

**GSI Tax Abatement Ch. 44 Code Amendment  
Council Committee and Public Comment Blackline Draft – 11.19.20**

**This Draft for Discussion Purposes Only  
Not yet reviewed by the City Attorney or adopted by City Council**

**Chapter 44**

**TAXATION**

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**ARTICLE IV. TAX ABATEMENT**

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**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:

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*Design manual* has the meaning ascribed in section 42-1 of this Code.

*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.

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*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 contract employees or part-time employees.

*Green stormwater infrastructure* means infrastructure designed and constructed for stormwater management to minimize the downstream impacts of development while providing additional environmental, social, or ecosystem benefits or services, which may include mitigating risk of flooding, reducing heat island effect or other climate-related hazards, improving water quality, encouraging water conservation, restoring native ecosystems, creating economic growth, or addressing quality of life challenges.

*LEED* means Leadership in Energy and Environmental Design, a green building rating system developed by the USGBC that provides a framework and standard for green building design, construction, operations, and performance.

*LEED certification* means a Silver, Gold, or Platinum rating level certification obtained from USGBC.

*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

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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 commercial facility* means a new facility, other than a residential facility that consists of one structure containing four or fewer dwelling units, that is an authorized facility described in section 44-127(a) of this Code.

*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.

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*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.

*Project valuation* means, with respect to a facility that is eligible for a LEED tax abatement or a green stormwater infrastructure tax abatement, the total cost of construction to the owner, including the value of donated goods and services, but excluding the costs of, and the overhead attributed to, the acquisition of land.

*Qualifying census tract* means any population census tract where (1) the poverty rate for such tract is at least 20 percent; or (2) the median family income for such tract does not exceed 80 percent of the metropolitan area median family income for the Houston-The Woodlands-Sugar Land Metropolitan Statistical Area as defined by the Office of Management and Budget in the Executive Office of the President of the United States.

*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

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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 Zone 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 Subchapter S, Chapter 361, Texas Health & Safety Code.

*USGBC* means the U.S. Green Building Council.

**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.

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The city council may approve the creation of reinvestment zones on a zone-by-zone basis after a public hearing before the city council.

- (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;

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- 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~~ this article.

**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.

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- (b) The application shall consist of a complete application form accompanied by a ~~\$1,000.00~~ nonrefundable application fee in the amount stated for the applicable provision in the city fee schedule, subject to subsection (k) of this section, and, unless otherwise provided herein:
- (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 shall consist of a complete application form accompanied by a nonrefundable application fee in the amount stated for this provision in the city fee schedule and ~~must also include:~~



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- (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 a nonrefundable application fee in the amount stated for this provision in the city fee schedule and:
- (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 in the amount stated for this provision in the city fee schedule; and
- (1) The information required by items (1) through (5) of subsection (b) of this section;
  - (2) A copy of the order;

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- (3) A copy of the demolition permit issued by the city for the demolition of the improvements subject to the order; and
- (4) Photographs showing the current conditions of the deteriorated/demolished property.
- (f) The complete application for a LEED tax abatement shall consist of a complete application form accompanied by a nonrefundable application fee in the amount stated for this provision in the city fee schedule and:
  - (1) The information required by items (1) through (5) of subsection (b) of this section;
  - (2) A project valuation for the new commercial facility for which the applicant is seeking a tax abatement; and
  - (3) Documentation that the applicant has registered with USGBC seeking LEED certification for the new commercial facility for which it is seeking a tax abatement.
- (g) The complete application for a green stormwater infrastructure tax abatement shall consist of a complete application form accompanied by a nonrefundable application fee in the amount stated for this provision in the city fee schedule and:
  - (1) The information required by items (1) through (5) of subsection (b) of this section;
  - (2) Proposed strategy to obtain all required plans and approvals to construct the green stormwater infrastructure;
  - (3) Proposed strategy to maintain, during the abatement period, the green stormwater infrastructure in accordance with the applicable detention volume or stormwater quality design criteria from the design manual;
  - (4) A project valuation for the facility for which the applicant is seeking a tax abatement;
  - (5) A project valuation for the green stormwater infrastructure for the facility; and

