

***CITY OF STEPHENVILLE
ECONOMIC DEVELOPMENT
INCENTIVES PROGRAM***

**Office of Community Development
Stephenville City Hall
298 West Washington
Stephenville, Texas 76401
254-918-1216**

**Adopted October 1995
Revised August 1996
Revised October 2000
Revised October 2005
Revised January 2010**

***CITY OF STEPHENVILLE
GUIDELINES AND CRITERIA
FOR
THE ECONOMIC DEVELOPMENT
INCENTIVES PROGRAM***

***TAX ABATEMENT or CHAPTER 380
AGREEMENT POLICY***

TAX ABATEMENT or CHAPTER 380 AGREEMENT POLICY

SECTION 1 PURPOSE

The City of Stephenville is committed to the promotion and retention of high quality development within the City of Stephenville and to better the quality of life for its citizens. These objectives can often be attained by the enhancement and expansion of the local economy. To meet these objectives, the City of Stephenville will, on a case-by-case basis, consider providing tax abatements or other economic development incentives as authorized by Chapter 380 of the Texas Local Government Code to aid the stimulation of economic development in Stephenville. The City of Stephenville will give said consideration in accordance with this Guidelines and Criteria document. Nothing herein shall imply or suggest that the City of Stephenville is under any obligation to provide tax abatements or incentives to any applicant. All applications shall be considered on a case-by-case basis. Tax abatements and other economic incentives will be measured against the same criteria.

Participation in an abatement or incentive agreement does not remove any obligation to satisfy all codes and ordinances of the City or any other affected taxing jurisdiction that may be in effect and applicable at the time this project is implemented.

SECTION II DEFINITIONS

1. "Abatement" means the full or partial exemption from ad valorem taxes of certain eligible property in a Reinvestment Zone designated for economic development purposes pursuant to Chapter 312 of the Texas Tax Code.
2. "Agreement" means a contractual agreement between property owner and an eligible jurisdiction for the purposes of tax abatement. Owners of personal property and lessees may also be signatories to an agreement with a real property owner.
3. "Assisted Living Facility" means a facility with five or more living units providing long term care services for frail senior adults who need daily assistance with one or more tasks of daily living, including meals, bathing and dressing and/or administering medication.
4. "Base Year Value" means the assessed value of eligible property January 1 preceding the execution of the agreement plus the agreed upon value of eligible

property improvements made after January 1, but before the execution of the agreement.

5. "City" means the City of Stephenville, Texas.
6. "Deferred Maintenance" means improvements necessary for continued operations which do not improve the productivity or alter the process technology.
7. "Distribution Center Facility" means buildings and structures, including machinery and equipment, 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 outside the City.
8. "Eligible Property" means property that may be extended abatement. Eligible property includes buildings, structures, fixed machinery and equipment, site improvements plus office space, related fixed improvements necessary to the operation and administration of the facility and assisted living facilities.
9. "Expansion" means the addition or enlargement of buildings, structures, fixed machinery, or equipment for purposes of increasing production capacity.
10. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
11. "Ineligible Property" means property that shall be fully taxable and ineligible for abatement. Ineligible property includes land, inventories, supplies, furnishings or other forms of movable personal property, vehicles, deferred maintenance investments and residential property.
12. "Manufacturing Facility" means buildings and structures including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or material or the processing of such goods or materials by physical or chemical change, including the assembly of goods and materials from multiple sources in order to create a finished or semi-finished product.
13. "Modernization" means the replacement and upgrading of existing facilities which increases the productivity input or output, updates the technology or substantially lowers the unit cost of the operation. 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, or repairing except as may be integral to or in direct connection with an existing expansion. If a modernization project includes facility replacement, the eligible value shall be the value of the new unit(s) less the value of the old unit(s).

