

RESOLUTION NO. 190207 R2

A RESOLUTION ADOPTING TAX ABATEMENT TAX AGREEMENT GUIDELINES AND POLICIES; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 190207 R1, City Council memorialized its election for the City of China Grove to participate in Tax Abatement as authorized by Texas Tax Code Chapter 312; and

WHEREAS, in accordance with Texas Tax Code Section 312.002, City Council desires to establish guidelines and criteria governing tax abatement agreements.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHINA GROVE:

Section 1 Guidelines and criteria established. The guidelines and criteria set out in Appendix "A" to this Resolution are hereby adopted.

Section 2 Prior guidelines and criteria. Any prior guidelines and criteria approved by this Council shall be replaced and superseded by the guidelines and criteria adopted herein.

Section 3 Effective Date. This Resolution shall become effective immediately upon its passage, and approval as provided by law.

PASSED AND APPROVED by a vote of 4 "ayes" in favor and 0 "noes" against on this first and final reading in full compliance with applicable provisions of the Texas Open Access Act and Texas Tax Code Chapter 312, on the 7th day of February 2019.

CHINA GROVE, TEXAS


Mary Ann Hajek, Mayor

ATTEST:


Susan Conaway, City Secretary

APPROVED AS TO FORM:


Habib H. Erkan Jr., City Attorney
Denton Navarro Rocha Bernal & Zech, P.C



PROPERTY TAX ABATEMENT POLICY CITY OF CHINA GROVE, TEXAS

This policy adopted by the China Grove City Council on February 7, 2019.

APPENDIX A

PHILOSOPHY

Tax abatement is an economic development tool to mitigate the heavy costs usually associated with the construction of a new facility or structure, or expansion and/or modernization of an existing facility or structure that enhances the economic or social base of the community. Because property tax revenue is a means to provide vital community services, it is the philosophy of the City of China Grove that tax abatement be utilized sparingly, and only after careful consideration of the economic impact for China Grove. Nothing herein shall imply or warrant that the City of China Grove is under any obligation to provide tax abatement to any applicant.

ELIGIBILITY

This policy document provides criteria for eligibility and aspects of implementation as adopted by the City Council of the City of China Grove, in accordance with Texas Tax Code, Chapter 312, otherwise known as the *Property Redevelopment and Tax Abatement Act (Act)*, governing property tax abatement agreements. All applications will be considered on a case-by-case basis.

The following types of enterprises are eligible to apply for tax abatement:

- Industrial
- Manufacturing
- Distribution
- Service
- Hotels/motels

Eligible property upon which abatement may be granted includes real property and/or tangible personal property located on the real property other than that personal property that was located on the real property at any time before the abatement agreement is executed. **Excluded from eligible personal property are inventory and supplies.**

INDUSTRIAL, MANUFACTURING, DISTRIBUTION AND SERVICE BUSINESSES

Tax abatement may be available to industrial, manufacturing, distribution and service businesses located anywhere within China Grove's city limits based on the total amount of capital investment, the number of jobs created. Total abatement shall not exceed 100% for 10 years.

HOTELS/MOTELS

Tax Abatement may be available to hotels/motels on land zoned Central Business District as shown on the official zoning map of the City of China Grove. Each project will be considered on an individual basis with consideration being given for the total amount of capital investment, the number of hotel/motel rooms involved, and the total number of jobs created. Total abatement shall not exceed 100% for 10 years.

GUIDELINES

1. Tax abatement applies to increases in real and/or personal property due to the construction of new facilities and structures as well as the expansion or modernization of existing facilities and structures.
2. Tax abatement can apply to a leased facility; however, the agreement shall be executed only with the property owner.
3. *Tax abatement may be granted only for the additional value of eligible property improvements or repairs made and specified in an abatement agreement between the City and the property owner or lessee, subject to such limitations as the City may require.*

The additional value must exceed any reduction in the fair market value of other eligible property of the owner located within the City's jurisdiction. Change in appraised value does not qualify for abatement except in the instance where a previously vacant facility is utilized. Value added to the tax rolls must come from actual capital expenditures.

