

**CITY OF THORNDALE
ORDINANCE NO. 2023-04**

AN ORDINANCE OF THE CITY OF THORNDALE, TEXAS ADOPTING AND ESTABLISHING GUIDELINES, CRITERIA AND PROCEDURES GOVERNING TAX ABATEMENTS AGREEMENTS PURSUANT TO CHAPTER 312, TEXAS TAX CODE, PROVIDING AN EFFECTIVE DATE; AND PROVIDING PROPER NOTICE AND MEETING.

WHEREAS, enhancement of the local economy is in the best interest of the citizens of the City of Thorndale, Texas ("City"); and

WHEREAS, the establishment of economic development incentives such as tax abatement may encourage enhancement of the local economy; and

WHEREAS, the City Council of the City of Thorndale desires to be eligible to participate in tax abatement and to adopt criteria and guidelines governing tax abatement agreements;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNDALE, TEXAS:

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The City of Thorndale, Texas, elects to participate in tax abatement as authorized by the Property Redevelopment and Tax Abatement Act of Texas Tax Code, Chapter 312, and has reviewed guidelines for participation in tax abatements under said Act.

SECTION 3. That the "**CITY OF THORNDALE, TEXAS GUIDELINES FOR TAX ABATEMENT, CRITERIA AND APPLICATION PROCEDURE**" attached hereto as Exhibit "A", be, and the same are hereby, adopted as the guidelines and criteria governing tax abatement agreements for the City and shall govern all the tax abatement matters considered by the City from and after the effective date described below. The City Council shall not enter into a Tax Abatement Agreement unless it finds that the terms of and the property of the subject of the agreement meet the applicable guidelines and criteria herein adopted, or that specific guidelines or criteria are waived.


SECTION 4. The ordinance shall take effect immediately from and after its passage and shall remain in effect for two (2) years from such date of adoption.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place

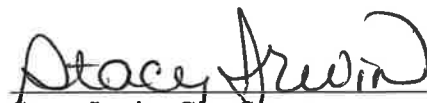
and purpose of said meeting and was given as required by the *Open Meetings Act, Chapter 551 Texas. Gov't Code.*

PASSED AND APPROVED, this, the 10th day of May, 2023, by a vote of 5 (ayes) to _____ (nays) to _____ (abstentions) of the City Council of the City of Thorndale.

CITY OF THORNDALE, TEXAS


George Galbreath, Mayor

ATTEST:


Stacy Irwin, City Secretary

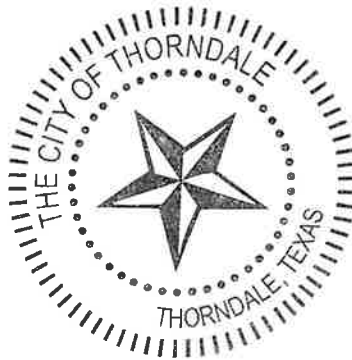


EXHIBIT "A"

City of Thorndale, Texas Tax Abatement Guidelines, Criteria and Application Process

Purpose and Objective

The City of Thorndale is committed to the promotion of economic development and to an ongoing improvement in the quality of life for its residents. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City of Thorndale will, on a case-by-case basis, give consideration to providing tax abatement incentives as a stimulant for economic development. It is the policy of the City of Thorndale that said consideration would be provided in accordance with the criteria outlined in this document and as required by State law. However, nothing herein shall imply or suggest that the City of Thorndale is under any obligation to provide any incentive to any applicant. All applicants shall be considered on a case-by-case basis.

Criteria for Tax Abatement Incentives

The following criteria shall be used to determine whether any tax abatement incentives shall be granted to any proposed project, development and/or redevelopment ("Project"):

1. The Project does not include property that is owned or leased by a member of the Thorndale City Council; provided, however, that if the property owner's property is subject to a tax abatement agreement when the owner becomes a member of the Thorndale City Council, the property owner would not lose the benefit of the tax abatement agreement due to the person's new membership on the Thorndale City Council.
2. The Project conforms to all the requirements of the City Ordinances and regulations.
3. The Project is within a reinvestment zone as designated under Chapter 312 of the Texas Tax Code.

Additional criteria to be considered for any Project:

1. The Project involves a minimum increase in property value of \$50,000.00.
2. The Project makes a substantial contribution to redevelopment efforts or special area plans by enhancing either functional or visual characteristics, i.e., parking, circulation, facades, materials, signs, historic structures, etc.
3. The Project has high visibility, image impact, or is of a significantly higher level of development quality, than the existing property in the proposed Project.
4. The Project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.
5. The Project can serve as a prototype and catalyst for other development of a higher standard.
6. The Project stimulates concentrations of employment and/or commercial activity.

7. The Project generates greater employment than would otherwise be achieved,
i.e. commercial/industrial vs. residential or manufacturing vs. warehouse.