14. "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
15. "Other Basic Industry" means buildings or 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 jobs and create new wealth in the City.
16. "Planning and Development Committee" is comprised of four City Council members. The City Administrator, or the City Administrator's designate, shall serve as ex-officio member of the Committee.
17. "Productive Life" means the number of years a property improvement is expected to be in service.
18. "Residential Property" means land and buildings used as dwellings for occupancy by a family including single-family dwellings, two-four family dwellings, multi-family dwellings (five or more units), townhouse and condominium dwellings, family home for disabled persons and retirement housing complexes. Residential Property does not include Assisted Living Facilities.
19. "Project" means any property improvement including expansions, modernization, and new facilities; but excluding any deferred maintenance or public dedicated improvements.
20. "Reinvestment Zone" means any area of the City which has been designated a reinvestment zone for tax abatement purposes and which is located within the taxing jurisdiction of the City. It is the intent of the City to designate reinvestment zones on a case-by-case basis in order to maximize the potential incentives for eligible enterprises to locate or expand within the City.
21. "Regional Entertainment Facility" means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public.
22. "Regional Retail Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide retail services.
23. "Regional Service Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide services.
24. "Research Facility" means buildings and structures, including 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.

25. "Targeted Enterprise" includes, but is not limited to the following facilities: distribution center facility, manufacturing facility, regional entertainment facility, research facility, regional service facility, or any other basic industry.

**SECTION III
ELIGIBLE FACILITIES**

The City Council may enter into tax abatement or incentive agreements with landowner with projects demonstrating an increased industrial investment in buildings and fixed assets, increased employment, or an increase in the City's sales tax.

The value of the abatement and/or incentive shall not exceed 100 percent of investment by the business in eligible property as defined in Section II. The City Council, or its designated representative, shall work with the applicant prior to the execution of an abatement agreement to determine the abatement schedule. For qualifying facilities, the City Council may approve abatement agreements lasting no longer than ten years. However, the length of the abatement agreement shall not exceed one-half of the estimated economic life of the facility, as determined by the City Council.

**SECTION IV
MINIMUM REQUIREMENTS AND CRITERIA**

- A. Minimum Requirements-in order to be eligible to receive a tax abatement or incentive. The applicant must meet the following minimum qualifications.
1. must be reasonably expected to increase the appraised value of the property in the amounts as stated in Section IV, (A)(5); and
 2. must be expected to prevent the loss of full-time employment, retain or create employment for a number of new full-time jobs as stated in Section IV, (A)(5) that is reasonably required in order to operate the facility in an efficient manner; provided that this employment qualification shall take effect one year after the effective date of the abatement and continue through the remaining term of the agreement; and
 3. must not be expected to solely or primarily have the effect of transferring employment from one part of the City of Stephenville to another; and
 4. must be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements.
 5. Minimum Capital Cost of Project and Minimum No. of New Full-Time Jobs Created

\$ 250,000	5
500,000	10
1 Million	10
2.5 Million	15
5 Million	20

B. General Criteria- All applications should meet the following general criteria before being considered for a tax abatement or incentive.

1. The project expands the local tax base.
2. The project creates permanent, full-time employment opportunities.
3. The project makes a contribution to enhancing further economic development.
4. The project will not result in any unreasonable aesthetic and/or environmental concerns.
5. No construction has commenced at the time the application is approved.
6. The project should not have any of the following objections:
 - a. There would be substantial adverse affect on the provision of government service or tax base.
 - b. The applicant has insufficient financial capacity.
 - c. Planned or potential use of the property would constitute a hazard to public safety.
 - d. Planned or potential use of the property would give adverse impacts to adjacent properties; or
 - e. Any violation of laws of the United States, State of Texas, or ordinances of the City of Stephenville would occur.
 - f. Give unfair competitive advantages for one business over another local business.

C. Specific Criteria-If the project in the application meets the general criteria, then abatement or incentive may be considered. Factors to be considered in determining the portion of the increased value to be abated and the duration of the abatement agreement or the type of incentive given include, but are not limited to:

1. Employment Impact

- a. How many jobs will be brought to Stephenville?
- b. What types of jobs will be created?
- c. What will the total annual payroll be?

