buildable sites and relatively low cost of occupancy compared to other major urban centers in the United States, especially those outside of Texas; and

(4) A superb transportation infrastructure, including the Port of Houston, the Houston Airport System, and central locations for distribution by truck, rail, and water.

The city, however, will from time to time consider appropriate economic incentives for the relocation, expansion or retention of businesses, whether intellectual capital or fixed asset-based, to the extent these incentives would be the critical element

that would govern a decision to relocate or expand a business here. Incentives might include tax abatements, as described in these guidelines and criteria, or another appropriate form of incentive, such as expedited permitting for a development project or investment in infrastructure that would be useful in developing a particular site, which could include investments enhancing transportation, water and sewer services or other public infrastructure. Such improvements benefit not only the affected business but also the larger community.

Incentives other than tax abatement might be funded through accelerated capital improvements plan action or special district financing such as tax increment financing, special assessment financing, or in-city municipal utility districts. The city could also consider beneficial land exchanges, right-of-way abandonment, or below-market financing or leases on public property that could provide mutual benefit to the city and the proposed development. Any offer of such an incentive would be reviewed case-by-case to determine eligibility and compliance with all applicable laws.

To assist the city in obtaining an equitable portion of state economic development funds, the city will consider applications for tax abatements that trigger some level of State economic development assistance. The Houston region contributes about one-quarter of the funds to the State of Texas' general revenues. In turn, a proportionate share of the State's economic development budget is attributable to the Houston region. If allocated over time equitably among the regions of the State in proportion to the employment and financial contributions to State revenues, these funds should provide funding for economic incentives for corporate relocations and expansions in our region, when combined with the other substantial advantages for economic growth in our region.

It is the goal of the city that local taxing jurisdictions in our region should not use ad valorem tax abatement to compete against each other for business relocations or expansions. It should be recognized that the attraction of new businesses to any part of our region strengthens our overall region and the people in it.

Officials at the city, at the most senior level, will meet at any time with the person who is ultimately responsible for making a decision to relocate or to expand to address specific economic or other issues that would be decisive in corporate location. The city would negotiate in a business-like manner on a case-by-case basis. There is no "standard" tax abatement, and no entity or individual other than a designated city official is authorized to negotiate with respect to any tax abatement proposal or incentive that might be available on a case-by-case basis.

Typically, city officials would want to see pro forma financial information to assist in making judgments concerning the role of property tax costs in the economics of the relocation. The city understands that for many businesses some incremental amount of ad valorem taxes would not represent a substantial percentage of the cost of goods sold. Other incentives, as referenced above, may be discussed with city officials.

(b) Tax abatements may be used in special situations, subject to the guidelines and criteria described herein. Examples of special situations include:

(1) The location of a high-employment facility in a particularly distressed or neglected part of the city, where increased job opportunities could contribute significantly to a reduction in crime or cascading redevelopment of other sites, which would more than offset the loss of the tax benefit;

(2) A substantial equity investment in real estate development serving an important public purpose, such as providing affordable housing that could lead to redevelopment of a blighted area or attracting additional development;

(3) A case in which a company could not and would not remain, expand or locate in Houston, because of another viable option that took into account all significant costs. Any representation by the company would need to be supported by credible economic analysis in a direct communication between the mayor or other appropriate senior official and the private sector decision maker; or

(4) The property, if abated, will be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment that would be a benefit to the property and the larger community and that would contribute to the economic development of the city.

(c) Subject to this general policy, when tax abatements are available, they would be offered as described in the guidelines and criteria set forth in this article, with the following general limits and guidelines:

(1) For typical commercial and industrial tax abatements, the city would negotiate an abatement scale and duration based primarily on investment level, rather than jobs. Each project would be evaluated and the incentive tailored to an analysis based on factors such as industry competitive disadvantages, quantifiable economic impacts, and furthering other public purposes in unique ways. An applicant would be required to submit an economic impact analysis from reliable modeling tools. Depending on an analysis of such factors and data, the city would evaluate the appropriate level and duration of abatement;

(2) Reduced investment requirements and flexible abatement scales could be available for tax abatements within state enterprise zones, or eligible new markets tax credits census tracts, bank finance districts, and other non-city incentives that require local matching. This aspect of the program would emphasize encouraging access to other local, state and federal incentives to leverage the city abatement incentive;

(3) The city will require applicants to commit to providing enhanced community benefits as a condition to tax abatement incentive benefit. The enhanced community benefit may include employment and development of programs that strengthen local communities, such as the city's Minority and Women-Owned and Disadvantaged Business Enterprise Programs, local purchasing, construction and redevelopment within underserved communities or other identified areas that would see a greater benefit or return on investment in the area, the creation of permanent employment and full-time job opportunities within those defined areas, jobs that include employee health care benefits, and other endeavors that can be shown to bring a wider reaching, long-term economic benefit to the communities where the activity or enterprise will be located, and to the city overall. Table 44-1 below includes the types of activities and benefits the city will give the most weight to, though others not on the list may be considered by the Mayor's Office of Economic Development. Applications for tax abatement must include one or more of the items listed in Table 44-1.

Table 44-1

1	Local, Community Job Recruitment
2	Non-Business benefitting public improvements
3	Crime Prevention Through Environmental Design (CPTED)
4	Affordable Housing
5	Workforce Housing
6	Job Training for Entry or Mid-Skill Level Jobs
7	Participation in Job Reentry Programs (other than the City of Houston's Community Re-Entry Network Program)
8	Paid Internships for Low Income Students

(4) In addition, the city will require applicants to provide evidence they will:

a. Advertise new job postings with the City of Houston's Community Re-Entry Network Program;

b. Provide construction workers with a minimum of 10-hours of OSHA-approved safety training;

c. Require general contractors to employ a safety representative with a minimum of 30 hours of OSHA-approved supervisor safety training on each construction site;

d. Make good faith efforts to ensure that a minimum of 25 percent of the total labor force for construction and non-construction job requirements is obtained by hiring individuals who live in a census

tract with an average income lower than that of the city average, based on the most recent five-year American Community Survey estimate;

e. Make good faith efforts to ensure that a minimum of 25 percent of the total labor force for construction and non-construction job requirements is obtained by hiring individuals who live in the same census tract as the project, or who live in an adjacent census tract, for a tax abatement agreement described in subsection (c)(8) of this section where the project is located in, or adjacent to, a census tract described in subsection (c)(4)d above; and

f. Make good faith efforts to hire and employ a minimum of 30 percent of its construction workforce from local Department of Labor-certified apprenticeship programs.

(5) All contracts and subcontracts for public infrastructure, or for other public improvements that are to be conveyed to the city upon completion, shall contain requirements for compliance with governing statutes and local requirements on labor classification of wage scales for each craft or type of laborer, worker, or mechanic.

(6) Contractors and subcontractors will be subject to audits and inspections of payroll records to ensure compliance with the requirements of this chapter.

(7) Qualifying residential projects or projects with a qualifying residential component will be required to develop and commit 20 percent or more of the project residential units for residents with income levels between 30 percent and 120 percent of area median income for the duration of the tax abatement agreement.

