



"City of Choice"

ORDINANCE NO. 1265

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CIBOLO, TEXAS ADOPTING A TAX ABATEMENT POLICY OF GUIDELINES AND CRITERIA FOR GOVERNING TAX ABATEMENT INCENTIVES PURSUANT TO CHAPTER 312 OF THE TEXAS TAX CODE WITHIN THE CITY LIMITS OF CIBOLO AND ITS EXTRATERRITORIAL JURISDICTION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Cibolo, Texas ("City") wishes to support promotion of economic development programs within its jurisdictional limits; and

**WHEREAS**, Chapter 312.002(a) of the Texas Tax Code requires the City, as a prerequisite to granting and executing any tax abatement agreement, to publicly declare its intent to elect to participate in tax abatement; and

**WHEREAS**, the City Council of the City of Cibolo desires to include in its Economic Development Incentives Program provisions for granting tax abatements according to Chapter 312 of the Texas Tax Code;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CIBOLO, TEXAS THAT:**

**SECTION 1.** The City Council hereby publicly elects to participate in tax abatement and adopts The Tax Abatement, attached hereto as Exhibit A for granting tax abatements within the City of Cibolo, Texas and its extraterritorial jurisdiction and the Guidelines and Criteria hereby adopted pursuant to Section 312.002 (a) of the Texas Tax Code.

**SECTION 2. INCORPORATION OF RECITALS.** The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as findings of fact.

**SECTION 3. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.


**SECTION 4. EFFECTIVE DATE.** This Ordinance will become effective immediately following adoption by the City Council of the City of Cibolo.

**PASSED, APPROVED, AND ADOPTED THIS 14<sup>th</sup> DAY OF MAY, 2019.**

**CITY OF CIBOLO**

**ATTEST:**

  
\_\_\_\_\_  
Stosh Boyle, Mayor

  
\_\_\_\_\_  
Peggy Cimics, City Secretary



**CIBOLO, TEXAS GUIDELINES  
AND CRITERIA FOR TAX  
ABATEMENT**

**PROGRAM GOALS:**

The City of Cibolo is committed to the promotion and development of new business and seeks to offer programs that will attract investment into the City thereby improving the quality of life for its citizens. In an effort to enhance the City's tax base and expand the local economy, the City will give consideration to tax abatements of real property and personal property for certain new construction and building renovations located within a designated reinvestment zone or along the Interstate 10 business development corridor.

**Section 1        DEFINITIONS**

(a) "*Abatement*" means the full or partial exemption from ad valorem taxes of eligible properties in a reinvestment zone designated as such for economic development purposes in accordance with Chapter 312 of the Texas Tax Code.

(b) "*Eligible Jurisdiction*" means the City of Cibolo, Guadalupe County, Texas and any other local taxing jurisdictions eligible to abate taxes according to Texas law, the majority of which is located in the City of Cibolo that levies ad valorem taxes and provides services to a reinvestment zone designated by the City Council.

(c) "*Agreement*" means a contractual agreement between a property owner and/or lessee and the City of Cibolo for the purpose of providing a tax abatement.

(d) "*Base Year Value*" means the assessed value of eligible property in a designated reinvestment zone on January 1 preceding the execution of an abatement Agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the Agreement.

(e) "*Deferred Maintenance*" means the improvements necessary for continued operations, which do not improve productivity or alter the process technology.

(f) "*Distribution Center Facility*" means buildings and structures, including machinery and equipment, used or to be 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 at least fifty (50) miles from its location in the City of Cibolo.

(g) "*Expansion*" means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.

(h) "*Facility*" means property improvements completed or in the process of construction which together comprise an integral whole.

(i) “*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 materials or the processing of such goods or materials by physical or chemical change.

(j) “*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 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.

(k) “*New Facility*” means a property previously undeveloped, which is placed into service by means other than or in conjunction with expansion or modernization.

(l) “*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 serve a market primarily outside the City of Cibolo.

(m) “*Regional Entertainment Facility*” means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through admission of the general public where majority of users reside at least fifty (50) miles from its location in the City of Cibolo.

(n) “*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.

(o) “*Regional Service Facility*” means building and structures, including machinery and equipment, used or to be used to service goods where a majority of the goods being serviced originate at least fifty (50) miles from the facility’s location in the City of Cibolo.

(p) “*Commercial Facility*” means buildings and structures for service related industries and certain retail establishments as deemed appropriate by the City Council where a minimum of twenty-five (25) new jobs and/or payroll exceeding five hundred thousand dollars (\$500,000) and investment of two million dollars (\$2,000,000) or more in new buildings will be made.

(q) “*Economic Development*” means participation in or support of an organized program or entity which, for the purpose of its mission, engages in activities designed to encourage employment opportunities, development commercial and manufacturing business/industry to locate and/or expand in the City of Cibolo, thus expanding and diversifying the tax base as well as increasing the economic strength and stability of the City of Cibolo.

(r) “*Reinvestment Zone*” means an area designated as such for the purpose of a tax abatement as authorized by the City in accordance with Chapter 312 of the Texas Tax Code.

## **Section 2        GENERAL CRITERIA**

(a) Any present or potential owner of taxable property in the City of Cibolo may request the creation of a reinvestment zone and/or a tax abatement by filling a written request with the City Manager.

(b) All applications must meet the following general criteria before being considered for tax abatement:

1. The project expands the local tax base.
2. The project creates permanent full time employment opportunities.
3. The project would not otherwise be developed without an abatement.
4. The project makes a contribution to enhancing further economic development.
5. The project has not been started and no construction by the applicant has commenced at the time the application is received or at the time that an Abatement Agreement is approved.
6. The project must meet the following criteria:
  - a. There would be no substantial adverse effect on the provision of government services or tax base;
  - b. The applicant has sufficient financial capacity;
  - c. Planned or potential use of the property would not create adverse impacts to adjacent properties;
  - d. Comply with the laws of the United States, State of Texas, ordinances of the City of Cibolo, Texas or orders of Guadalupe County; and,
  - e. The improvement project is not financed with tax increment bonds.

