

RESOLUTION NO. 14-2020-05

A RESOLUITON, OF THE CITY COUNCIL OF THE CITY OF VENUS, TEXAS,
~~ADOPTING~~ AMENDING, A TAX ABATEMENT POLICY

WHEREAS, the City of Venus, City Council recognizes the need for a tax abatement policy in an effort to encourage industries to locate within the City of Venus; and

WHEREAS, renewing the tax abatement policy, we hereby create such using Information gleaned from local community surveys. Incorporated within this policy is a listing of priority needs established by this information;

NOW THEREFORE, the City Council of the City of Venus, Texas does hereby adopt this resolution and thereby state the City Council elects to participate in tax abatements.

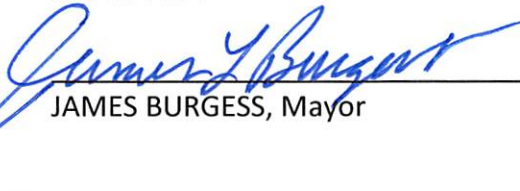
PASSED AND APPROVED this 11th day of May, 2020.

ATTEST:



PATSY PATTEN, Interim City Secretary

APPROVED:



JAMES BURGESS, Mayor



**GUIDELINES AND CRITERIA FOR THE CITY OF VENUS TAX
ABATEMENT POLICY STATEMENT**

I. GENERAL PURPOSE AND OBJECTIVES

The City of Venus is committed to the promotion of high-quality development in all parts of the City, and to an ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City of Venus will, on a case-by-case basis, give consideration to providing tax abatement as a stimulation for economic development in Venus. It is the policy of the City of Venus that said consideration will be provided in accordance with state law and the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that the City of Venus is under any obligation to provide tax abatement to any applicant. All applications shall be considered on a case-by-case basis.

II. DEFINITIONS

- A. "Abatement" means the full or partial exemption from ad valorem taxes of certain real and tangible personal property in a Reinvestment Zone designated for economic development purposes.
- B. "Agreement" means the written agreement for tax abatement between a property owner and/or lessee and the City.
- C. "Base Year Value" means the assessed value of eligible property as of January 1 preceding the date of execution of the Agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the Agreement.
- D. "Economic Life" means the number of years a property improvement is expected to be in service in a facility.
- E. "Expansion" means the addition of buildings, structures, fixed machinery, or equipment for the purpose of increasing production capacity.
- F. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- G. "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. Facilities primarily engaged in assembling component parts of manufactured products are also considered manufacturing facilities.

- H. "Modernization" means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially lowers the unit cost of operation, and extends the economic life of the facility. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, or equipment. It shall not be for the purpose of reconditioning, refurbishing, repairing, or completion of deferred maintenance.
- I. "New facility" means a property previously undeveloped which is placed into service by means other than expansion or modernization.
- J. "Other Basic Industry" means buildings and structures, including fixed machinery and equipment, not elsewhere described, used or to be used for the production of products or services which result in the creation of new permanent full-time jobs and bring new wealth into the community.
- K. "Regional Distribution 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 where a majority of the goods or services are distributed to points at least 25 to 50 miles from its location in the City.
- L. "Regional Tourist Entertainment Facility" means buildings and structures, including fixed machinery and equipment, used or to be used in providing amusement/entertainment through the admission of the general public where the majority of users reside at least 25 to 50 miles from the City and where the majority of users are likely to stay in the City for more than one day and will therefore likely utilize local restaurants and hotel/motel accommodations.
- M. "Reinvestment Zone" is an area where the City or County has decided to influence development patterns and attract major investments that will contribute to the development of the area through the use of tax abatement for specified improvements. The reinvestment zone is an area designated as such for the purpose of tax abatement as authorized by V.T.C.A. Tax §312.001 et seq.
- N. "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 new tangible goods or materials or to improve or develop the production processes thereto.

III. DESIGNATION OF A REINVESTMENT ZONE

The City may designate an area as a Reinvestment Zone in accordance with the criteria and procedural requirements set forth in the Act.

IV. TAX ABATEMENT AUTHORIZED

The City, through its City Council, may agree in writing with the owner and/or lessee of taxable real property that is located in a Reinvestment Zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property, or of tangible personal property located on the real property, or both. The period of the abatement granted under the Agreement shall not exceed the term authorized by law. Such agreement will be based on the condition that the owner or lessee of the property make specific improvements or repairs to the property. An Agreement may provide for the exemption of the real property in each year covered by the Agreement only to the extent its value for that year exceeds the Base Year Value. An agreement may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the Agreement. Inventory or supplies cannot be abated as tangible personal property.