(8) An enhanced abatement for no more than 10 years and up to 90% may be considered for:

a. Targeted industry clusters specifically targeted for future growth, for example, aviation, biotechnology, information technology, aerospace, energy, or other industries that the city from time to time determines to have a particular beneficial impact on the regional economy;

b. New or expanding businesses (for example, retail, industrial, commercial) in neighborhood areas targeted for revitalization (for example, Houston Hope areas or other distressed or neglected parts of the city); and

c. Transit-oriented development within 1,500 feet of transportation corridors, such as existing and planned Metro rail stops, multi-modal centers, and bus transfer stations.

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 tangible personal property located on the real 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.

Brownfield facility means real property or tangible personal property located on the real property used as an authorized facility as provided in sections 44-129 and 44-130 of this Code.

Competitive siting means evidence that the applicant has studied competing locations for expansion, relocation, or new operations to evaluate operating cost differentials and incentives available, excluding, however, locations in taxing jurisdictions with which the city has an agreement not to compete for projects by offering financial incentives.

Complete community means an area designated as such by the city or the mayor in order to focus civic, business, and philanthropic resources on community needs as identified by the residents and larger community, such as housing, parks and environmental, economic, health, educational, mobility and infrastructure, and other social services, projects, or programs.

Contract employee means an individual who is not a permanent employee or an affiliate 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.

Deteriorated/demolished property means any real property located in a reinvestment zone designated pursuant to item (1), (2), or (3) of section 44-122(d) of this Code, and on which improvements subject to an order and any extensions granted by the department of neighborhoods were declared dangerous or were demolished not more than one year before the date that a complete application for tax abatement is filed, and pursuant to a permit for demolition issued by the city with which the owner complied, and on which the owner has filed with the city an application for a building permit to construct new improvements no later than one year after the date that a complete application for tax abatement was filed.

Deteriorated/demolished property redevelopment means a residential facility with structures containing four or fewer dwelling units per structure constructed as part of a unified plan on contiguous property comprising at least one existing block.

Director means the mayor, or the person designated by the mayor to administer these guidelines and criteria.

Dwelling unit means a structure, or a portion of a structure, that has independent living facilities including provisions for non-transient sleeping, cooking and sanitation.

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 a 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 or expansion, that together comprise an integral whole.

Full-time equivalent means a job that is equivalent to 1,750 hours of work annually performed in the reinvestment zone by one or more Ccontract 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.

Mixed-use facility means a facility used or to be used for more than one of the types of facilities defined in this section.

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 lower 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 construction, alteration or installation for the purpose of reconditioning, refurbishing or repairing to meet local, state, or federal regulations shall not be considered modernization.

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

Order means an order issued by the city pursuant to article IX of chapter 10 of this Code requiring the improvements on property to be demolished.

Other basic industry facility means buildings and structures, including fixed machinery and equipment not elsewhere described, that meet the economic development objectives of the general policy stated in section 44-120 of this Code.

Owner means the person or entity responsible for paying property taxes on taxable real property or tangible personal property located on the real property or an interest therein including one or more leasehold interests.

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

Permanent employee means an individual who is an employee of the abatement recipient or an affiliate of the abatement recipient, works a minimum of 35 hours in a seven-day period, and reports to work in the reinvestment zone, excluding any 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, including but not limited to 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.

Residential facility means one or more buildings and structures, including machinery and equipment, used or to be used primarily for living, sleeping, cooking and eating, that are intended to be used or occupied as dwelling places whether or not attached.

Retail facility means buildings and structures, including machinery and equipment, used or to be used primarily for the sale or service of goods or foods to consumers.

Target area means an area that qualifies for Texas Enterprise Zonedesignation pursuant to the Texas Enterprise Zone Act.

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.

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~~ may 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 or undeveloped 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 the larger community 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 any existing agreement entered into pursuant to section 44-128, 44-130, or 44-133 of this Code.

Sec. 44-123. Abatement application.

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

(b) The application shall consist of a complete application form accompanied by a $1,000.00 nonrefundable application fee and:

(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;

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

(6) Financial information including but not limited to items (i) demonstrating the role of property tax costs in the economics of the proposed improvements; (ii) stating concisely the amounts and sources of financing for the proposed improvements, including all sources and terms of debt and equity financing; and (iii) demonstrating the overall financial impact of the proposed improvements on the local and regional economy, using

reliable economic forecast modeling tools in such form as approved by the director;

(7) If the applicant is considering a location outside the city for the proposed improvements, evidence of abatement or other financial incentive from other local, state, or federal governmental entities; and

(8) A statement describing how the proposed improvements are consistent with the general policy stated in section 44-120 of this Code.

(c) The complete application for an economic development abatement must 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) If the applicant is considering a location outside the city for the project, information regarding the project's competitive siting, including written evaluation of competing locations for expansion, relocation, or new operations, including identification of specific sites in those locations;

(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 tangible personal property; and

(d) The complete application for a brownfield development abatement shall consist of a complete 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.

(e) The complete application for a deteriorated/demolished property abatement shall consist of a complete application form accompanied by a $1,000.00 nonrefundable application fee; and

(1) The information required by paragraphs (1) through (5) of (b) of this section;

(2) A copy of the order;

(3) A copy of the demolition permit issued by the city for the demolition of the improvements subject to the order;

(4) Photographs showing the current conditions of the deteriorated/demolished property.

(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.

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.

Sec. 44-125. Variances.

Requests for a variance from any of the provisions of these guidelines and criteria shall be made in writing to the director; provided however, the total duration of an abatement shall in no instance exceed ten years, or such other limitation on duration as provided by applicable law. 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 is consistent with the general policy of section 44-120 of this Code. If the city council finds that the application meets the economic development objectives of these guidelines, then the city council may approve a request for variance by a three-fourths vote of the city council members present.

Sec. 44-126. Public hearing and approval.

(a) Prior to entering into an agreement, the city council shall 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 the tax base; and

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

Sec. 44-127. Economic development abatement authorized.

(a) *Authorized facility.* A facility is eligible for economic development abatement if it is a manufacturing facility, mixed-use facility, regional distribution center facility, regional service facility, regional entertainment facility, research facility, research and development facility, residential facility, retail 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 the 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, including inventory purchased after the effective date of a tax abatement agreement under this article, for logistics, distribution, or manufacturing facility, with the exception of

inventory of natural gas, fluids or gases, or crude petroleum products that are not integral to the operation of the facility.

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

(1) Land;

(2) Supplies;

(3) Tools;

(4) Vehicles, vessels and aircraft;

(5) Property receiving a historic site exemption as provided in section 44-29 of this Code;

(6) Deferred maintenance investments;

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

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

(9) Any improvements that are not integral to the operation of the facility;

(10) 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

(11) Property that is owned or leased at any time during the term of an abatement agreement by a member of city council or by a member of the city planning commission.

(f) *Value and term of the abatement.* Abatement may be granted effective upon the January 1 valuation date immediately following the effective date of the agreement or such later date upon which the parties may agree. On or before reaching the agreed date, the parties may agree, by mutual consent, to terminate the agreement, subject to approval by the city council. Projects (other than modernizations) that meet these guidelines and criteria are eligible for abatement on the value of the new properties in an amount and for a duration based on an analysis of factors such as industry competitive disadvantages, quantifiable economic impacts, and furthering other public purposes in unique ways. Depending on an analysis of such factors and data, the director will evaluate and make a recommendation for approval by the city council of the appropriate amount and duration of abatement. In no case, however, shall the period of abatement 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 less the value of the old unit(s).