EXHIBIT "A"

Tax Abatement Guidelines

CATEGORY I	DOLLAR VALUE OF IMPROVEMENT	POINTS
<i>Objective Criterion</i>	\$50,000 - \$100,000	3
	\$101,000 - \$250,000	6
	\$251,000 - \$1,000,000	9
	>\$1,000,000	12
<u>CATEGORY II</u>	<u>NUMBER OF JOBS CREATED OR RETAINED</u> <u>(that would not otherwise be created or retained)</u>	<u>POINTS</u>
<i>Objective Criterion</i>	1-5	3
	6-15	6
	16-30	9
	>31	12
<u>CATEGORY III</u>	<u>POSITIVE IMPACT ON THE COMMUNITY</u>	<u>POINTS</u>
<i>Subjective Criterion</i>	No significant Positive Impact	0
	Desirable Positive Impact	6
	Exceptional Positive Impact	12
TOTAL POINTS AWARDED		<hr/>
<u>SUM OF POINTS</u>	<u>YEARS OF ABATEMENT</u>	<u>% ABATEMENT</u>
<6	None	None
6-9	2	40%
12 -15	2	50%
18 - 21	2	60%
24- 27	3	80%
30	4	80%
36	5	80%

**** The City Council may choose what real or personal property is subject to an abatement.**

Application Procedures

Any person, business or corporation desiring that the City of Thorndale provide tax abatement incentives to encourage their location or expansion of operations within the City of Thorndale shall be required to comply with the following application procedures. However, nothing within these guidelines shall imply or suggest that the City is under any obligation to provide an incentive to any applicant. All applications shall be on an application form approved by the City Administrator. The application shall be accompanied by a plat showing the location of the Project, a complete legal description of the property where the Project will be located, a brief description of the Project including the estimated cost, type of business operation proposed and type of jobs that may be created, expected source of labor, and either a current financial statement (if currently in business) or a proposed financial statement (if a start-up), together with any additional information that may be requested by the City Administrator.

Once the application has been received, the information submitted will be reviewed by the City staff for completeness and accuracy. Additional information may be requested as needed. Following this review, copies of the complete application package along with all staff comments will be provided to the City Council and to other taxing entities that may be willing to participate in offering tax abatement incentives.

At a City Council meeting, the application for tax abatement incentives may be considered. The City will comply with certain public notice and hearings that are required as mandated by state law prior to and after the execution of a tax abatement agreement.

Should the City Council determine that it is in the best interest of the City of Thorndale to provide tax abatement incentives to a particular applicant, a resolution shall be adopted declaring that under the guidelines and criteria established herein, the applicant is eligible for tax abatement and that the Mayor and/or City Administrator are authorized to negotiate and execute a contract with the applicant enumerating the type of incentives and governing any conditions applicable to it. Any agreement so adopted must include at least the following specific items:

1. Description of the type of tax abatement to be provided and its duration.
2. Legal description of the property to be designated as a reinvestment zone.
3. Detailed information regarding the type, number, location, costs and timetable of the Project.
4. A statement granting the access to and inspection of the property and proposed improvements by City Officials to ensure that the improvements or repairs are made according to specifications and conditions of the agreement.
5. A statement limiting the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.
6. Any specific terms and conditions to be met by applicant; and
7. A statement providing for the recapturing of property tax revenue lost as a result of

the agreement if the owner of the property failed to make the improvements or repairs as provided by the agreement. As a general rule, the company must be in continuous operation for the period of the abatement and an additional term thereafter equal to the term of the abatement.

It is the intention of the City to establish a tax abatement policy and negotiate agreements which are legally subject to be adopted under the laws of the State of Texas. Should any provision of this plan or any agreements made hereunder be determined to be in conflict with statutes and laws of this State, such State laws shall be controlling.

No promise, condition, representation or warranty, express or implied, not set forth in the agreement shall be binding. None of the terms and conditions of the agreement may be changed, modified, waived or cancelled except by a writing signed by all of the parties who signed the original agreement.

The applicant/owner of the Project subject to tax incentives shall certify annually to the City Council that the applicant/owner is in full compliance with each applicable term of the agreement. At a minimum, the certification shall include a statement that the improvements have been completed and the initial value of the Project meets the requirements of the agreement. The City and its agents shall have the right of entry to verify the annual certification. The applicant/owner shall provide access to the records, files and other information for such an inspection during normal business hours.

Recapture

A recapture of abated taxes will occur if a condition of default occurs at any time prior to the end of the term of the agreement.

A default under the agreement occurs when any obligation of the applicant/owner to the agreement is not fulfilled in strict accordance with the terms thereof, including (by way of example and not limitation) failure to employ the requisite number of jobs within the time allowed by the agreement.

A default under the agreement occurs if it is determined by the City or any other abating entity that such tax abatement was obtained through fraud.