4. Real and/or personal property tax abatement may be granted only to the extent that the property value for each year of the agreement exceeds the property value for the year in which the agreement is executed. The value for the year in which the agreement is executed shall be referred to as the "base value" and shall be the January 1 valuation of the year in which the agreement is executed.
5. With the intent of avoiding any possible erosion of the existing tax base, the City reserves the right to determine the base value upon which abatement may be calculated if the applicant owns other property(ies) in town which may be affected by the granting of tax abatement.
6. A tax abatement agreement may not be executed unless the area for which tax abatement is requested meets the criteria for designation as a tax abatement reinvestment zone as set forth in the Act. Areas located in one of China Grove's state-designated enterprise zones meet the criteria without further designation. The City Council may adopt an ordinance designating a tax abatement reinvestment zone only after a public hearing has been held. In addition, the

City Council will determine if the proposed improvements or repairs are feasible and practical and would be a benefit to the city after expiration of a tax abatement agreement.

7. No tax abatement agreement for industrial, manufacturing, distribution and service businesses shall exceed a term of 10 years from the date of execution.
8. Individual taxing units governing a reinvestment zone with the exception of a school district may choose to grant tax abatement to an owner or lessee, but according to the Act if granted, the terms of the agreement are not required to be identical to the agreement approved by the City.
9. At any time before expiration, any tax abatement agreement may be terminated or modified by the City if the property owner fails to comply with the terms of the agreement.
10. The City and property owner may agree to defer the commencement of the abatement period until a date that is subsequent to the agreement date; however, no abatement period may exceed 10 years.

CRITERIA

1. A tax abatement agreement must:
 - list the kind, number, and location of all proposed improvements to the property;
 - provide for City of China Grove employees to have access to and authority to conduct inspections of the eligible property to ensure that the improvements or repairs are made in accordance with the agreement and in compliance with all relevant local, state, and federal laws and regulations including, but not limited to Building, Plumbing, Water, Electrical, Mechanical, and Fire Codes;
 - limit the uses of the eligible property to remain consistent with the general purpose of encouraging development or redevelopment of the zone during the term of the tax abatement agreement;
 - provide for recapturing property tax revenue lost as a result of the agreement plus a penalty of 5% of the amount of lost revenue if the owner of the eligible property fails to:
 - Make the improvements or repairs as provided in the agreement, or
 - Meet any other performance criteria specified in the agreement.
 - contain each term agreed to by the property owner;
 - require the owner of the property to certify annually to the City of China Grove that the owner is in compliance with each applicable term of the agreement; and
 - provide that the China Grove City Council may cancel or modify the agreement if the property owner fails to comply with the agreement.
2. The owner of eligible property requesting tax abatement within a tax abatement reinvestment zone or enterprise zone shall invest a minimum amount of capital as further defined herein.
3. If the minimum requirements are not met during the first three years of the agreement, the percentage of abatement shall be reduced to the level of abatement at which minimum requirements have been met, and any taxes abated before the adjustment may be recaptured by the City.

APPLICATION

For additional information on tax abatement or the Enterprise Zone program, contact the City Administrator, City of China Grove, at (210) 648-4923.

Applicants requesting tax abatement must submit the following documents when required by Council:

1. **Last three fiscal year-end financial statements, or tax returns on the business (if applicable).**

2. **Most current interim financial statement on the business.**
3. **Current financial statement on all owners of the business with ownership of 20% or more.**
4. **Narrative detailing the capital improvement project.**

If applicant is a start-up business, the following items will be required at a minimum:

5. **Projected balance sheet and income statement, Year One.**
6. **Monthly cash flow analysis for Year One.**
7. **Additional information as may be required.**

ELIGIBILITY OF APPLICANTS

1. **No member of the China Grove City Council, China Grove Planning & Zoning Commission, or persons related within the second degree by consanguinity or affinity shall be eligible to apply for tax abatement during his/her tenure or for six months thereafter.**
2. **No employee of the City or person related to an employee within the second degree by consanguinity or affinity shall be eligible to apply for tax abatement during his/her tenure or for six months thereafter.**

In determining how and with whom tax abatement will be utilized, the City will examine the potential return on the public's investment, including net jobs created, jobs retained, wage levels, broadening of the tax base, expansion of the economic base and competitive impact upon existing industries. Approval is contingent upon final consideration and action by the China Grove City Council. To the extent permitted by law, information provided by an applicant in connection with a request for tax abatement is confidential and not subject to public disclosure until the tax abatement agreement is executed.

#

© 2019 City of China Grove, Wisconsin. All rights reserved.