(g) *Economic qualifications.* Except as provided in subsections (h), (i), and (j) of this section, to be eligible for 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 real or tangible personal property in the amount of $1,000,000 for deteriorated/demolished property redevelopment or $5,000,000 for other development, including commercial, 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 includes property described under the provisions of section 44-127 of this Code and (i) is located in an area designated as an enterprise zone and the city has not created a reinvestment zone or (ii) is an authorized facility that meets the criteria established for a qualified business pursuant to the Texas Enterprise Zone Act, 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; and

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

(i) *Economic qualifications in a Complete Community.* If the property includes property described under the provisions of section 44-127 of this Code and is located in an area designated as a complete community, to be eligible for tax abatement the planned improvement shall:

(1) Be reasonably expected to increase the value of the real or tangible personal property in the amount of $500,000 for deteriorated/demolished property redevelopment or $1,000,000 for other development, including commercial, upon completion of construction; and

(2) Be expected to create permanent employment for at least five people on a permanent basis beginning three years after the effective date of abatement and continuing through the remaining term of the agreement.

(j) *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 $1,000,000.00 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.

(k) *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 subsection (e) of this section 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 (f) of this section.

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

Upon designation of a reinvestment zone, the city may enter into an agreement that 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 of all previously abated taxes, 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 not later than February 1 of each year the tax abatement agreement is in effect, provide the director an affidavit 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 December 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 appropriate form 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 equivalent jobs 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;

(10) A requirement that property in a reinvestment zone that is owned or leased at any time during the term of an abatement agreement by a member of the city council or by a member of the city planning commission is ineligible for and excluded from tax abatement;

(11) A requirement that the abatement recipient's chief financial officer, or the officer's designee, on or before January 1 of each year that the agreement is in effect, provide the director an affidavit that the recipient is and has been in compliance in the prior year with all agreement provisions;

(12) A requirement that the abatement recipient's chief financial officer, or the officer's designee, who cannot make the affidavit required by item (11) of this section on any January 1 shall provide the director with a written statement identifying any provision of the agreement with which the abatement recipient is or has not been in full compliance;

(13) A provision that failure by the abatement recipient's chief financial officer, or the officer's designee, to timely provide the director with either the affidavit required by item (11) of this section or the statement required by item (12) of this section will result in automatic default under the agreement for which no notice of default or opportunity to cure shall be required; and

(14) A provision that the city may amend the agreement in lieu of termination pursuant to section 44-134(d) of this Code.

Sec. 44-129. Brownfield development abatement authorized.

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

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

(1) Located in a reinvestment zone;

(2) Not an improvement project financed by tax increment bonds; and

(3) 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 at any time during the term of an abatement agreement 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) of this section.

Sec. 44-130. Agreement for brownfield development abatement.

Upon designation of a reinvestment zone, the city may 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 this article;

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

(4) The proposed use 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;

(7) A requirement that property in a reinvestment zone that is owned or leased at any time during the term of an abatement agreement by a member of the city council or by a member of the city planning commission is ineligible for and excluded from tax abatement;

(8) A requirement that the abatement recipient's chief financial officer, or his or her designee, on or before January 1 of each year that the agreement is in effect, provide the director an affidavit that the recipient is and has been in full compliance with all agreement provisions;

(9) A requirement that the abatement recipient's chief financial officer who cannot make the affidavit required by item (8) of this section on any January 1 shall provide the director with a written statement identifying any provision of the agreement with which the abatement recipient is or has not been in compliance;

(10) A provision that failure by the abatement recipient's chief financial officer, or rthe officer's designee, of an abatement recipient to timely provide the director with either the affidavit required by item (8) of this section or the affidavit required by item (9) of this section will result in automatic default under the agreement for which no notice of default or opportunity to cure shall be required; and

(11) A provision that the city may amend the agreement in the event of default or in lieu of termination pursuant to section 44-134(d) of this Code.

Sec. 44-131. Leadership in Energy and Environmental Design (LEED®) tax abatement.

If the owner of a new or refurbished commercial facility has registered with the U.S. Green Building Council ("USGBC") seeking LEED Certification, then the Mayor's Office of Economic Development or a successor may recommend approval by the city council of a partial tax abatement for the incremental investment associated with obtaining such certification. The agreement shall be effective up to 10 years, at a percentage based upon the level of certification actually obtained after completion of construction or refurbishment:

(1) LEED Certification Level and "Imputed LEED-Related Value Increment:"

a.	Basic "Certified" Level	1.0%
b.	Silver Level	2.5%
c.	Gold Level	5.0%
d.	Platinum Level	10%

(2) The minimum value increase requirement derived from the "Imputed LEED-Related Value Increment" to meet eligibility test is $100,000.

(3) This type of tax abatement may be a stand-alone abatement or part of a standard economic development tax abatement. When an applicant seeks only a LEED Certification tax abatement, no job creation target will be required in order to qualify. The investment requirement will be at least $1 million for a commercial structure with Platinum LEED Certification, and at least $10 million for a commercial structure with Basic Certification (assumes percentages from preceding table and minimum value increase of $100,000).

(4) The applicant must register with USGBC seeking LEED Certification prior to submitting its application to the city.

(5) The application for a LEED Certification tax abatement must be submitted to the city prior to commencing construction or refurbishment of the applicable development.

(6) The agreement shall become effective in the year the application is approved by the city council and may remain in effect up to 10 years. The tax abatement benefit (i.e., partial exemption of value from ad valorem taxes) shall not commence until construction or refurbishment of the project is completed and LEED Certification is obtained by the applicant.

The value of the tax abatement shall be calculated on the appraised value after LEED Certification is obtained.

Sec. 44-132. Deteriorated/demolished property abatement authorized.

(a) *Creation.* A property tax abatement program may be granted for deteriorated/demolished properties that meet the requirements of this section.

(b) *Authorized facility.* A facility shall be eligible for abatement if:

(1) It is a deteriorated/demolished property;

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

(3) It is constructed pursuant to and in compliance with a valid building permit issued by the city;

(4) Construction has not commenced prior to the application for abatement; and

(5) It is not a facility eligible for economic development abatement pursuant to section 44-127 of this Code.

(c) *Eligible property.* The following types of property are eligible for deteriorated/demolished property abatement:

(1) Buildings;

(2) Structures;

(3) Fixed machinery and equipment; and

(4) Site improvements.

(d) *Ineligible property.* The following types of property are ineligible for deteriorated/demolished property abatement:

(1) Land;

(2) The value of improvements on deteriorated/demolished properties prior to demolition;

(3) Residential facilities containing four or fewer dwelling units per structure other than a deteriorated/demolished property redevelopment;

(4) Modernization;

(5) Inventory;

(6) Supplies;

(7) Tools;

(8) Vehicles, vessels and aircraft;

(9) Deferred maintenance investments;

(10) 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;

(11) Property that is owned or leased at any time during the term of an abatement agreement by a member of city council or by a member of the city planning commission; and

(12) Property receiving a historic site exemption as provided in section 44-29 of this Code.

(e) *Value and term of the abatement.* Abatement shall be granted effective upon the January 1 valuation date following the year in which the owner receives a final certificate of occupancy for the improvements constructed on the property. Absent extraordinary conditions as determined by the director in the exercise of his or her professional judgment, the amount of abatement shall not exceed 90% for properties located in a target area and shall not exceed 50% for properties not located in a target area.