(c) Economic Qualification. In order to be eligible for designation as a reinvestment zone or to qualify for tax abatement, the planned improvement:

1. Must be reasonably expected to increase the value of the property in the amount of \$1,000,000 or more;
2. Must create employment for at least twenty-five (25) additional people (meaning a net gain of twenty-five [25] full time employees) on a full-time (forty [40] hours per week equivalent) basis in the City of Cibolo for the duration of the abatement period.

## **Section 3        ABATEMENT AUTHORIZED**

(a) Authorized Facility. A facility may be eligible for an abatement if it is a Manufacturing Facility, Research Facility, Distribution Center Facility, Regional Service Facility, Regional Entertainment Facility, approved Commercial Facility, Other Basic Industry, or any other new Facility that is located within a reinvestment zone established by the City , meets the minimum investment, and is approved by the City Council.

(b) Creation of New Value. An abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between the City of Cibolo and the property owner or lessee, subject to such limitations as the City of Cibolo may require.

(c) New and Existing Facilities. An abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.

(d) Eligible Abatement Property. An abatement for property located within a reinvestment zone of the City, may be extended to the value of buildings, structures, fixed machinery and equipment, inventories, site improvements, including office space and related fixed improvements necessary to the operation and administration of the facility.

(e) Ineligible Property. The following types of property shall be fully taxable and ineligible for abatement: any forms of movable personal property (not including inventories), vehicles, vessels, single-family housing, deferred maintenance investments, property owned or used by any political subdivisions or by any organizations owned, operated or directed by a political subdivision of the State of Texas.

(f) Owned/Leased Facilities. If a leased facility is granted an abatement, the Agreement shall be executed with the Property Owner/Lessor and the Lessee. Publicly owned land leased to private entities shall be eligible for an abatement if otherwise qualified.

(g) Value and Term of Abatement. Subject to deferring the commencement of the abatement for a period of up to three years during which a facility is under construction, an abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the Agreement. Guidelines for abatements granted are as follows:

Investment	Year	Maximum Abatement
\$1,000,000 - \$2,000,000	1	80%
Application Fee - \$1,500	2	50%
	3-4	25%
\$2,000,001 - \$4,000,000	1-2	90%
Application Fee - \$2,000	3	60%
	4	50%
	5	25%
\$4,000,001 - \$10,000,000	1-2	100%
Application Fee - \$3,000	3-4	75%
	5-6	50%
	7	25% or as negotiated
\$10,000,001 and up	negotiable up to 10	Negotiable
Application Fee - \$4,000		

(h) Notwithstanding any other provision of the guidelines and criteria outlined in this policy, the City of Cibolo shall have the authority to negotiate with an applicant regarding the terms, length of years, and percentage of an abatement provided to a Property Owner or Lessee in an Agreement.

(i) Taxability. From the execution of the abatement agreement to the end of the abatement period, taxes shall be payable as follows:

1. The value of ineligible property as provided in Section 3(e) shall be fully taxable;
2. The base year value of existing eligible property as determined each year shall be fully taxable; and
3. The additional value of new eligible property shall be abated in the amount described in Section 3(g).

#### **Section 4           APPLICATION**

(a) Any present or potential owner of taxable property in the City of Cibolo may request a tax abatement and/or creation of a reinvestment zone by submitting a written request to the City of Cibolo. The application shall be filed with the City Manager and the City Manager shall inform each member of the governing body of such written request.

(b) The written request shall consist of a general description of the proposed use and the general nature and extent of the modernization, expansion, or new improvements which will be a part of the facility; a map and property description; and, a time schedule for undertaking and completing the planned improvements. In the case of modernizing, a statement of the assessed value of the facility separately stated for real and personal property shall be given for the tax year immediately preceding the application. The application form shall require such financial and other information as the City of Cibolo deems appropriate for evaluating the financial capacity and other factors of the applicant.

(c) The written application must be accompanied by the required application fee to assist the City in covering its legal costs in preparing the necessary abatement documents.

(d) Upon receipt of a written request for creation of a reinvestment zone or an application for an abatement, the City Manager, or his or her designee, together with the City's Economic Development Director, shall consider the feasibility and the impact of the proposed tax abatement. The review of feasibility shall include, but not be limited to, an estimate of the economic effect of the abatement of taxes, the benefit to the eligible jurisdictions, and the property to be covered by such an abatement.

#### **Section 5           AGREEMENT**

(a) After a public hearing in accordance with Chapter 312, the City Council of the City of Cibolo shall approve the application and authorize the negotiation and execution of a mutually acceptable agreement with the owner of the property and/or lessee as required, which shall include:

1. The base year amount;
2. The proposed investment;
3. The percent of value to be abated each year;

4. The commencement date and the termination date of the abatement;
5. The proposed use of the facility including the nature of construction, time schedule, map of the proposed improvements, property description, and improvement list as provided in the Application;
6. Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment;
7. The amount of the proposed investment and average number of jobs to be created or retained for the period of an abatement; and
8. A provision that the Property Owner or Lessee shall annually provide any information necessary for the City's evaluation of the Property Owner's or Lessee's compliance with the terms and conditions of the tax abatement agreement.

#### **Section 6        SUNSET PROVISION**

These guidelines and Criteria are effective upon the date of their adoption and will remain in force for two (2) years.