2. Fiscal Impact

- a. How much real and personal property value will be added to the tax rolls?
- b. How much direct sales tax will be generated?
- c. How will this project affect existing businesses and/or facilities?
- d. What infrastructure construction would be required?
- e. What is the total annual operating budget of this facility projected to be?

3. Community Impact

- a. What impact would the project have on the local housing market?
- b. What environmental impact, if any, will be created by the project?
- c. How compatible is the project with the City's comprehensive plan?

D. Value and Term - once a determination has been made that a tax abatement or incentive would be offered, the maximum value and term of the abatement will be determined by referencing the following table:

<u>Year</u>	<u>Percentage of Taxable Value Abated</u>
The first and second years	100%
The third, fourth and fifth years	50%
The sixth and seventh years	40%
The eighth and ninth years	35%
The tenth year	25%

Provided, however, that if the City Council determines that the estimated economic life of a facility for which tax abatement is sought is for a period of less than twenty years, the City Council shall adjust the above schedule to a term not exceeding one-half of the economic life of the facility.

SECTION V PROCEDURAL GUIDELINES

Any person, organization or corporation desiring that Stephenville consider providing a tax abatement or incentive to encourage location or expansion of operations within the city limits of Stephenville shall be required to comply with the following procedural guidelines. Nothing within these guidelines shall imply or suggest that Stephenville is under any obligation to provide tax abatement or incentive in any amount or value to any applicant.

Any request for tax abatement or incentive shall be reviewed by the City Council.

The City Council as a whole, shall vote on approval of the abatement or incentive.

A. Preliminary Application Steps

1. Complete the attached "Application for Tax Abatement or Economic Development Incentive."
2. Address in narrative form, all criteria questions outlined in Section IV.
3. A plat showing the precise location of the property, all roadways within 500 feet of the site and all existing zoning and land uses within 500 feet of the site, (a complete legal description shall be provided if the property is described by metes and bounds).
4. A complete estimated cost of the project by "line item" approach.
5. A description of the methods of financing all estimated costs and the time when related costs or monetary obligations are to be incurred.
6. A detailed time schedule for undertaking and completing the project.
7. Complete all forms and information detailed in items 1 through 6 above and submit them to:

City of Stephenville
Community Development Division

298 West Washington
Stephenville, Texas 76401

B. Application Review Steps

1. All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be requested as needed.
2. The application will be distributed to the appropriate city departments for internal review and comments. Additional information may be requested as needed.
3. Copies of the complete application package and staff comments will be forwarded to the City Council within 30 days from the date the city receives the application package.

C. Consideration of the Application

1. The City Council will consider the application at a regular or called meeting(s). Additional information may be requested as needed.
2. In the case of a tax abatement request, the city shall notify in writing each governing body of every taxing unit that the proposed reinvestment zone involves to determine each taxing unit's intentions of entering into a tax abatement.
3. The City Council will then inform the applicant of their recommendations and the intentions of the other taxing units on tax abatement agreements, if applicable.
4. The City Council by ordinance must designate an area as a reinvestment zone to be eligible for a tax abatement. Prior to adopting such an ordinance, the City Council must conduct a public hearing on the designation that entitles all interested persons to speak and present evidence for or against the designation. The City Council will also call for a public hearing before granting an economic development incentive.
5. The governing bodies of the Stephenville Independent School District, and Erath County may consider ratification of and participation in the tax abatement agreement between the City of Stephenville and the applicant.