(f) *Economic qualifications.* To be eligible for abatement, the planned new improvement shall:

(1) Provide an economic benefit to the city, taking into consideration all relevant factors, including the impact of the new improvements on the neighborhood in which the property is located; and

(2) Be reasonably expected to increase the value of the real deteriorated/demolished property by the lesser of $1,000,000 or 1.5 x the value of the demolished improvements on the deteriorated/demolished property.

(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 (j) of section 44-127 of this Code.

Sec. 44-133. Agreement for deteriorated/demolished property abatement.

Upon designation of a reinvestment zone, the city may enter into an agreement with the owner of the facility to be constructed on the deteriorated/demolished property. The agreement shall include:

(1) The estimated value to be abated;

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

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

(4) 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;

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

(6) A requirement that property that is owned or leased at any time during the term of an abatement agreement by a member of the city council or by a member of the city planning commission is ineligible for and excluded from tax abatement; and

(7) A provision that the city may amend the agreement in the event of default or in lieu of termination pursuant to section 44-134(d) of this article.

Sec. 44-134. Default; recapture.

(a) *Event of default.* The abatement recipient shall be in default under the agreement if any of the following occur at any time during the term of the agreement:

(1) A 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 other than fire, explosion, or other casualty or accident or natural disaster;

(2) The abatement recipient fails to comply timely with job creation or investment requirements pursuant to the agreement;

(3) The abatement recipient fails to comply timely with any material term of the agreement;

(4) The abatement recipient fails to timely file any required report or statement or to timely give any required notice pursuant to the agreement; or

(5) Employees or designated representatives of the city determine pursuant to an inspection under section 44-135 of this Code that the abatement recipient has not complied with the agreement.

(b) *Notice.*

(1) If the director determines that an event of default has occurred, 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 30 days after the date of the notice, then the city may take any one or more of the actions set forth in subsection (d) of this section. Provided, however, that the city shall only be required to give a 30-day notice of default for failure to comply with job creation or investment requirements. The abatement recipient's failure to comply with job creation or investment requirements is an "incurable default." Within the 30-day notice period, the abatement recipient shall be entitled to question the accuracy of the city's determination of the incurable default but shall not be entitled to cure the default. After the 30-day notice period, if the city concludes that its determination of the incurable default is correct ("noticed incurable default"), then the city shall be entitled to pursue any one or more of the remedies set forth in subsection (d) of this section.

(2) If the abatement recipient is in default under subsection (a) of this section, the abatement recipient shall notify the city within 30 days after the default and if the default is one that can be cured hereunder (and is not an incurable default), such default shall be cured within 30 days following the date of the notice of default. If the abatement recipient fails to cure such curable default within the 30-day period, then the city may pursue any one or more of the remedies listed in subsection (d) hereof.

(c) *Cure.* In curing an event of default based on any of the items set forth in subsection (a) of this section , and assuming such event of default is curable and is not an incurable default, the abatement recipient shall provide sufficient evidence to the director that the default has been cured within 30 days following the date of the notice of default. Sufficient evidence shall include the providing of the information not timely provided and/or providing evidence of the completion of the act(s) not timely performed. The city shall have the right to ask for additional information to confirm the adequate cure of any default.

(d) *City remedies for default.*

(1) In the event of a noticed incurable default or a curable default that has not been cured after notice and an opportunity to cure, no tax abatement shall be allowed for the calendar year in which the default occurs (and thereafter), and the city shall have the right to pursue any one or more of the following remedies: terminate the agreement; terminate the abatement

recipient's right to any future abatement under the agreement without terminating the agreement; pursue any and all remedies allowed under the abatement agreement; and pursue any and all remedies allowed under Texas law;

(2) In addition to the foregoing, in the event of a noticed incurable default or a curable default that has not been cured after notice and an opportunity to cure, the city, in its sole discretion, may recover all or any part of the taxes abated at any time under the agreement. The abatement recipient shall pay all taxes to the city within 30 days after the city's written demand therefore. Any taxes not paid timely shall bear interest at the rate of 12% annually;

(3) Notwithstanding the foregoing, the director and the city attorney are hereby authorized to negotiate and enter into amendments and revisions to agreements under which there are noticed incurable defaults or curable defaults that have not been cured after notice and opportunity to cure. In the foregoing circumstances, the parties are also authorized to negotiate and enter into any other and further agreements they determine best protect the city's interests; and

(4) The city's right and authority to pursue any default and to recover abated taxes under this section shall survive the amendment, revision, expiration, or termination of any tax abatement agreement.

Sec. 44-135. 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 of the city and/or designated representatives will have full access to the reinvestment zone both during and after the expiration or termination of the term of the abatement agreement in order to inspect the facility and shall have full access to any and all abatement recipient records related to the agreement to determine, by audit or otherwise, that the abatement recipient is (or has been) in full 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 safety standards.

Sec. 44-136. Assignment.

An agreement may be assigned to a new owner or lessee of the facility with the written consent of the director, which consent shall not be unreasonably withheld. If the proposed assignee is an affiliated entity of the assignor, then the director may consent to an assignment if the assignor is in compliance with all terms of the agreement. Any assignment of the agreement shall not relieve the assignor of continuing liability under the agreement unless specifically agreed to in a writing signed by both the director and the city attorney. 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.

Sec. 44-137. Sunset provision.

These guidelines and criteria for tax abatement are readopted and will expire on _____,[1] 2020. 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. The expiration of these guidelines shall not affect the validity or enforceability (for the full term thereof) of any agreement entered into when these guidelines were in effect.

[1] City Secretary to insert month and day of effective date of ordinance.

Chapter 44

TAXATION

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ARTICLE IV. TAX ABATEMENT

Sec. 44-120. Preamble—General policy and program requirements.

(a) The City of Houston Tax Abatement Program is created to encourage new development and the growth of existing development and to stimulate new job growth and investment in the city. The tax abatement program and other forms of economic development incentives are available to many types of businesses to address the city's economic development needs and objectives stated in this general policy and pursuant to the provisions of this article.

The city's principal economic development tools should be maintenance of the city's natural competitive advantages and provision of detailed information concerning the city's advantages compared to those of other ~~sites~~ cities for potential relocation of all or substantial portions of various businesses. For a wide variety of businesses and professional firms, Houston rarely should be at a cost disadvantage relative to large urban centers, particularly those outside of Texas.

The city and its metropolitan area offer significant competitive advantages and cost savings to businesses seeking to locate or expand in our region. These advantages include:

(1) A large, growing workforce with abundant skills appropriate for all levels of an organization;

(2) An affordable cost of living, which makes Houston attractive to workers and makes our personnel costs more competitive than most major urban areas;

(3) An abundance of buildable sites and relatively low cost of occupancy compared to other major urban centers in the United States, especially those outside of Texas; and

(4) A superb transportation infrastructure, including the Port of Houston, the Houston Airport System, and central locations for distribution by truck, rail, and water.

The city, however, will from time to time consider appropriate economic incentives for the relocation, expansion or retention of businesses, whether intellectual capital or fixed asset-based, to the extent these incentives would be the critical element that would govern a decision to relocate or expand a business here. Incentives might include tax

abatements, as described in these guidelines and criteria, or another appropriate form of incentive, such as expedited permitting for a development project or investment in infrastructure that would be useful in developing a particular site, which could include investments enhancing transportation, water and sewer services or other public infrastructure. Such improvements benefit not only the affected business but also the larger community.