A property owner and/or lessee shall be eligible for tax abatement only upon the following terms and conditions:

- a) Authorizing Body: Any request for tax abatement shall be reviewed by the City Council of the City of Venus. The City Council of the City of Venus decides whether economic development incentives should be offered in each individual case. Their recommendation shall be based upon a subjective evaluation of the following criteria, which each applicant will be requested to address in narrative format:

EMPLOYMENT IMPACT

How many jobs will be brought to Venus?
What type of jobs will be created?
What will the total annual payroll be?

FISCAL IMPACT

How much real and personal property value will be added to the tax rolls? How will this project affect existing businesses and/or office facilities?

What infrastructure construction would be required?

What is the projected total annual operating budget of this facility?

COMMUNITY IMPACT

What effect will the project have on the local housing market?

What environmental impact, if any, will be created by the project?

How compatible is the project with the City's comprehensive plan?

- b) **Authorized Facilities:** Tax abatement may be granted for new facilities and for expansion or modernization of existing facilities per the appropriate table identified in subpart g below. The economic life of a facility or improvements must exceed the life of the abatement agreement. A facility may be eligible for abatement if it is a Manufacturing Facility, Research Facility, Regional Distribution Facility, Regional Tourist Entertainment Facility or Other Basic Industry.
- c) **Creation of New Value:** Abatement may only be granted for the additional value of eligible real and tangible personal property improvements, subject to such limitations as the City may require.
- d) **New and Existing Facilities:** Abatement may be granted for new facilities and improvements to existing facilities for purposes of Modernization or Expansion.
- e) **Eligible Property:** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements, tangible personal property, and that office space and related fixed improvements necessary to the operation and administration of the facility; provided, however, that inventory or supplies shall not be eligible for abatement. Tax abatement may be applied to improvements to real and tangible personal property to the extent allowed by state law.
- f) **Leased Facilities:** If a leased facility is granted abatement, the Agreement may be executed with the lessor and/or lessee, depending upon the particular circumstances of the proposed project. If the Agreement is with the lessor, lessor shall demonstrate binding contracts with the lessee to guarantee compliance with the terms of the Agreement.

g) **Value of Abatement:** The City will decide whether to grant tax abatement to an applicant, and the amount, if any, of such abatement, on a case-by-case basis. The term of abatement granted under any Agreement may not exceed that permitted by applicable state law. The amount of the abatement shall be based upon a percentage (0 to 100%) of all or a portion of the eligible property. Abatement may only be granted for the additional value of eligible property improvements made pursuant to and listed in the Agreement between the City and property owner and/or lessee subject to such limitations as the City may require. If a Modernization project includes facility replacement, the value eligible for abatement shall be the value of the new unit(s), less the value of the replaced unit(s). The criteria that will be utilized in evaluating a particular application for abatement will include, but not be limited to:

(i) the dollar amount of the increase in the tax roll for the proposed project;

(ii) the number of jobs created by the proposed project;

(iii) the possible effect the proposed project will have on attracting other taxable improvements into the city;

(iv) the nature of the proposed project and its overall effect on the community;

(v) the proposed project's effect on the safety, health and morals of the City's residents; and

(vi) whether the proposed project will have any substantial long-term adverse effect on the provision of the City's services or its tax base.

The subjective criteria outlined in Section IV A. will be used by the City Council in determining whether or not it is in the best interests of the City to recommend that tax abatement be offered to a particular applicant. Specific considerations will include the degree to which the individual project furthers the goals and objectives of the community, as well as the relative impact of the project.

Tax abatement will be available for both new facilities and structures and for Expansion or Modernization of existing facilities and structures per the tables below.

Once a determination has been made that a tax abatement should be offered, the eligible property and term of the abatement will be guided by referencing the following tables; however, the following two tables are not controlling. The Council has full power to determine eligibility and length of abatements on a case- by- case basis depending on the full circumstances.