6. Information provided to the City which describes the specific processes or business activities to be conducted or the equipment or other property to be located for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed.
- D. Tax Abatement Agreement - The city, by resolution, may enter into a tax abatement agreement. At least seven days before entering into the agreement, the city will deliver written notice of its intent to each taxing unit that is included in the reinvestment zone.
1. Any agreement will include, but not be limited to, the following specific items:
 - a. all appropriate stipulations included in the application, as outlined by the document, for a reinvestment zone and tax abatement agreement.
 - b. the amount and duration of the tax abatement.
 - c. a method for determining the qualifications of meeting the criteria and applicant's promise to meet and maintain these qualifications over the term of the agreement. This may require the submission of an annual report to the City Administrator demonstrating that the terms and conditions required to receive a tax abatement have been met, and the City will be allowed, upon written request and reasonable notice, to inspect and audit such records of the applicant as necessary to substantiate that the applicant is meeting criteria agreed upon during the term of the abatement.
 - d. a provision that provides for the recapture of taxes that is substantially worded as follows:
 - (1) 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 one year during the abatement period, then the agreement shall terminate automatically as of the 365th day of discontinuation and so shall the abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for

the calendar year shall be paid to the city within sixty days from the date of termination.

(2) Should the City determine that the 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 such notice is placed in the U.S. mail ("Cure Period"), then the agreement may be terminated.

(3) In the event that the company or individual: (1) 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 (2) violates any of the terms and conditions of the abatement agreement and fails to cure within the Cure Period, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.

e. the tax abatement agreement shall not commence until the facility has received a certificate of occupancy from the city.

f. a provision that the owner of the property certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement.

2. An agreement may be terminated by the mutual consent of the parties in the same manner that the Agreement was approved and executed.

E. Economic Development Incentives- The city by resolution may enter into an economic development incentive agreement. An incentive may include but is not limited to:

1. Provide personnel - The city may provide personnel and services of the municipality upon approval of the City Council.

2. Infrastructure - Extension, construction or reconstruction of infrastructure necessary for the development of a targeted enterprise may be made upon approval of the City Council.

3. Utility Rates - The City Council may consider additional utility rate classes for targeted enterprises that require larger amounts of municipal utilities. Any classification established will be available to all utility users meeting the minimum usage requirements for that group. Consideration will be given to capital improvements required to provide utility service.
4. Any agreement will include, but not be limited to, the following specific items:
 - a. all appropriate stipulations included in the application, as outlined by the document, for an economic development incentive agreement.
 - b. the amount(s) and type(s) of incentive.
 - c. A method for determining the qualifications of meeting the criteria and applicant's promise to meet and maintain these qualifications over the term of the agreement. This may require the submission of an annual report to the city demonstrating that the terms and conditions required to receive a tax incentive have been met, and the city will be allowed, upon written request and reasonable notice, to inspect and audit such records of the applicant as are necessary to substantiate that the applicant is meeting criteria agreed upon during the term of the incentive.
 - d. a provision that in the event the agreement is not kept, the incentive will be determined null and void and all actual and planned city expenditures and /or cost of labor will be paid immediately to the city.

_____ Yes _____ No include attachment

SECTION II

EMPLOYMENT IMPACT

How many jobs will be brought to Stephenville?

What types 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 much direct sales tax will be generated?

How will this project affect existing businesses and/or facilities?

What infrastructure construction would be required?

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

COMMUNITY IMPACT

What impact would 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?

Value and Term - once a determination has been made that a tax abatement or incentive would be offered, the value and term of the abatement will be determined by referencing the following table:

TAX INCREMENT FINANCING POLICY

Tax increment financing is a tool that local government may use to publicly finance needed structural improvements and enhanced infrastructure within a defined area. These improvements are undertaken to promote the viability of existing businesses and to attract new commercial enterprises to the area. Chapter 311 of the Texas Tax Code governs tax increment financing.

The cost of improvements to the area is repaid by the contribution of future tax revenues by each taxing unit that levies taxes against the property. Specifically, each taxing unit can choose to dedicate all, a portion of, or none of the tax revenue that is attributable to the increase in property values due to the improvements within the reinvestment zone. The additional tax revenue that is received from the affected properties is referred to as the tax increment. Each taxing unit determines what percentage of its tax increment, if any, it will commit to repayment of the cost of financing the public improvements.