Incentives other than tax abatement might be funded through accelerated capital improvements plan action or special district financing such as tax increment financing, special assessment financing, or in-city municipal utility districts. The city could also consider beneficial land exchanges, right-of-way abandonment, or below-market financing or leases on public property that could provide mutual benefit to the city and the proposed development. Any offer of such an incentive would be reviewed case-by-case to determine eligibility and compliance with all applicable laws.

To assist the city in obtaining an equitable portion of state economic development funds, the city will consider applications for tax abatements that trigger some level of State economic development assistance. The Houston region contributes about one-quarter of the funds to the State of Texas' general revenues. In turn, a proportionate share of the State's economic development budget is attributable to the Houston region. If allocated over time equitably among the regions of the State in proportion to the employment and financial contributions to State revenues, these funds should provide funding for economic incentives for corporate relocations and expansions in our region, when combined with the other substantial advantages for economic growth in our region.

It is the goal of the city that local taxing jurisdictions in our region should not use ad valorem tax abatement to compete against each other for business relocations or expansions. It should be recognized that the attraction of new businesses to any part of our region strengthens our overall region and the people in it.

Officials at the city, at the most senior level, will meet at any time with the person who is ultimately responsible for making a decision to relocate or to expand to address specific economic or other issues that would be decisive in corporate location. The city would negotiate in a business-like manner on a case-by-case basis. There is no "standard" tax abatement, and no entity or individuals other than a designated city officials ~~are~~ is authorized to negotiate with respect to any tax abatement proposal or incentive that might be available on a case-by-case basis.

Typically, city officials would want to see pro forma financial information to assist in making judgments concerning the role of property tax costs in the economics of the relocation. The city understands that for many businesses some incremental amount of ad valorem taxes would not represent a substantial percentage of the cost of goods sold. Other incentives, as referenced above, may be discussed with city officials.

(b) Tax abatements may be used in special situations, subject to the guidelines and criteria described herein. Examples of special situations include:

(1) The location of a high-employment facility in a particularly distressed or neglected part of the city, where increased job opportunities could contribute significantly to a reduction in crime or cascading redevelopment of other sites, which would more than offset the loss of the tax benefit;

(2) A substantial equity investment in real estate development serving an important public purpose, such as providing affordable housing that could lead to redevelopment of a blighted area or attracting additional development; ~~or~~

(3) A case in which a company could not and would not remain, expand or locate in Houston, because of another viable option that took into account all significant costs. Any representation by the company would need to be supported by credible economic analysis in a direct communication between the mayor or other appropriate senior official and the private sector decision maker; or

(4) The property, if abated, will be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment that would be a benefit to the property and the larger community and that would contribute to the economic development of the city.

(c) Subject to this general policy, when tax abatements are available, they would be offered as described in the guidelines and criteria set forth in this article, with the following general limits and guidelines:

(1) For typical commercial and industrial tax abatements, the city would negotiate an abatement scale and duration based primarily on investment level, rather than jobs. Each project would be evaluated and the incentive tailored to an analysis based on factors such as industry competitive disadvantages, quantifiable economic impacts, and furthering other public purposes in unique ways. An applicants would be required to submit an economic impact analysis from reliable modeling tools. Depending on an analysis of such factors and data, the city would evaluate the appropriate level and duration of abatement;

(2) Reduced investment requirements and flexible abatement scales could be available for tax abatements within state enterprise zones, or eligible new markets tax credits census tracts, bank finance districts, and other non-city incentives that require local matching. This aspect of the program would emphasize encouraging access to other local, state and federal incentives to leverage the city abatement incentive;

(3) The city will require applicants to commit to providing enhanced community benefits as a condition to tax abatement incentive benefit. The enhanced community benefit may include ~~give more favorable consideration to~~

~~applicants committing to~~ employment and development of ~~community benefits~~ programs that strengthen local communities, such as the city's Minority and Women-Owned and Disadvantaged Business Enterprise Programs, local purchasing, construction and redevelopment within underserved communities or other identified areas that would see a greater benefit or return on investment in the area, ~~and~~ the creation of permanent employment and full-time job opportunities within ~~a~~ those defined areas, jobs that include employee health care benefits, and other ~~examples, as follows:~~ endeavors that can be shown to bring a wider reaching, long-term economic benefit to the communities where the activity or enterprise will be located, and to the city overall. Table 44-1 below includes the types of activities and benefits the city will give the most weight to, though others not on the list may be considered by the Mayor's Office of Economic Development. Applications for tax abatement must include one or more of the items listed in Table 44-1.

Table 44-1

1	Local, Community Job Recruitment
2	Non-Business benefitting public improvements
3	Crime Prevention Through Environmental Design (CPTED)
4	Affordable Housing
5	Workforce Housing
6	~~Creation of~~ Job Training for Entry or Mid-Skill Level Jobs
7	Participation in Job Reentry ~~Job~~ Programs (other than the City of Houston's Community Re-Entry Network Program)
8	Paid Internships for Low Income Students

(4) In addition, the city will require applicants to provide evidence they will:

a. Advertise new job postings with the City of Houston's Community Re-Entry Network Program;

b. Provide construction workers with a minimum of 10-hours of OSHA-approved safety training;

c. Require general contractors to employ a safety representative with a minimum of 30 hours of OSHA-approved supervisor safety training on each construction site;

d. Make good faith efforts to ensure that a minimum of 25 percent of the total labor force for construction and non-construction job requirements is obtained by hiring individuals who live in a census tract with an average income lower than that of the city average,

based on the most recent five-year American Community Survey estimate;

e. Make good faith efforts to ensure that a minimum of 25 percent of the total labor force for construction and non-construction job requirements is obtained by hiring individuals who live in the same census tract as the project, or who live in an adjacent census tract, for a tax abatement agreement described in subsection (c)(8) of this section where the project is located in, or adjacent to, a census tract described in subsection (c)(4)d above; and

f. Make good faith efforts to hire and employ a minimum of 30 percent of its construction workforce from local Department of Labor-certified apprenticeship programs.

(5) All contracts and subcontracts for public infrastructure, or for other public improvements that are to be conveyed to the city upon completion, shall contain requirements for compliance with governing statutes and local requirements on labor classification of wage scales for each craft or type of laborer, worker, or mechanic.

(6) Contractors and subcontractors will be subject to audits and inspections of payroll records to ensure compliance with the requirements of this chapter.

(7) Qualifying residential projects or projects with a qualifying residential component will be required to develop and commit 20 percent or more of the project residential units for residents with income levels between 30 percent and 120 percent of area median income for the duration of the tax abatement agreement.

(8) An enhanced abatement for no more than 10 years and up to 90% may be considered for:

a. Targeted industry clusters specifically targeted for future growth, for example, aviation, biotechnology, information technology, aerospace, energy, or other industries that the city from time to time determines to have a particular beneficial impact on the regional economy;

b. New or expanding businesses (for example, retail, industrial, commercial) in neighborhood areas targeted for revitalization (for example, Houston Hope areas or other distressed or neglected parts of the city); and

c. Transit-oriented development within 1,500 feet of transportation corridors, such as existing and planned Metro rail stops, multi-modal centers, and bus transfer stations.

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 tangible personal property located on the real 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.

Brownfield facility means real property or tangible personal property located on the real property used as an authorized facility as provided in sections 44-129 and 44-130 of this Code.

