

ORDINANCE NO. 309

**AN ORDINANCE OF THE CITY OF MANOR, TEXAS, CREATING "REINVESTMENT ZONE NUMBER ONE, CITY OF MANOR"; "REINVESTMENT ZONE NUMBER TWO, CITY OF MANOR"; "REINVESTMENT ZONE NUMBER THREE, CITY OF MANOR"; MAKING FINDINGS OF FACT; PROVIDING DEFINITIONS; ESTABLISHING BOUNDARIES OF THE ZONES; PROVIDING A TERMINATION DATE FOR THE ZONES; AND FOR RELATED MATTERS.**

**Whereas**, Chapter 380, Tex. Loc. Gov't Code and the Texas Constitution, Article III, Section 52-a permit and authorize the City to offer and extend incentives to attract and keep economic development;

**Whereas**, the City of Manor, although existing for over ninety years and within a short commute from downtown Austin, has not experienced economic growth comparable to the Austin metropolitan area and finds the properties identified as reinvestment zones meet one or more of the requirements of § 312.202, *Tex. Tax. Code* resulting in the arrest or impairment of sound growth;

**Whereas**, the creation of reinvestment zones with boundaries as hereinafter described will enable the City to obtain investments and job creation in the City and within the boundaries of the reinvestment zones; and

**Whereas**, improvements within the reinvestment zones will enhance the value of all taxable real property in the zones and benefit the entire city;

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

**Section 1. Findings.** That the facts and recitations hereinabove set out are hereby found and declared to be true and correct and are incorporated herein as findings of fact.

**Section 2. Purpose.** (a) The city is committed to the promotion of quality development in all parts of the city and to improving the quality of life for its citizens. In order to help meet these goals, the city will consider providing tax incentives and other incentives within the "reinvestment zone" to stimulate economic development within the city. It is the policy of the city that such incentives will be provided in accordance with the procedures and criteria outlined in this document. However, nothing in this policy shall imply or suggest, by implication or otherwise, that the city is under any obligation to provide any incentive to any applicant; and all such decisions and actions shall be at the sole discretion of the city council. All applicants for tax incentives and other economic development incentives will be considered on an individual basis.

(b) It is the intent of the city to offer tax incentives and other economic development incentives on an individual basis so that the total package of incentives, if any, may be

designed specifically for each project which is proposed. This approach will allow the city the flexibility necessary to satisfy the unique needs and concerns of each applicant and the needs and concerns of the city and its citizens.

(c) The City of Manor has been incorporated for over ninety years and has experienced very limited economic growth although it is on the outskirts of the City of Austin. The City's infrastructure and facilities require significant investments to improve properties to support economically beneficial uses. The City is designating three zones based on the differing status of properties requiring more or less infrastructure and based on the desired uses. The City Council finds the development of the properties in the zones will not occur solely through private investment in the reasonably foreseeable future and therefore has determined that incentives are appropriate.

**Section 3. Definitions.** The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Company Sales Tax Revenues* means the City's share received from the State Comptroller's Office of a one percent (1%) municipal sales tax, such as that presented in effect pursuant to Texas Tax Code §§ 321.101 and 321.103, resulting from (i) sales tax collected by the Company, and (ii) sales/use tax paid directly by the Company under its sales tax permit. For purposes of this Ordinance, Sales Tax Revenues shall be determined to be the amount remitted by Company to the State Comptroller's Office for the benefit of the City of Manor, less the applicable administrative charge, as set forth in the records prepared by the Company and submitted to the State Comptroller.

*Developer* means an owner or person with rights to develop a tract of property being larger than one-hundred contiguous acres in size for replatting and redevelopment as a comprehensive master-planned development with only eligible facilities for which the developer is required to construct eligible infrastructure as a condition precedent to the location of eligible facilities thereon.

*Eligible facility* means a structure or building that is designed, constructed or remodeled for use as a commercial, retail, or industrial business purpose and that is located wholly within the "reinvestment zone."

*Eligible Infrastructure* means additional infrastructure not required as part of the City's standard subdivision process which is dedicated to the City for public use and, if approved, maintenance.

*End Use Operator* means an owner or tenant adding new value to an eligible facility within a reinvestment zone for which a Developer is not receiving tax incentives who adds qualifying new value and a qualifying number of FTE's.

