

**ORDINANCE NO. 1137-09-17**

**AN ORDINANCE ESTABLISHING GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT CREATED IN THE CITY OF HONDO, TEXAS, PROVIDING FOR A SEVERABILITY CLAUSE, ESTABLISHING AN EFFECTIVE DATE, AND SUPERSEDING AND REPLACING ORDINANCE 966-10-12 OF THE CITY OF HONDO, DATED OCTOBER 22, 2012.**

**WHEREAS**, State law, at Texas Tax Code Chapter 312 states that a taxing unity may not enter into a tax abatement unless the governing body has established guidelines and criteria governing tax abatements; and

**WHEREAS**, Texas Tax Code Section 312.002 (c) provides that guidelines and criteria adopted are effective for two years from the date adopted and during that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body; and

**WHEREAS**, the Hondo City Council adopted guidelines and criteria governing tax abatements on October 22, 2012 through Ordinance 966-10-12 and the City Council now wished to re-adopt the same guidelines and criteria governing tax abatements for the City; and

**WHEREAS**, the City of Hondo must compete with other localities across the nation and state currently offering tax inducements to attract new and modernization projects; and

**WHEREAS**, the abatement of property taxes, when offered to attract primary jobs or investments in industries that bring in money from outside a community has been shown to be an effective method of enhancing and diversifying an area's economy; and

**WHEREAS**, these guidelines and criteria will govern tax abatements in Hondo, Texas and the abatements are designed to benefit the City by encouraging and supporting economic investment and job growth and to apply to both new facilities and the expansion of or modernizing present facilities in the City; and

**WHEREAS**, these guidelines shall not be construed as implying or suggesting that the City of Hondo is under any obligations to provide tax abatement or other incentives to any applicant, and all applicants shall be considered on a case-by-case basis; and

**WHEREAS**, these guidelines are approved for circulation to all affected taxing jurisdictions for consideration as a common policy for all jurisdictions that choose to participate in tax abatement agreements;

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HONDO:**

**SECTION 1.** The Proposed guidelines and criteria governing tax abatements are hereby adopted.

**SECTION 2.** This ordinance shall become effective immediately after passage.

Passed, approved and adopted this 25th day of September, 2017.



JAMES W. DANNER, SR., MAYOR

ATTEST:



Elsa T. Robles, Interim City Secretary



## **GUIDELINES AND CRITERIA CITY OF HONDO TAX ABATEMENT POLICY**

These guidelines and criteria govern tax abatements by Hondo, Texas. The abatements are designed to benefit the City by encouraging and supporting economic investment and job growth and to apply to both new facilities and the expansion of or modernizing present facilities in the City.

The abatements are governed by Chapter 312 of the Texas Tax Code Property Redevelopment and Tax Abatement Act. The City is prohibited from entering into a tax abatement agreement unless the City has established guidelines and criteria governing tax abatements.

The abatements will be provided through a schedule of Tax Phase-In Incentives on a graduated scale over a period of years not to exceed ten years. The minimum investment for which an abatement will be allowed is \$100,000 and the minimum number of added employees for which an abatement will be allowed is ten (10) full-time employees with an average salary level of \$30,000 or more including benefits averaged during the twelve calendar months prior to the tax assessment date of January 1. For eligible investment under \$1 million the abatements shall not exceed five years and will be in accordance with Exhibit A attached hereto. For eligible investments of \$1,000,000 or more separate Tax Phase-In Incentive schedules shall be provided based on new investment and based on added employees and the amount of tax abatement to be allowed will be determined by combining the schedule for eligible improvements and a schedule for eligible jobs created or retained. A format of such schedules is attached as Exhibit B for illustration purposes only.

Only the increases in the value of the property over its base value shall be subject of an abatement or incentives. The "base value" of the property as carried on the rolls of the Medina County Tax Office on January 1, in the year immediately preceding the effective date of the abatement agreement. Generally, such base value should be stated as a part of any abatement agreement in order to avoid any misunderstanding.

Property that is not eligible for abatement or incentives include: animals, aircraft, vehicles, marine vessels, housing or residential property, hotels/motels, retail facilities. Tax abatements will be considered but not limited to the following: (1) manufacturing facilities; (2) distribution facilities; (3) corporate offices; and (4) research parks.

A facility is eligible for the abatements or incentives if it has applied for same before construction begins. Application shall be made by filing a written request with the City Manager. Such application will be presented to and considered by the City Council. If accepted, the business or facility receiving the abatements or incentive will be required to provide a sworn statement and documents, verifying compliance each year. Failure to do so will result in termination of the abatement or incentive agreement.

The adoption of these guidelines and criteria does not limit the discretion of the

City Council to decide whether to enter into a specific tax abatement agreement.

The guideline and criteria adopted hereby are effective for two years from the date adopted and may be amended or repealed *only* by a vote of three fourths of the numbers of the City Council. Any agreement entered into pursuant to these guidelines and criteria shall not be affected by the amendment, repeal, or expiration of these guidelines and criteria.