Competitive siting means evidence that the applicant has studied competing locations for expansion, relocation, or new operations to evaluate operating cost differentials and incentives available, excluding, however, locations in taxing jurisdictions with which the city has an agreement not to compete for projects by offering financial incentives.

Complete community means an area designated as such by the city or the mayor in order to focus civic, business, and philanthropic resources on community needs as identified by the residents and larger community, such as housing, parks and environmental, economic, health, educational, mobility and infrastructure, and other social services, projects, or programs.

Contract employee means an individual who is not a permanent employee or an affiliate 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.

Deteriorated/demolished property means any real property located in a reinvestment zone designated pursuant to ~~paragraphs~~ item (1), (2), or (3) of

~~sub~~section 44-122(d) of this Code, and on which improvements subject to an order and any extensions granted by the ~~D~~department of ~~N~~neighborhoods were declared dangerous or were demolished not more than one year before the date that a complete application for tax abatement is filed, and pursuant to a permit for demolition issued by the city with which the owner complied, and on which the owner has filed with the city an application for a building permit to construct new improvements ~~on the demolished property~~ no later than one year after the date that a complete application for tax abatement was filed.

Deteriorated/demolished property redevelopment means a residential facility with structures containing four or fewer dwelling units per structure constructed as part of a unified plan on contiguous property comprising at least one existing block.

Director means the mayor, or the person designated by the mayor to administer these guidelines and criteria.

Dwelling unit means a structure, or a portion of a structure, that has independent living facilities including provisions for non-transient sleeping, cooking and sanitation.

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 a 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 or expansion, that together comprise an integral whole.

Full-time equivalent means a job that is equivalent to 1,750 hours of work annually performed in the reinvestment zone by one or more Ccontract employees or ~~P~~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.

Mixed-use facility means a facility used or to be used for more than one of the types of facilities defined in this section.

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 lower 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 construction, alteration or installation for the purpose of reconditioning, refurbishing or repairing to meet local, state, or federal regulations shall not be considered modernization.

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

Order means an order issued by the city pursuant to article IX of chapter 10 of this Code requiring the improvements on property to be demolished.

Other basic industry facility means buildings and structures, including fixed machinery and equipment not elsewhere described, that meet the economic development objectives of the general policy stated in section 44-120 of this Code.

Owner means the person or entity responsible for paying property taxes on taxable real property or tangible personal property located on the real property or an interest therein including one or more leasehold interests.

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

Permanent employee means an individual who is an employee of the abatement recipient or an affiliate of the abatement recipient, works a minimum of 35 hours in a seven-day period, and reports to work in the reinvestment zone, excluding any ~~C~~contract employee, seasonal employee or ~~P~~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, including but not limited to 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 facility means one or more buildings and structures, including machinery and equipment, used or to be used primarily for living, sleeping, cooking and eating, that are intended to be used or occupied as dwelling places whether or not attached.

Retail facility means buildings and structures, including machinery and equipment, used or to be used primarily for the sale or service of goods or foods to consumers.

Target area means an area that qualifies for Texas Enterprise Zone~~s~~ designation pursuant to the Texas Enterprise Zone Act.

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 ~~s~~Subchapter S, Chapter 361, Texas Health & Safety Code.

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~~ may 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 or undeveloped 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 the larger community 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 any existing agreements entered into pursuant to sections 44-128, 44-130, or 44-133 of this Code.

Sec. 44-123. Abatement application.

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

(b) The application shall consist of a complete application form accompanied by a $1,000.00 nonrefundable application fee and:

(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;

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

(6) Financial information ~~may include documents~~ including but not limited to items (i) demonstrating the role of property tax costs in the economics of the proposed improvements; (ii) stating concisely the amounts and sources of financing for the proposed improvements, including all sources and terms of debt and equity financing; and (iii) demonstrating the overall financial impact of the proposed improvements on the local and regional economy, using reliable economic forecast modeling tools in such form as approved by the director;

(7) If the applicant is considering a location outside the city for the proposed improvements, evidence of abatement or other financial incentive from other local, state, or federal governmental entities; and

(8) A statement describing how the proposed improvements are consistent with the general policy stated in section 44-120 of this Code.

(c) The complete application for an economic development abatement must also include:

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

(2) If the applicant is considering a location outside the city for the project, information regarding the project's competitive siting, including written evaluation of competing locations for expansion, relocation, or new operations, including identification of specific sites in those locations;

(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 tangible personal property; and

(d) The complete application for a brownfield development abatement shall consist of a complete 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.

(e) The complete application for a deteriorated/demolished property abatement shall consist of a complete application form accompanied by a $1,000.00 nonrefundable application fee; and~~:~~

(1) The information required by paragraphs (1) through (5) of ~~subsection 44-123~~(b) of this ~~Code~~ section;

(2) A copy of the order;

(3) A copy of the demolition permit issued by the city for the demolition of the improvements subject to the order;

(4) Photographs showing the current conditions of the deteriorated/demolished property.

(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.

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.

Sec. 44-125. Variances.

Requests for a variance from any of the provisions of these guidelines and criteria shall be made in writing to the director; provided however, the total duration of an abatement shall in no instance exceed ten years, or such other limitation on duration as provided by applicable law. 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 is consistent with the general policy of section 44-120 of this Code. If the city council finds that the application meets the economic development objectives of these guidelines, then the city council may approve a request for variance by a ~~majority~~ three-fourths vote of the city council members present.

Sec. 44-126. Public hearing and approval.

(a) Prior to entering into an agreement, the city council ~~may, at its option,~~ shall 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 the tax base; and

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

Sec. 44-127. Economic development abatement authorized.

(a) *Authorized facility.* A facility is eligible for economic development abatement if it is a manufacturing facility, mixed-use facility, regional distribution center facility, regional service facility, regional entertainment facility, research facility, research and development facility, residential facility, retail 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 the 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<u>, including inventory purchased after the effective date of a tax abatement agreement under this article, for logistics, distribution, or manufacturing facility, with the exception of inventory of natural gas, fluids or gases, or crude petroleum products that are not integral to the operation of the facility</u>.

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

(1) Land;

~~(2) Inventory;~~

(~~3~~2) Supplies;

(~~4~~3) Tools;

(~~5~~4) Vehicles, vessels and aircraft;

(~~6~~5) Property receiving a historic site exemption as provided in section 44-29 of this Code;

(~~7~~6) Deferred maintenance investments;

(~~8~~7) Improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion;

(~~9~~8) Any improvements, including those to produce, store or distribute natural gas, fluids or gases, that are not integral to the operation of the facility;

(~~10~~9) Any improvements that are not integral to the operation of the facility;

(~~11~~10) 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

(~~12~~11) Property that is owned or leased at any time during the term of an abatement agreement by a member of city council or by a member of the city planning commission.

(f) *Value and term of the abatement.* Abatement may be granted effective upon the January 1 valuation date immediately following the effective date of the agreement or such later date upon which the parties may agree. On or before reaching the agreed date, the parties may agree, by mutual consent, to terminate the agreement, subject to approval by the city council. Projects (other than modernizations) that meet these guidelines and criteria are eligible for abatement on the value of the new properties in an amount and for a duration based on an analysis of factors such as industry competitive disadvantages, quantifiable economic impacts, and furthering other public purposes in unique ways. Depending on an analysis of such factors and data, the director will evaluate and make a recommendation for approval by the city council of the appropriate amount and duration of abatement. In no case, however, shall the period of abatement 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).