NEW FACILITIES AND STRUCTURES TABLE

Percent of Value to be Abated	Capital Cost	OR	New Full Time Jobs Created	Maximum Years of Abatement
25%	\$ 1,000,000 - 2,500,000		10 - 50	2
30%	\$ 2,500,001 - 5,000,000		51-75	2
35%	\$ 5,000,001 - 10,000,000		76 - 100	3
40%	\$ 10,000,001 - 20,000,000		101 - 125	5
45%	\$ 20,000,001 - 35,000,000		126 -150	5
50%	\$ 35,000,001 - 50,000,000		151- 175	7
55%	\$ 50,000,001 - 65,000,000		176 - 200	8
60%	\$ 65,000,001 - 80,000,000		201 - 225	9
75%	\$ 80,000,001 -over		226 - over	10

EXPANSION OR MODERNIZATION OF EXISTING FACILITIES & STRUCTURES TABLE

Percent of Value to be Abated	Capital Cost	OR	New Full Time Jobs Created	Maximum Years of Abatement
35%	\$ 1,000,000 - 2,500,000		10 - 50	2
40%	\$ 2,500,001 - 5,000,000		51 - 75	3
45%	\$ 5,000,001 - 10,000,000		76 - 100	4
50%	\$ 10,000,001 - 20,000,000		101 - 125	5
55%	\$ 20,000,001 - 35,000,000		126 - 150	6
60%	\$ 35,000,001 - 50,000,000		151 - 175	7
65%	\$ 50,000,001 - 65,000,000		176 - 200	8
70%	\$ 65,000,001 - 80,000,000		201 - 225	9
75%	\$ 80,000,001 -over		226 -over	10

h) **Economic Qualification:** In order to be eligible to receive tax abatement, the planned improvements:

(I) must be reasonably expected to increase the appraised value of the property; and

(ii) must be expected to prevent the loss of employment, retain or create employment on a permanent full-time basis in the City during the term of the Agreement; and

(iii) should not be expected to solely or primarily have the effect of merely transferring existing employment from one part of the City to another without demonstration of increased future investment (Dollars or Jobs) or unusual circumstances whereby without such a move employment is likely to be reduced; and

(iv) must be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements or relevant governmental actions.

- i) **Taxability:** From the execution of the abatement agreement to the end of the agreement period, taxes shall be payable as follows:
 - a) The value of ineligible property shall be fully taxable;
 - b) The Base Year Value of existing eligible property shall be fully taxable;
 - c) The additional value of new eligible property shall be taxed in the manner and for the period provided for in the abatement agreement; and
 - d) The additional value of new eligible property shall be fully taxable at the end of the abatement period.

The Chief Appraiser of the County shall annually determine an assessment of the real and personal property comprising the Reinvestment Zone. Each year, the company or individual receiving abatement pursuant to an Agreement shall furnish the assessor with such information as may be necessary to determine the amount of any abatement. Once such value has been established, the Chief Appraiser shall notify the affected jurisdictions which levy taxes on such property.

V. PROCEDURAL GUIDELINES

A. PRELIMINARY APPLICATION STEPS

1. **Eligibility:** Any present or potential owner of taxable property in the City may request tax abatement by filing a written request with the City Administrator.
2. **Form:** The application shall consist of a completed application form

accompanied by

- (i) a general description of the improvements to be undertaken, together with the projected new value to the property;
 - (ii) a descriptive list of the improvements for which an abatement is requested;
 - (iii) a list of the kind, number and location of all proposed improvements of the property;
 - (iv) a meets and bounds description and plat of the proposed Reinvestment Zone;
 - (v) a time schedule for undertaking and completing the proposed improvements;
 - (vi) applicant shall address all criteria questions outlined in Section IV (a) in letter format; and
 - (vii) applicant shall provide a tax certificate verifying that no taxes are past due on applicant's property located within the proposed reinvestment zone.
3. **Review:** Upon receipt of a completed application, the City Administrator shall notify in writing and provide a copy of the application to the members of the City Council. After receipt of an application for abatement, the City Administrator and City Staff shall review the application for completeness and accuracy and, upon completion of this review, make a recommendation to the City Council. Additional information may be requested by the City Council as needed.
4. **Findings:** In order to enter into an agreement, the City must find that
- (i) the terms of the proposed agreement comply with these Guidelines and Criteria;
 - (ii) there will be no substantial adverse effect on the provision of the City's services or tax base;
 - (iii) the planned use of the property will not constitute a hazard to public safety, health or morals;
 - (iv) no violation of other codes or laws exist; and
 - (v) any other criteria deemed appropriate by the City Council of the City of Venus are satisfied.
5. **Variances:** Requests for variance from the provisions of these Guidelines may be made in writing to the City Administrator; provided, however, that in no event shall the term of any abatement exceed the period authorized by applicable state law. Such request shall include a complete description of the circumstances requiring a variance. Approval of a request for variance shall require the affirmative vote of

three-fourths (3/4) of the members of the City Council.