*Full-Time Equivalent Employee* or "FTE's" means an employee position on the eligible facility scheduled to work or compensated for a standard 40 hour work week for the equivalent of 2,080 hours per year as more particular described by the U.S. Department of Labor. Positions

not filled at least eleven months out of the year with an actual employee legally eligible to work in the United States shall not be counted toward the FTE nor shall owners or operators with an interest in the business be included.

*New employment* means that not less than the number full-time equivalent employee positions that will be maintained or created pursuant to the minimum requirements and criteria set forth in Sections 6 and 7 and: (1) At least 25 percent of the jobs provided will be made available to residents of the city; (2) At least 50 percent of the jobs provided will be made available to residents of the county; and (3) Compliance with the requirements of local hiring will remain in effect for the entire period that economic incentives are being offered.

*New value* means the net increase in the value of an eligible facility, including the real estate, improvements and fixtures, together with the machinery and equipment therein added after entering an agreement for tax incentives.

*Reinvestment zone* means that area of the city identified as a reinvestment zone in a current ordinance; such designation being made by the city council in the manner specified in Tex. Tax Code, §§ 312.201 or 312.2011.

*Retail Use* means a business generating at least 60% of its revenues from taxable sales or services.

*Tax Incentives* shall be an agreement for abatement or rebate of taxes, by separate agreement agree to abate or rebate all or a portion of the ad valorem tax, excluding any portion thereof required to pay an interest in sinking fund obligation, and may include a rebate of Company Sales Tax Revenues, with either the developer or end use operator but not both.

**Section 4. Reinvestment Zone.** There is hereby created the "Reinvestment Zone Number One, City of Manor", "Reinvestment Zone Number Two, City of Manor", and "Reinvestment Zone Number Three, City of Manor" pursuant to *Chapt. 312, Tex. Tax Code*.

**Section 5. Boundaries and Designated Purposes of the Zones.** Reinvestment Zone 1, 2, and 3 shall be located within the corporate boundaries of the City of Manor, Texas (the "City"), and shall be as set forth and identified in Exhibit "A". The City Council has found the designation of zones will likely contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property within the zones and that would contribute to the economic development of the municipality.

- (a) Reinvestment Zone Number One, City of Manor – shall include properties within the downtown business district identified as predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality.
- (b) Reinvestment Zone Number Two, City of Manor shall include properties predominately open and undeveloped due to lack of sufficient public improvements and infrastructure to adequately support commercial or retail use.

- (c) Reinvestment Zone Number Three, City of Manor shall include properties predominately open and undeveloped due to lack of sufficient public improvements and infrastructure to adequately support industrial use.

**Section 6. Minimum Requirements and Criteria.** The following are the minimum requirements that must be satisfied for any application for tax abatement or other incentives to be considered:

(a) Tax Incentives will not be provided to both the developer and the end use operator within an eligible reinvestment zone. Developers and end use operators shall each be subject to different minimum requirements in Reinvestment Zones Two and Three. Only end use operators are eligible for Tax Incentives in Reinvestment Zone One. A developer who will also be the end use operator shall be subject to the minimum requirements for end use operators.

(b) If the developer or end use operator receives approval for a municipal utility district as the mechanism for financing property improvements, then the developer or end use operator will not be eligible for Tax Incentives under this ordinance.

(c) Reinvestment Zone One to redevelop the downtown business district properties so identified, the minimum criteria must be met:

- (1) *Employment and development.* (A) A proposed development and/or redevelopment that is a retail business must maintain or create at least one new FTE for each 2,000 square feet of occupied space, or a portion thereof, exclusive of the owner/operator and with a minimum of one new FTE regardless of floor space; (B) a proposed development and/or redevelopment that is a non-retail business must maintain or create at least one FTE for the first 2,000 square feet of floor space, or a portion thereof, and at least two FTE's for each additional 2,000 square feet of floor space, or a portion thereof; (C) non-profit organizations are not eligible; (D) the applicant must be investing at least \$100,000.00 in property improvements; (E) property improvements must include off-street parking for all employees and restoration of an existing building or demolition of an existing building and construction of a new building; (F) other eligible property improvements may include sidewalks, curbing, gutters, covered walkways, and other pedestrian-oriented improvements, exterior lighting, landscaping, and off-site parking for customers, provided that the improvement qualifies as eligible infrastructure; and (G) the proposed project must be in compliance with the city's master plan, building codes and all other applicable city ordinances without variances.
- (2) *Offsets and adjustments.* (A) At the discretion of the city council, the assessed value of any property that is demolished will be subtracted from the value of the property replacing it, for the purpose of calculating the portion

eligible for abatement; and (B) For businesses relocating from a non-reinvestment zone location onto the reinvestment zone, eligibility for incentives will be determined using the increase in the number of jobs at the new location over the jobs at the previous site.