Tax increment financing may be initiated only by a city. If a property is located outside of the city limits, it is not eligible for tax increment financing. Once a city has initiated tax increment financing, counties, school districts, and special districts are allowed to consider participating in the tax increment financing agreement.

There are two ways that tax increment financing can be initiated. First, it can be started by petition of the affected property owners. The petition must be submitted by owners of property that constitutes at least 50 percent of the appraised property value within the proposed zone.

Tax increment financing may also be initiated by the city council without the need for a petition. If not initiated by petition, an area may be considered for tax increment financing only if it meets at least one of the following three criteria:

- 1) The area's present condition must substantially impair the city's growth, retard the provision of housing, or constitute an economic or social liability to the public health, safety, morals, or welfare. Further, this condition must exist because of the presence of one or more of the following conditions: a substantial number of substandard or deteriorating structures, inadequate sidewalks or street layout, faulty lot layouts, unsanitary or unsafe conditions, a tax or special assessment delinquency that exceeds the fair market value of the land; defective or unusual

conditions of title, or conditions that endanger life or property by fire or other cause; or

- 2) The area is predominately open, and because of obsolete platting, deteriorating structures, or other factors, it substantially impairs the growth of the city; or
- 3) The area is in or adjacent to a "Federally assisted new community" as defined under Tax Code Section 311.005(b).

The Tax Code places several further restrictions on the creation of a reinvestment zone for tax increment financing.

- No more than ten percent of the property within the reinvestment zone (excluding publicly owned property) may be used for residential purposes. This requirement, however, does not apply if the district is created pursuant to a petition of the landowners.
 - A reinvestment zone may not contain property that cumulatively would exceed 15 percent of the total appraised property value within the city and its industrial districts.
 - A city may also not create a reinvestment zone or change the boundaries of an existing zone if the zone would contain more than 15 percent of the total appraised value of real property taxable by a county or school district.

Subject to the above limitations, the boundaries of an existing tax increment financing zone may be reduced or enlarged by ordinance or resolution of the city council that created the zone. Any such change is conducted according to the requirements of Section 311.007 of the Tax Code.

If an area qualifies for tax increment financing, the process basically involves ten steps. The ten steps are as follows:

STEP 1. The governing body of the city must prepare a preliminary reinvestment zone financing plan.

A copy of the plan must be sent to each local government that levies taxes on real property within the zone.

STEP 2. The city must provide 60 days' written notice of its intent to designate a reinvestment zone, and of the hearing on the proposed zone, to the other taxing units that levy property taxes within the area.

The notice must contain a description of the proposed boundaries of the zone, the tentative plans for the zone's development, and an estimate of the general impact of the zone on property values and tax revenues.

STEP 3. Once the city has provided its 60 day notice of a proposed zone, the other affected taxing units within 15 days must designate a representative to meet with the city to discuss the project plans.

With advance notice, the city may call a meeting or meetings of these representatives. The meetings may be called at least 15 days after the city's 60 day notice of the proposed zone. The meetings may include discussions of the following items:

- The boundaries of the development within the zone;
- The tax increment that each taxing unit will contribute to the tax increment fund;
- Any proposed retention of a portion of its tax increment by a taxing unit;
- The exclusion of particular parcels of property from the zone;
- The board of directors for the zone; and
- Tax collection within the zone.

STEP 4. In addition to meeting with the other taxing unit representatives, the city must provide a formal presentation to the governing body of each county and school district that levies real property taxes within the proposed zone.

The city's formal presentation must cover the same items that were included in the city's earlier 60 day notice to the taxing units. Specifically, the presentation must indicate the proposed boundaries of the zone, the tentative plans for development of the zone, and an estimate of the general impact of the zone on property values and tax revenues. Notice of these presentation must be given to all taxing units that tax property within the zone. The presentations should be conducted as open meetings. The city may hold a joint presentation for all of the affected taxing units with the consent of the involved counties and school districts.