A default also occurs if the applicant/owner is in default in the payment of unabated taxes to any taxing jurisdiction within the reinvestment zone, regardless of whether that entity is an abating entity.

A default also occurs if any portion of the property involved with the Project is disposed of by any means or in any manner without replacement of equivalent value. The term disposition includes, as example and not limitation, sale, theft, abandonment, obsolescence due to lack of repair (but not functional obsolescence), destruction by casualty without replacement, or any other cessation of

use.

No default shall be actionable until the applicant/owner has received written notice from the City or other abating entity of the alleged default and the same has not been cured within thirty (30) days following such written notice.

Termination of the agreement and the resulting recapture shall be retroactive to the effective date of the agreement.

Termination of the agreement shall be effected by resolution, after notice and public hearing. Written notice of a final resolution terminating the agreement shall be given to the business/applicant/owner. There is no administrative appeal from such determination.

On termination, the business/applicant/owner shall then become liable for the payment of all taxes that would otherwise have become due, but for the tax abatement agreement for all the years during which the agreement was in effect. Said taxes shall be paid to each abating such taxes within sixty (60) days following such notice of termination. If the taxes are not paid as required or if it is determined that the tax abatement was obtained through fraud, then all such taxes due shall include any statutory penalty and interest from the date they would have otherwise become delinquent before the agreement, until the date they are actually paid.

A partial recapture of taxes may take place if the business/owner/applicant does not fulfill all of the terms of the Agreement but does accomplish the agreement to an extent that would have qualified it for a lesser abatement.

Term and Amendments to these Guidelines and Criteria

The guidelines and criteria adopted herein shall be effective for two years from the date of adoption and shall not be amended or repealed except by three-fourths (3/4th) vote of the City Council.

CITY OF THORNDALE TAX ABATEMENT APPLICATION FORM

(Please type or print)

Name of Company:	
Name of Officer Submitting Application Form:	
Title of Officer Submitting Application Form:	
Telephone Number:	
Address of Company:	
City, State, and ZIP Code:	
Signature of Company Official/Agent:	
Legal Description of Property Proposed for Tax Abatement:	

INSTRUCTIONS

Applicant and projects must meet the requirements established by the City of Thorndale Tax Abatement Guidelines, Criteria and Application Procedures.

APPLICANT INFORMATION

The City may consider the applicant's financial capacity to determine whether to enter into a Tax Abatement Agreement. Established companies for which public information is available, or the wholly owned business of such companies, should include with the application a copy of their latest annual report to stockholders. Other applicants and new companies should attach a statement showing when the company was established; business references (name, contact, and telephone number of principal bank, account and attorney); and may be required to submit an audited financial statement and business plan.

ECONOMIC INFORMATION

Permanent Employment Estimates; in estimating the permanent employment, include the total number of jobs retained or created at this site by your firm as well as known permanent jobs of service contractors required for operation.

Estimated Appraised Value on Site; the value as of January 1, preceding abatement, should be the value established by the Milam County Appraisal District. If the applicant must estimate value because the taxable value is not known or is combined with other properties under a single tax account, please so state. To qualify, the abated properties must be expected to result in an addition to the tax base after the period of abatement expires. Estimates of value should be a "best estimate" based on taxability in Texas. The estimate of project values not abated should include personal property and ineligible project - related improvements, such as office space in excess of that used for plant administration, housing, etc. Current and anticipated exemptions (e.g.

pollution reducing) should be clearly identified.

The filing of this document acknowledges familiarity and conformance with the "City of Thorndale Tax Abatement Guidelines, Criteria and Application Procedures" for granting tax abatements in a reinvestment zone created in the city limits of Thorndale, Texas. This application will become part of the Agreement, and any knowingly false representations will be grounds for the City of Thorndale to void the Agreement.

APPLICANT INFORMATION (please print or type)

Number of Current Employees:	
Number of Employees to be Added as a Result of the Project:	
Annual Sales:	
Check One:	<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship
Type of Facility Proposed for the Abatement:	
Check One:	<input type="checkbox"/> New Plant <input type="checkbox"/> Expansion <input type="checkbox"/> Modernization

If an abatement is granted, an annual report must be submitted to the City Council.

PROJECT INFORMATION

****ATTACH MAP SHOWING PROPOSED SITE****

Project Description: Attach separate statement fully explaining project. Describe existing site and improvements. Describe all proposed improvements, and provide a list of improvements and equipment for which abatement is requested.

ECONOMIC INFORMATION

Estimated Construction Initiation Date (month/year):	
Estimated Construction Completion Date (month/year):	
Peak Construction Jobs:	
Construction Man Hours:	

This application form and all attachments must be submitted to the City Administrator, 105 North Main Street, P O Box 308, Thorndale, Texas 76577.