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- (6) A written analysis that indicates that the green stormwater infrastructure will mitigate risk of flooding, reduce heat island effect or other climate-related hazards, improve water quality, encourage water conservation, or restore native ecosystems through green stormwater infrastructure. The analysis must use a methodology that (i) is promoted or utilized by federal agencies, or (ii) has otherwise been peer-reviewed and is academically-accepted in the field of green infrastructure and stormwater management. The analysis must demonstrate how the green stormwater infrastructure of the facility for which the applicant is seeking a tax abatement provides (i) hazard mitigation and additional environmental, social, or ecosystem benefits or services, and (ii) a net public benefit.
- ~~(f)~~(h) 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)~~(i) 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)~~(j) 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.
- (k) An applicant who submits an application for more than one type of tax abatement shall only be required to submit one nonrefundable application fee, which, if applicable, shall be in the amount stated for the type of tax abatement with the highest application fee.

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**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;

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- (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~~135(d) of this Code.

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**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;

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- (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 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 44-134135(d) of this Code.

**Sec. 44-131. ~~Leadership in energy and environmental design (LEED~~  
~~®) tax abatement. 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 ten 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%

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d.	Platinum Level	40%
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- ~~(2) The minimum value increase requirement derived from the "Imputed LEED-Related Value Increment" to meet eligibility test is \$100,000.00.~~
  - ~~(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 \$100,000.00).~~
  - ~~(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 ten 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.~~
- (a) Authorized facility. A facility is eligible for a LEED tax abatement if:
- (1) It is a new commercial facility whose owner has registered with USGBC to apply for LEED certification for the facility;
  - (2) Construction of the facility has not commenced prior to the application for abatement; and



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(3) The project valuation for the facility is reasonably expected by the applicant to be at least \$3,000,000.

This type of tax abatement may be a stand-alone abatement or part of a standard economic development abatement.

(b) *Value and term of abatement.* Abatement shall be granted effective upon the January 1 valuation date immediately following the date that both of the following events have occurred: (i) construction of the facility has been completed in accordance with the terms of the agreement, and (ii) a LEED certification has been obtained for the facility. The abatement may remain in effect for up to ten years. A facility described in subsection (a) of this section is eligible for abatement for the percentage of the increase in the facility's value over the base year value that corresponds to the applicable LEED certification level obtained for the facility according to the following sliding scale:

	<u>LEED Certification Level</u>	<u>Percentage of Increase Over Base Year Value Abated</u>
(1)	<u>Silver</u>	<u>5%</u>
(2)	<u>Gold</u>	<u>10%</u>
(3)	<u>Platinum</u>	<u>15%</u>

(c) *Agreement.* Upon designation of a reinvestment zone, the city may enter into an abatement agreement that shall include:

(1) The items listed in items (3) – (5), (7), (8), and (10) – (14) of section 44-128 of this Code;

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

(3) The percentage of value abated based upon the applicable LEED certification level;

(4) The project valuation for the facility; and

(5) A requirement that the facility be constructed pursuant to and in compliance with all applicable permitting requirements.

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- (d) Taxability. From the date of the city's execution of the abatement agreement to the end of the abatement period, the value of a facility described by subsection (a) of this section shall be taxable in the manner described in subsection (b) of this section.

**Sec. 44-132. Green stormwater infrastructure tax abatement.**

- (a) Authorized facility. A facility is eligible for a green stormwater infrastructure tax abatement if:
- (1) It is either an authorized facility as described in section 44-127(a) of this Code or a brownfield redevelopment facility;
  - (2) Construction or alteration of the facility has not commenced prior to the application for abatement; and
  - (3) The project valuation for the facility is reasonably expected to be at least \$3,000,000, with a minimum project valuation of \$200,000 specifically for the green stormwater infrastructure.