B. CONSIDERATION OF THE APPLICATION

1. The City Council will consider the application at a meeting duly convened under the Texas Open Meetings Act and V.T.C.A. Tax Code §312.207. The City Council may request additional information relating to the application as needed.
2. The City Council of Venus shall call a public hearing to consider establishment of a tax reinvestment zone.
3. The City Council of Venus shall hold the public hearing and determine whether the project is "feasible and practical and would be of benefit for the land to be included in the zone and municipality".
4. The City Council of Venus may consider an ordinance for the establishment of a Tax Reinvestment Zone.
5. The City of Venus may consider adoption of an ordinance designating the area described in the legal description of the proposed project as a commercial/industrial tax abatement zone.
6. The City Council may consider adoption of a resolution approving the terms and conditions of a contract between the City and the applicant governing the provision of the tax abatement within the reinvestment zone.

VI. DENIAL OF ABATEMENT

Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:

- a) There would be a substantial adverse impact on the provision of government service or tax base;
- b) The applicant has insufficient financial capacity;

- c) **Planned or potential use of the property that would constitute a hazard to public safety or health;**
- d) **There exists a violation of other codes or laws; or**
- e) **There exists any other reason deemed appropriate by the City Council of the City of Venus.**

VII. DEFAULT AND RECAPTURE

If the City determines that the person or entity receiving an Abatement 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 default is not cured within a reasonable period of time specified in such notice ("Cure Period"), then the Agreement may be terminated without further notice.

In the event that the company or individual (i) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or (ii) violates any of the terms and conditions of the Agreement and fails to cure during the Cure Period, the Agreement then may be terminated without further notice, and the Agreement may provide a formula for recapture of all or part of the taxes abated.

Should the terms of the Agreement not be satisfied, the tax abatement shall be subject to cancellation as provided in the tax abatement agreement, and all abated taxes shall be paid to the City of Venus and all other taxing jurisdictions participating in the tax abatement agreement as provided by law. If a project granted a tax abatement ceases to operate or is no longer in conformance with this policy statement, the tax abatement agreement shall not be in effect for the period of time during which the project is not operating or is not in conformance.

VIII. ADMINISTRATION

- A. **Access to Facility: The Agreement shall stipulate that employees and/or designated representatives to the City will have access to the Reinvestment Zone during the term of the Agreement to inspect the facility to determine if the terms and conditions of the Agreement are being met. Generally, inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. However, the City may conduct "spot" inspections requiring no advance notification to**

applicant. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

Upon completion of construction, the City shall annually evaluate each facility receiving abatement to ensure compliance with the Agreement and report possible violations of the Agreement to the City Council.

- B. **Annual Evaluation:** Upon completion of construction, the eligible authority individually or in conjunction with other affected authorities, shall annually evaluate each facility receiving abatement to ensure compliance with the Agreement and report possible violations of the Agreement.
 - C. **Assignment:** An Agreement may be assigned to a new owner or lessee of the facility only with the prior written consent of the City. 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, and the City's 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 the assignor or the assignee are indebted to the City for ad valorem taxes or other obligations, or if any event of default under the Agreement remains uncured. A contract for tax abatement may be transferred or assigned by the original applicant to a new owner only upon the approval of the City Council of the City of Venus.
- IX. **Confidentiality of Proprietary Information:** Information that is provided to a taxing unit in connection with an application or request for tax abatement under these guidelines and that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the Agreement is executed. Such information in the custody of the City after the Agreement is executed is not confidential under these Guidelines.
- X. **Proposed Tax Abatement Agreements To Be Decided On An Individual Basis:** The adoption of these Guidelines by the City Council does not (a) limit the discretion of the City Council to decide whether to enter into a specific tax abatement agreement, or (b) limit the discretion of the City Council to delegate to its employees the authority to determine whether or not the City Council should consider a particular application or request for tax abatement, or (c) create any property, contract, or other legal right in any person or entity to have the City Council consider or grant a specific application or request for tax abatement.

- XI. Modifications of Agreements: At any time before the expiration of an Agreement made under these Guidelines, the Agreement may be modified by the parties to the Agreement to include other provisions that could have been included in the original Agreement or to delete provisions that were not necessary to the original Agreement. The modification must be made by the same procedure by which the original Agreement was approved and executed. The original Agreement, however, may not be modified to extend the term of the Agreement or the term of the abatement granted therein beyond the time permitted by state law.
- XII. Amendments: These Guidelines are effective for a two-year period from the date of their adoption, unless amended or repealed by the affirmative vote of three-fourths (3/4) of the members of the City Council.