The city's proposal plan for the zone may include expenditures for any of a number of costs as outlined in the definition of the term "project cost" in Tax Code Section 311.002(1). Potential expenditures could include the costs of acquisition, construction, or improvement and other costs to enhance or develop

new and existing public buildings and other public improvements. Project costs includes expenditures for acquisition, alternation, or construction of:

- Public improvements;
- New buildings, structures, and fixtures;
- Existing structures;
- Utilities, water and sewer facilities, flood and drainage facilities;
- Streets, street lights;
- Pedestrian malls, walkways, or parking facilities;
- Parks and educational facilities.

Project costs may also include the cost of professional services and administrative expenses in connection with implementation of a project plan.

STEP 5. After the city has made its formal presentations to the other taxing units, the city must hold a public hearing on the creation of the reinvestment zone.

The public hearing must be preceded by at least seven days' published notice in a newspaper of general circulation in the city. At the hearing, the governing body of the city must evaluate the proposed benefits of the zone. Any interested person is permitted to speak at the hearing and voice their objection to the inclusion of property within a proposed zone. Property within the zone that is owned or leased by a member of the governing body of the city or by a member of a zoning or planning board or commission of the city is not eligible for tax increment financing or tax abatement.

STEP 6. After the public hearing, the governing body of the city may, by ordinance, designate a contiguous area within the city as a reinvestment zone for tax increment financing purposes.

The ordinance must be adopted by a simple majority vote of the city's governing body at an open meeting. The adopted ordinance should include a finding that development of the area would not occur in the foreseeable future solely through private investment. Tax Code Section 311.004 also contains a number of other mandatory provisions for the reinvestment zone ordinance. These provisions include:

- a description of the boundaries of the zone with sufficient detail to identify the territory within the zone. The ordinance, however, does not have to identify the specific parcels of real property;
- a designation of the board of directors for the zone and an indication of the number of directors of the board;
- a provision that the zone will take effect on January 1 of the year following the year in which the ordinance is adopted;
- an indication of the date for termination of the zone;
- a name for the zone as provided under Tax Code Section 311.004(5);
- a provision establishing a tax increment fund for the zone;
- findings that the improvements within the zone will significantly enhance the value of the taxable property within the zone and will be of general benefit to the city, and that the area meets the criteria for designation of a reinvestment zone under Tax Code Section 311.005; and
- if designating a reinvestment zone pursuant to a petition of the property owners, the city must specify in its ordinance that the reinvestment zone is designated pursuant to Tax Code Section 311.005(a)(5).

The board of directors consists of at least five and not more than 15 members, unless more than 15 members are required under Tax Code Section 311.009. To be eligible for appointment to the board, a person must be a qualified voter of the taxing unit, or be at least 18 years old and own real property in the zone.

The qualifications for members of the board are different if the zone was created pursuant to a petition of the property owners. Such directors must be at least 18 years of age and own real property in the zone, or be an employee or agent of a person that owns real property in the zone.

Each taxing unit (other than the city) that levies taxes on real property in the zone may appoint one member of the board. A unit may waive its right to appoint a director. If the reinvestment zone was created pursuant to a petition of the property owners, the board of directors consists of nine members. Each school district and county that both levies taxes on the real property in the zone and agrees to participate in the tax increment plan may appoint one member to the board. Additionally, the member of the state senate and the member of the state house of representatives in whose districts the zone is located each may serve on the board of directors or appoint a substitute member to serve in their slot. The

remaining members of the board are appointed by the city council. Generally, the governing body of the city that created the zone may appoint not more than ten directors to the board. However, the city may appoint more than ten directors to the board if the total number of board members will not exceed 15. Each member of the board is appointed for a term of two years, unless the city chooses a longer term of up to four years as authorized under Article XI, Section 11 of the Texas Constitution.