(g) *Economic qualifications.* Except as provided in subsections (h), (i), and ~~(i)~~ (j) of this section, to be eligible for 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 real or tangible personal property in the amount of $1,000,000 for deteriorated/demolished property redevelopment or $5,000,000 for other development, including commercial, 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 includes property described under the provisions of section 44-127 of this Code and (i) is located in an area designated as an enterprise zone and the city has not created a reinvestment zone or (ii) is an authorized facility that meets the criteria established for a qualified business pursuant to the Texas Enterprise Zone Act, 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; and

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

(i) *Economic qualifications in a Complete Community.* If the property includes property described under the provisions of section 44-127 of this Code and is located in an area designated as a complete community, to be eligible for tax abatement the planned improvement shall:

(1) Be reasonably expected to increase the value of the real or tangible personal property in the amount of $500,000 for deteriorated/demolished property redevelopment or $1,000,000 for other development, including commercial, upon completion of construction; and

(2) Be expected to create permanent employment for at least five people on a permanent basis beginning three years after the effective date of abatement and continuing through the remaining term of the agreement.

(j) *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 $1,000,000.00 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)~~(k) *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 subsection ~~44-127~~(e) of this ~~Code~~ section 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 44-127(f) of this Code section.

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

Upon designation of a reinvestment zone, the city may enter into an agreement that 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 of all previously abated taxes, 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 Ppermanent employees to be retained or created and total Ffull-time equivalent jobs to be retained or created;

(7) A requirement that the abatement recipient, on or before not later than February 1 of each year the tax abatement agreement is in effect, provide the director an affidavit that includes a delineation of the number of Ppermanent employees, Ccontract employees and Ppart-time employees of the abatement recipient as of the immediately preceding December 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 appropriate form with the appropriate county appraisal district to qualify for the abatement;

(9) A provision that Ccontract employees and Ppart-time employees may be used to comply with the abatement recipient's contractual obligation to create/retain jobs on a Ffull-time equivalency basis for any number of jobs; provided that Ffull-time equivalent jobs shall only be used to satisfy the abatement recipient's contractual obligation if the abatement recipient maintains a minimum of 25 Ppermanent employees who work on the project within the reinvestment zone;

(10) A requirement that property in a reinvestment zone that is owned or leased at any time during the term of an abatement agreement by a member of the

city council or by a member of the city planning commission is ineligible for and excluded from tax abatement;

(11) A requirement that the abatement recipient's chief financial officer, or ~~his or her~~ the officer's designee, on or before January 1 of each year that the agreement is in effect, provide the director an affidavit that the recipient is and has been in compliance in the prior year with all agreement provisions;

(12) A requirement that the abatement recipient's chief financial officer, or ~~his or her~~ the officer's designee, who cannot make the affidavit required by item (11) of this section on any January 1 shall provide the director with a written statement identifying any provision of the agreement with which the abatement recipient is or has not been in full compliance;

(13) A provision that failure by the abatement recipient's chief financial officer, or ~~his or her~~ the officer's designee, to timely provide the director with either the affidavit required by item (11) of this section or the statement required by item (12) of this section will result in automatic default under the agreement for which no notice of default or opportunity to cure shall be required; and

(14) A provision that the city may amend the agreement in lieu of termination pursuant to section 44-134(d) of this ~~article~~ Code.

Sec. 44-129. Brownfield development abatement authorized.

(a) *Creation.* A property tax abatement program is hereby created for brownfield 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 brownfield development abatement if it is real property or tangible personal property located on real property that is:

(1) ~~is l~~Located in a reinvestment zone;

(2) ~~is n~~Not an improvement project financed by tax increment bonds; and

(3) ~~is t~~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 at any time during the term of an abatement agreement 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) of this section.

Sec. 44-130. Agreement for brownfield development abatement.

Upon designation of a reinvestment zone, the city may 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 this article;

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

(4) The proposed use of the facility as indicated on the certificate of completion issued pursuant to ~~s~~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;

(7) A requirement that property in a reinvestment zone that is owned or leased at any time during the term of an abatement agreement by a member of the city council or by a member of the city planning commission is ineligible for and excluded from tax abatement;

(8) A requirement that the abatement recipient's chief financial officer, or his or her designee, on or before January 1 of each year that the agreement is in effect, provide the director an affidavit that the recipient is and has been in full compliance with all agreement provisions;

(9) A requirement that the abatement recipient's chief financial officer~~, or his or her designee,~~ who cannot make the affidavit required by item (8) of this section on any January 1 shall provide the director with a written statement identifying any provision of the agreement with which the abatement recipient is or has not been in compliance;

(10) A provision that failure by the abatement recipient's chief financial officer, or ~~his or her~~ the officer's designee, of an abatement recipient to timely provide the director with either the affidavit required by item (8) of this section or the affidavit required by item (9) of this section will result in automatic default under the agreement for which no notice of default or opportunity to cure shall be required; and

(11) A provision that the city may amend the agreement in the event of default or in lieu of termination pursuant to section 44-134(d) of this ~~article~~ Code.

Sec. 44-131. Leadership in Energy and Environmental Design (LEED®) tax abatement.

If the owner of a new or refurbished commercial facility has registered with the U.S. Green Building Council ("USGBC") seeking LEED Certification, then the ~~Economic Development Division of the City of Houston~~ Mayor's Office of Economic Development or a successor may recommend approval by the ~~C~~city ~~C~~council of a partial tax abatement for the incremental investment associated with obtaining such certification. The agreement shall be effective up to 10 years, at a percentage based upon the level of certification actually obtained after completion of construction or refurbishment:

(a1) LEED Certification Level and "Imputed LEED-Related Value Increment:"

~~(1)~~a.	Basic "Certified" Level	1.0%
~~(2)~~b.	Silver Level	2.5%
~~(3)~~c.	Gold Level	5.0%
~~(4)~~d.	Platinum Level	10%

(~~b~~2) The minimum value increase requirement derived from the "Imputed LEED-Related Value Increment" to meet eligibility test is $100,000.

(~~c~~3) This type of tax abatement may be a stand-alone abatement or part of a standard economic development tax abatement. When an applicant seeks only a LEED Certification tax abatement, no job creation target will be required in order to qualify. The investment requirement will be at least $1 million for a commercial structure with Platinum LEED Certification, and at least $10 million for a commercial structure with Basic Certification (assumes percentages from preceding table and minimum value increase of $100,000).

(~~d~~4) The applicant must register with USGBC seeking LEED Certification prior to submitting its application to the city.

(~~e~~5) The application for a LEED Certification tax abatement must be submitted to the city prior to commencing construction or refurbishment of the applicable development.

(~~f~~6) The agreement shall become effective in the year the application is approved by the city council and may remain in effect up to 10 years. The tax abatement benefit (i.e., partial exemption of value from ad valorem taxes) shall not commence until construction or refurbishment of the project is completed and LEED Certification is obtained by the applicant. The value of the tax abatement shall be calculated on the appraised value after LEED Certification is obtained.

Sec. 44-132. Deteriorated/demolished property abatement authorized.

(a) *Creation.* A property tax abatement program may be granted ~~is hereby created~~ for deteriorated/demolished properties that meet the requirements of this section.