(d) Reinvestment Zone Two to redevelop the undeveloped properties so identified, the minimum criteria must be met:

- (1) *Employment and development criteria for developers.* (A) The applicant must be investing at least \$10,000,000.00 in property improvements; and (B) the proposed project must be in compliance with the city's master plan, building codes and all other applicable city ordinances.
- (2) *Employment and development criteria for end use operators.* (A) The applicant must be investing at least \$10,000,000.00 in property improvements; (B) a proposed development and/or redevelopment must maintain or create at least one new FTE for each 2,000 square feet of occupied space, or a portion thereof; (C) eligible property improvements include dedication of and improvements to parkland, additional improvements to offsite utility infrastructure, improvements to regional mobility, streets, bridges, pedestrian crossings, flood plain reclamation, and historic structure acquisition and restoration, provided that the improvement qualifies as eligible infrastructure; and (D) the proposed project must be in compliance with the city's master plan, building codes and all other applicable city ordinances.
- (3) *Offsets and adjustments applicable to developers and end use operators.* (A) At the discretion of the city council, the assessed value of any property that is demolished will be subtracted from the value of the property replacing it, for the purpose of calculating the portion eligible for abatement; and (B) For businesses relocating from a non-reinvestment zone location onto the reinvestment zone, eligibility for incentives will be determined using the increase in the number of jobs at the new location over the jobs at the previous site.

(e) Reinvestment Zone Three to redevelop the undeveloped properties so identified, the minimum criteria must be met:

- (1) *Employment and development criteria for developers.* (A) The applicant must be investing at least \$10,000,000.00 in property improvements; and (B) the proposed project must be in compliance with the city's master plan, building codes and all other applicable city ordinances.
- (2) *Employment and development criteria for end use operators.* (A) The applicant must be investing at least \$10,000,000.00 in property

improvements; (B) a proposed development and/or redevelopment that is a retail business must maintain or create at least three new FTE's for each 10,000 square feet of occupied space, or a portion thereof; (C) eligible property improvements include dedication of and improvements to parkland, additional improvements to offsite utility infrastructure, improvements to regional mobility, streets, bridges, pedestrian crossings, flood plain reclamation, and historic structure acquisition and restoration, provided that the improvement qualifies as eligible infrastructure; and (D) and the proposed project must be in compliance with the city's master plan, building codes and all other applicable city ordinances.

- (3) *Offsets and adjustments applicable to developers and end use operators.* (A) At the discretion of the city council, the assessed value of any property that is demolished will be subtracted from the value of the property replacing it, for the purpose of calculating the portion eligible for abatement; and (B) For businesses relocating from a non-reinvestment zone location onto the reinvestment zone, eligibility for incentives will be determined using the increase in the number of jobs at the new location over the jobs at the previous site.

**Section 7. Tax Incentives.** (a) The portion of the property for which a business may qualify for a tax incentive will be determined on the basis of the level of new value and, in the case of end use operators, new employment added within the reinvestment zone.

(b) Failure to pay property taxes by the due date and failure to pay sales taxes due within 90 days of the due date will immediately void any applicable tax incentives and tax abatement and economic development incentive agreements for the property upon which taxes have not been paid.

(c) Tax abatement or economic development incentive agreements that establish a specific dollar amount of tax to be abated shall be subject to performance. If inadequate ad valorem and sales taxes are generated to rebate the full amount of an agreed incentive, the City will not be obligated to make additional rebates or payments to meet the agreed upon amount. Rebates may not exceed the total agreed-upon cost for an eligible facility and/or eligible infrastructure.