This type of tax abatement may be a stand-alone abatement or part of a standard economic development abatement.

- (b) Value and term of abatement. Abatement shall be granted effective upon the January 1 valuation date immediately following the date that both of the following events have occurred: (i) all permits required by the design manual for the green stormwater infrastructure have been obtained, and (ii) the construction or alteration of the facility has been completed under the terms of the agreement. The abatement may remain in effect for up to ten years. A facility described in subsection (a) of this section is eligible for abatement for 100 percent of the increase in facility's value over the base year value; provided, however, that the amount of abatement shall not exceed the project valuation for the green stormwater infrastructure.
- (c) Eligible green stormwater infrastructure. To be eligible for abatement, a facility described in subsection (a) of this section must include at least one type of green stormwater infrastructure that either (i) meets the applicable design criteria for a low impact development design approach described in chapter 9 of the design manual; or (ii) involves urban forestry and native ecosystem

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restoration through the planting of trees or shrubs listed in appendices A-1, A-2 and D of chapter 33 of this Code.

(d) *Qualifications.* To be eligible for abatement, a facility described in subsection (a) of this section must:

- (1) Be expected to mitigate risk of flooding, reduce heat island effect or other climate-related hazards, improve water quality, encourage water conservation, or restore native ecosystems through green stormwater infrastructure;
- (2) Include green stormwater infrastructure designed in accordance with the design manual and the applicable water quantity and stormwater quality design criteria from the design manual;
- (3) Provide an economic benefit to the city, taking into consideration all relevant factors, including the size of the abatement, income from sales tax and franchise fees generated by the planned improvement, and any additional expense to the city in providing city services as a result of the improvement; and
- (4) Be reasonably expected to increase the value of the real or tangible personal property within the reinvestment zone.

(e) *Agreement.* Upon designation of a reinvestment zone, the city may enter into an abatement agreement that shall include:

- (1) The items listed in items (3) – (5), (7), (8), and (10) – (14) of section 44-128 of this Code;
- (2) The estimated value to be abated and the base year value, provided that the amount of the abatement may not exceed the project valuation for the green stormwater infrastructure;
- (3) The project valuation for the facility and the project valuation for the green stormwater infrastructure;
- (4) A requirement that the facility and the green stormwater infrastructure be constructed pursuant to and in compliance with all applicable permitting requirements;

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- (5) A requirement that the green stormwater infrastructure is maintained in compliance with the applicable design manual requirements, including annual stormwater quality permits and annual certification requirements;
  - (6) A requirement that the owner maintain, and provide to the city for inspection, records with respect to the stormwater quality and water quantity benefits of the green stormwater infrastructure, such as mitigating risk of flooding, reducing heat island effect or other climate-related hazards, improving water quality, encouraging water conservation, or restoring native ecosystems; and
  - (7) A requirement that the green stormwater infrastructure be made accessible to others for purposes of study and education regarding best practices for design, construction and maintenance of green stormwater infrastructure.
- (f) Taxability. From the date of execution of the abatement agreement to the end of the abatement period, the value of a facility described by subsection (a) of this section shall be taxable in the manner described in subsection (b) of this section.

**Sec. 44-1323. 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

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- (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;

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- (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 \$1,000,000.00 or 1.5 x the value of the demolished improvements on the deteriorated/demolished property.
- (g) *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 (l) of section 44-127 of this Code.

**Sec. 44-1334. 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;

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- (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 44-1345(d) of this article.

**Sec. 44-1345. 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;

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- (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 44-1356 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) of this section.



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- (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

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- (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. 44-1356. 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. 44-1367. 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

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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. 44-1378. Sunset provision.**

These guidelines and criteria for tax abatement are readopted and will expire on May 19, 2022. 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 may be readopted, amended, repealed or reauthorized, after city council has held a public hearing regarding the proposed readopting, amendment, repeal or reauthorization at which members of the public are given the opportunity to be heard. 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.