(b) *Authorized facility.* A facility shall be eligible for abatement if:

(1) It is ~~located on~~ a deteriorated/~~blighted~~ demolished property ~~as defined in section 44-121 of this Code~~;

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

(3) It is constructed pursuant to and in compliance with a valid building permit issued by the city;

(4) Construction has not commenced prior to the application for abatement; and

(5) It is not a facility eligible for economic development abatement pursuant to section 44-127 of this Code.

(c) *Eligible property.* The following types of property are eligible for deteriorated/demolished property abatement:

(1) Buildings;

(2) Structures;

(3) Fixed machinery and equipment; and

(4) Site improvements.

(d) *Ineligible property.* The following types of property are ineligible for deteriorated/demolished property abatement:

(1) Land;

(2) The value of improvements on deteriorated/demolished properties prior to demolition;

(3) Residential facilities containing four or fewer dwelling units per structure other than a deteriorated/demolished property redevelopment;

(4) Modernization;

(5) Inventory;

(6) Supplies;

(7) Tools;

(8) Vehicles, vessels and aircraft;

(9) Deferred maintenance investments;

(10) 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~~

(11) Property that is owned or leased at any time during the term of an abatement agreement by a member of city council or by a member of the city planning commission; and

(12) Property receiving a historic site exemption as provided in section 44-29 of this Code.

(e) *Value and term of the abatement.* Abatement shall be granted effective upon the January 1 valuation date following the year in which the owner receives a final certificate of occupancy for the improvements constructed on the property. Absent extraordinary conditions as determined by the director in the exercise of his or her professional judgment, the amount of abatement shall not exceed 90% for properties located in a target area and shall not exceed 50% for properties not located in a target area.

(f) *Economic qualifications.* To be eligible for abatement, the planned new improvement shall:

(1) Provide an economic benefit to the city, taking into consideration all relevant factors, including the impact of the new improvements on the neighborhood in which the property is located; and

(2) Be reasonably expected to increase the value of the real deteriorated/demolished property by the lesser of $1,000,000 or 1.5 x the value of the demolished improvements on the deteriorated/demolished property.

(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 (j) of section 44-127 of this Code.

Sec. 44-133. Agreement for deteriorated/demolished property abatement.

Upon designation of a reinvestment zone, the city may enter into an agreement with the owner of the facility to be constructed on the deteriorated/demolished property. The agreement shall include:

(1) The estimated value to be abated;

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

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

(4) 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;

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

(6) A requirement that property that is owned or leased at any time during the term of an abatement agreement by a member of the city council or by a member of the city planning commission is ineligible for and excluded from tax abatement; and

(7) A provision that the city may amend the agreement in the event of default or in lieu of termination pursuant to section 44-134(d) of this article.

Sec. 44-134. Default; recapture.

(a) *Event of ~~D~~default.* The abatement recipient shall be in default under the agreement if any of the following occur at any time during the term of the agreement:

(1) A 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 other than fire, explosion, or other casualty or accident or natural disaster;

(2) The abatement recipient fails to comply timely with job creation or investment requirements pursuant to the agreement;

(3) The abatement recipient fails to comply timely with any material term of the agreement;

(4) The abatement recipient fails to timely file any required report or statement or to timely give any required notice pursuant to the agreement; or

(5) Employees or designated representatives of the city determine pursuant to an inspection under section 44-135 of this Code that the abatement recipient has not complied with the agreement.

(b) *Notice.*

(1) If the director determines that an event of default has occurred, 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 30 days ~~from~~ after the date of the notice, then the city may take any one or more of the ~~following~~ actions set forth in subsection (d) of this section ~~44-134~~. Provided, however, that the city shall only be required to give a 30-day notice of default for failure to comply with job creation or investment requirements. The abatement recipient's failure to comply with job creation or investment requirements is an "incurable default." Within ~~such~~ the 30-day notice period, the abatement recipient shall be entitled to question the accuracy of the city's determination of the incurable default but shall not be entitled to cure ~~such~~ the default. After the 30-day notice period, if the city concludes that its determination of the incurable default is correct ("noticed incurable default"), then the city shall be entitled to pursue any one or more of the remedies set forth in subsection (d) of this section ~~44-134~~.

(2) If the abatement recipient is in default under subsection (a) of this section, the abatement recipient shall notify the city within 30 days ~~of~~ after the default and if the default is one that can be cured hereunder (and is not an incurable default), such default shall be cured within 30 days following the date of the notice of default. If the abatement recipient fails to cure such curable default within ~~such~~ the 30-day period, then the city may pursue any one or more of the remedies listed in subsection (d) hereof.

(c) *Cure.* In curing an event of default based on any of the items set forth in subsection (a) of this section ~~44-134~~, and assuming such event of default is curable and is not an incurable default, the abatement recipient shall provide sufficient evidence to the director that the default has been cured within 30 days following the date of the notice of default. Sufficient evidence shall include the providing of the information not timely provided and/or providing evidence of the completion of the act(s) not timely performed. The city shall have the right to ask for additional information to confirm the adequate cure of any default.

(d) *City ~~R~~remedies for ~~D~~default.*

(1) In the event of a noticed incurable default or a curable default ~~which~~ that has not been cured after notice and an opportunity to cure, no tax abatement shall be allowed for the calendar year in which the default occurs (and thereafter), and the city shall have the right to pursue any one or more of the following remedies: terminate the agreement; terminate the abatement recipient's right to any future abatement under the agreement without terminating the agreement; pursue any and all remedies allowed under the abatement agreement; and pursue any and all remedies allowed under Texas law;

(2) In addition to the foregoing, in the event of a noticed incurable default or a curable default ~~which~~ that has not been cured after notice and an opportunity to cure, the city, in its sole discretion, may recover all or any part of the taxes abated at any time under the agreement. The abatement recipient shall pay all ~~such~~ taxes to the city within 30 days ~~of~~ after the city's written demand therefore. Any taxes not paid timely shall bear interest at the rate of 12% annually; ~~and~~

(3) Notwithstanding the foregoing, the director and the city attorney are hereby authorized to negotiate and enter into amendments and revisions to agreements under which there are noticed incurable defaults or curable defaults ~~which~~ that have not been cured after notice and opportunity to cure. In the foregoing circumstances, the parties are also authorized to negotiate and enter into any other and further agreements they determine best protect the city's interests~~.~~; and

(4) The city's right and authority to pursue any default and to recover abated taxes under this section shall survive the amendment, revision, expiration, or termination of any tax abatement agreement.

Sec. 44-135. 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 of the city and/or designated representatives will have full access to the reinvestment zone both during and after the expiration or termination of the term of the abatement agreement in order to inspect the facility and shall have full access to any and all abatement recipient records related to the agreement to determine, by audit or otherwise, that the abatement recipient is (or has been) in full 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 safety standards.

Sec. 44-136. Assignment.

An agreement may be assigned to a new owner or lessee of the facility with the written consent of the director, which consent shall not be unreasonably withheld. If the proposed assignee is an affiliated entity of the assignor, then the director may consent to an assignment if the assignor is in compliance with all terms of the agreement. Any

assignment of the agreement shall not relieve the assignor of continuing liability under the agreement unless specifically agreed to in a writing signed by both the director and the city attorney. 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.

Sec. 44-137. Sunset provision.

These guidelines and criteria for tax abatement are readopted and will expire on _____, 2020~~18~~.[1] 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. The expiration of these guidelines shall not affect the validity or enforceability (for the full term thereof) of any agreement entered into when these guidelines were in effect.

[1] Editor to insert month and day of effective date of ordinance.