Each year, the city appoints one member of the board to serve as chairman. The chairman serves for a term of one year that begins on January 1 of the following year. The board of directors may also elect a vice-chair to preside in the absence of the chairman. The board may elect other officers as it considers appropriate. A vacancy on the board is filled by appointment of the governing body of the taxing unit that appointed the director.

STEP 7. After the city has adopted the ordinance creating the zone, the board of directors of the zone must prepare both a "project plan" and a reinvestment zone "financing plan".

The plans must be as consistent as possible with the preliminary plans developed by the city for the zone before the board was created. Specifically, the project plan must include:

- a map showing existing uses of real property within the zone and any proposed improvements;
- any proposed changes to zoning ordinances, the master plan of the city, building codes, or other municipal ordinances;
- a list of estimated non-project costs;
- a statement of the method for relocating persons who will be displaced as a result of implementation of the plan; and
- if a zone is created pursuant to petition in a county that has a population in excess of 2.1 million, there are certain special requirements of the project plan involving residential housing that must be observed.

Further, the board must provide a reinvestment zone financing plan. It must contain the following nine items:

- 1) a detailed list of the estimated project costs of the zone, including administrative expenses;

- 2) a list of the kind, number, and location of all proposed public works or public improvements within the zone;
- 3) an economic feasibility study;
- 4) the estimated amount of bonded indebtedness to be incurred;
- 5) the timing for incurring costs or monetary obligations;
- 6) the methods of financing all estimated project costs and the expected sources of revenues, including the percentage of tax increment to be derived from the property taxes of each taxing unit that levies taxes on real property within the zone;
- 7) the current total appraised value of taxable real property in the zone;
- 8) the estimated captured appraised value of the zone during each year of its existence; and
- 9) the duration of the zone. As provided under Tax Code Section 311.017, a tax increment financing reinvestment zone terminates on the earlier of: the termination date designated in the original or amended ordinance creating the zone, or the date on which all project costs, tax increment bonds, and interest on those bonds have been paid in full.

The financing plan may provide that the city will issue tax increment bonds or notes, the proceeds of which are used to pay project costs for the reinvestment zone. Any such bonds or notes are payable solely from the tax increment fund and must mature within 20 years of the date of issue. Tax increment bonds are issued by ordinance of the city without any additional approval required, other than that of the Public Finance Section of the Attorney General's Office.

After both the project plan and the reinvestment zone financing plan are approved by the board of directors of the zone, the plans must also be approved by ordinance of the governing body of the city. The ordinance must be adopted at an open meeting by a simple majority vote of the taxing unit's governing body. The ordinance must find that the plans are feasible and conform to the city's master plan.

At any time after the zone has been adopted, the board of directors may adopt an amendment to the project plan as provided under Section 311.011 of the Tax Code. The amendment takes effect on approval of the change by ordinance of the city council and in certain cases may require an additional public hearing.

STEP 8. After the project plan and the reinvestment zone have been approved by the board of directors and by the city governing body, the other taxing units with property within the zone contract with the city regarding what percentage of their increased tax revenues will be dedicated to the tax increment fund.

The tax increment fund is ultimately made up of the contributions by the respective taxing units of a portion of their increased tax revenues that are received each year under the plan.

The decision as to what percentage of the increased tax revenues to contribute to the tax increment fund is entirely discretionary with the governing bodies of each of the taxing units. Any agreement to contribute must indicate the portion of the tax increment to be paid into the fund and the years for which the tax increment will be paid. The agreement may also include other conditions for payment of the tax increment. Once the taxing unit determines what portion of its tax increment it will dedicate to the fund and the project plan is accordingly approved, the taxing unit may not later decrease the portion it contributes. Only property taxes attributable to real property within the zone are eligible for contribution to the tax increment fund. Property taxes on personal property are not eligible for contribution into the tax increment plan.

Payment of the taxing unit's increment to the fund must be made by the 90th day after the delinquency date for the unit's property taxes. A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 percent.