Information provided to the City in connection with an application or request for tax abatement or incentive and which describes the specific processes or business activities to be conducted or the equipment or other property to be located at the facility for which the abatement is sought is confidential and not subject to public disclosure pursuant to Section 312.003 of the Texas Tax Code.

Upon receipt of a completed application, the City Secretary receiving such application shall notify in writing the City Manager and Mayor. Before acting upon the application, the City shall through public hearings afford the applicant an opportunity to show cause why the abatement should be granted. Notice of the public hearing shall be clearly identified on an agenda of the City Council receiving such application and shall be posted at least 10 days prior to the public hearing. At least seven (7) days prior to the public hearing the City must send written notice to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought and must publish notice of the hearing time, place and subject in the local newspaper.

No abatement agreement shall be authorized if it is determined that:

1. There would be a substantial adverse effect on the provision of a government service or tax base of the City.
2. The applicant has insufficient financial capacity.
3. Planned or potential use of the property violates other codes or laws
4. Planned or potential use of the property would constitute a hazard to the public safety, health or morals.

#### RECAPTURE

In the event that the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster for a period of more than six (6) months during the abatement period, then the agreement shall terminate and so shall the abatement of taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year shall be paid to the affected jurisdiction within sixty (60) days from the date of termination.

Should the City establishing a tax abatement agreement determine that a company or individual is in default according to the terms and conditions of its agreement, the City shall notify the Company or individual in writing at the address stated in the agreement, and if such is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the agreement shall be terminated; provided, however, if such failure cannot be cured within such sixty (60) day period and the company or individual has commenced remedial action to cure such failure (and continued to diligently and timely pursue the completion of such remedial action), the company or individual shall be entitled to a total of one hundred eighty (180) days after receipt of notice within which to cure such default. In the event that the company or individual allows its ad valorem taxes owed the City or an affected jurisdiction to become delinquent after all applicable notice and cure periods and fails to timely and properly follow the legal procedures for their protest and/or contest; or violates any of the terms and conditions of the abatement agreement and fails to cure same during the Cure Period, the agreement may then be terminated **and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.**

#### ASSIGNMENT

Abatement may be transferred and assigned by the holder to a new owner of the same facility upon the approval by resolution of the City, subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement with the City. The contractual agreement with the new owner shall not exceed the termination date of the abatement agreement with the original owner. No assignment or transfer shall be approved if the parties to the existing agreement are liable to the City for outstanding taxes or other obligations.

EXHIBIT A

TAX PHASE-IN INCENTIVE SCHEDULES

The tables below cover tax phase-in incentives for aggregate amount of new value invested under \$1 million and jobs created and retained in excess of nine:

Term	Percent Abated	Percent Abated
	\$100,00 - \$250,000 Investments plus 10 jobs	\$250,000 - \$1,000,000 Investments plus 10 Jobs
Year 1	50%	80%
Year 2	40%	60%
Year 3	30%	40%
Year 4	20%	20%
Year 5	10%	20%

For investments resulting in excess of \$1,000,000 in new taxable value  
see Exhibit B herein.

EXHIBIT "B"  
TAX PHASE-IN INCENTIVE SCHEDULES

Applicants may receive property Tax Phase-In incentive according to the schedules in Tables 1 and 2, depending on their combination of property value creation and job creations/retention.

TABLE 1 (earns 50% of incentive)

**IA - Property Improvements by a New Business**

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of <u>property</u> tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	Less than	\$1,000,000	See Exhibit A									
2	\$1,000,001	\$2,500,000	45	45	40	40	30	30	20	20	0	0
3	\$2,500,001	\$5,000,000	45	45	45	40	40	30	30	20	20	0
4	\$5,000,001	\$10,000,000	45	45	45	45	40	40	40	30	30	20
5	More than	\$10,000,000	45	45	45	45	45	40	40	40	30	30

**IB - Property Improvements by an Existing Local Business**

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	Less than	\$1,000,000	See Exhibit A									
2	\$1,000,001	\$2,500,000	45	45	40	40	30	20	0	0	0	0
3	\$2,500,001	\$5,000,000	45	45	45	40	40	30	20	0	0	0
4	\$5,000,001	\$10,000,000	45	45	45	45	40	40	30	30	20	0
5	More than	\$10,000,000	45	45	45	45	45	40	40	30	30	20

TABLE 2 - Jobs Created & Retained - by Existing Businesses or New/Relocating Businesses (Earns 50% of incentive)

Level	The number of new and/or retained full-time employees with an average salary level of \$30,000+/year including benefits averaged during the twelve calendar months prior to the tax assessment date of <u>January 1</u> :		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	10	19	45	40	30	30	20	20	0	0	0	0
2	20	29	45	45	40	40	30	30	20	20	0	0
3	30	39	45	45	45	40	40	30	30	20	20	0
4	40	49	45	45	45	45	40	40	40	30	20	20
5	50 and more		45	45	45	45	45	40	40	40	30	30