In lieu of permitting a portion of its tax increment to be paid into the tax increment fund, a taxing unit (other than a city) may elect to offer the owners of taxable real property in the zone an exemption from ad valorem taxation for any increase in the property value as provided under Tax Code Chapter 312. However, a taxing unit may not offer a tax abatement to the property owners in the zone after it has entered into an agreement that it would contribute a tax increment into the fund.

STEP 9. Once the reinvestment zone is established, the board of directors of the reinvestment zone must make recommendations to the governing body of the city on the implementation of the tax increment financing.

The board of directors of the reinvestment zone may enter into agreements to implement the project plan and financing plan to achieve their purposes. It may also enter into agreements to provide certain land-use restrictions.

If the taxing increment financing (TIF) reinvestment zone is created pursuant to a petition of the property owners, the city may permit the board of directors of the TIF to exercise any of the city's power with respect to the administration and operation of the zone or the implementation of the project plan and reinvestment

zone financing plan, other than the power to issue bonds, levy taxes, or give final approval to the project plan. Additionally, subject to the approval of the city council, the TIF board may impose certain zoning restrictions over territory within the zone as provided in Section 311.010 (c) of the Tax Code.

The board must ensure that bonds have been issued for the zone, that the city has acquired property in the zone pursuant to the project plan, and/or that construction of improvements has begun in the zone. If at least one of the above three items has not been accomplished within the first three years of the zone's existence, the other taxing units are not required to continue payments into the tax increment fund.

The board is also required to implement a plan to enhance the participation of "disadvantaged businesses" in the zone procurement process, as provided under Tax Code Section 311.0101. The board has other enumerated powers as described in Section 311.010 of the Tax Code.

STEP 10. The city must submit an annual report to the chief executive officer of each taxing unit that levies taxes on property within the zone.

The report must be provided within 90 days of the end of the city's fiscal year. The report must include the following items:

- the amount and source of revenue in the tax increment fund established for the zone;
- the amount and purpose of expenditures from the fund;
- the amount of principal and interest due on outstanding bonded indebtedness;
- the tax increment base and current captured appraised value retained by the zone;
- the captured appraised value shared by the city and other taxing units;
- the total amount of tax increments received; and
- any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the city.

A copy of the above report must also be sent to the attention of the Public Financing Division in the Office of the Attorney General.

***NEIGHBORHOOD EMPOWERMENT ZONE
POLICY***

NEIGHBORHOOD EMPOWERMENT ZONE POLICY

Neighborhood Empowerment Zone guidelines afford cities a mean to offer sales tax abatements or refunds of municipal sales tax on sales made in the zone.

The criteria is set out in Chapter 378 of the Local Government Code.

LOCAL GOVERNMENT CODE CHAPTER 378. NEIGHBORHOOD EMPOWERMENT ZONE

378.001. Definition

In this chapter, "zone" means a neighborhood empowerment zone created by a municipality under this chapter.

378.002. Creation of Zone

A municipality may create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:

- (1) the creation of affordable housing, including manufactured housing, in the zone;
- (2) an increase in economic development in the zone;
- (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- (4) the rehabilitation of affordable housing in the zone.

378.003. Adoption of Zone

- (a) A municipality may create a zone if the governing body of the municipality adopts a resolution containing:
 - (1) the determination described by Section 378.002;
 - (2) a description of the boundaries of the zone;

- (3) a finding by the governing body that the creation of the zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the municipality; and
 - (4) a finding by the governing body that the creation of the zone satisfies the requirements of Section 312.202, Tax Code.
- (b) A municipality may create more than one zone and may include an area in more than one zone.

378.004. Municipal Powers

In addition to other powers that a municipality may exercise, a municipality may:

- (1) waive or adopt fees related to the construction of buildings in the zone, including fees related to the inspection of buildings and impact fees;
- (2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for sales tax refunds or abatements of municipal sales tax on sales made in the zone;
- (3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section 312.201, Tax Code; and
- (4) set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.