(d) Approved applicants shall submit the following reports to the City, and payment of rebates shall be subject to the following reports being submitted:

- (1) Each year, the annual tax receipt from the Travis County Tax Collector and Assessor's Office reflecting the payment of property taxes for the eligible facilities, within 30 days of receipt.
- (2) Quarterly Texas Workforce Commission reports demonstrating the number of persons employed for applicants required to create and maintain a certain number of FTE's, within 30 days of receipt.
- (3) Quarterly sales tax reports for applicants authorized to receive sales tax rebates, within 30 days of receipt.

Failure to submit the reports to the City as required within 90 days of the date the report is due shall result in termination of Tax Incentives.

(e) Sales tax rebates shall begin at the end of the first full quarter following the issuance of a certificate of occupancy.

(f) Reinvestment Zone One:

(1) A percentage of the tax may be abated on an eligible facility for up to five years, up to amounts set forth in the Tax Rebate Schedule set forth in subsection (f)(2), provided that the following minimum criteria are met:

- (A) For retail businesses, at least one new FTE is created or maintained for each 2,000 square feet of occupied space, or a portion thereof, exclusive of the owner/operator;
- (B) For non-retail businesses, at least two new FTE's are created or maintained for each 2,000 square feet of occupied space, or a portion thereof, exclusive of the owner/operator; and
- (C) For both retail and non-retail businesses, at least \$100,000.00 of new value is added to the portion of the property for which a business may qualify for a tax incentive.

(2) Tax Rebate Schedule:

(A) Sales Tax:

<u>Year</u>	<u>Maximum Tax Abatement (%)</u>
1	50
2	50
3	50
4	75
5	75

(B) Ad Valorem, Retail Businesses:

<u>Year</u>	<u>Maximum Tax Abatement (%)</u>
1	50
2	50
3	50
4	50
5	50

(C) Ad Valorem, Non-Retail Businesses:

<u>Year</u>	<u>Maximum Tax Abatement (%)</u>
1	80
2	80
3	80
4	80

- (3) Tax Incentives shall not be transferred or assigned. Tax Incentives shall terminate upon the occurrence of any of the following:
- (A) Sale or transfer of an eligible facility;
  - (B) Discontinuance of the type of business operation described in the application; and
  - (C) Failure to maintain the minimum number of required FTE's for three consecutive months as reflected in the Texas Workforce Commission reports.

(g) Reinvestment Zone Two:

- (1) A percentage of the tax may be abated on an eligible facility for up to ten years, up to amounts set forth in the Tax Rebate Schedule set forth in subsection (g)(2), provided that the following minimum criteria are met:
- (A) For end use operators, a minimum of one new FTE is created and maintained for each 2,000 square feet of occupied space, or a portion thereof;
  - (B) At least \$10,000,000.00 of new value is added to the portion of the property for which a business may qualify for a tax incentive.

(2) Tax Rebate Schedule:

(A) Sales Tax:

<u>Year</u>	<u>Maximum Tax Abatement (%)</u>
1	25
2	25
3	85
4	85
5	85
6	85
7	85
8	85
9	85
10	85

(B) Ad Valorem:

<u>Year</u>	<u>Maximum Tax Abatement (%)</u>
1	50
2	50
3	80
4	80
5	80
6	80
7	80
8	80
9	80



- (3) The rebate period will begin the earlier of the following: (A) The January 1<sup>st</sup> after the thirtieth month following the issuance of the first building permit for the eligible facility or eligible infrastructure; (B) the combined sales and ad valorem tax revenue reaches or exceeds \$1,000,000.00; or (C) all eligible facilities and infrastructure are completed and accepted by the City.
- (4) If the eligible facilities or eligible infrastructure have not been started within 24 months of the date of issuance of the first permit or 36 months from the date of the applicable tax abatement or economic development incentive agreement, the Tax Incentives shall terminate.

(h) Reinvestment Zone Three:

- (1) A percentage of the tax may be abated on an eligible facility for up to ten years, up to amounts set forth in the Tax Rebate Schedule set forth in subsection (h)(2), provided that the following minimum criteria are met:
- (A) For end use operators, a minimum of three new FTE's are created and maintained for each 10,000 square feet of occupied space;
- (B) At least \$10,000,000.00 of new value is added to the portion of the property for which a business may qualify for a tax incentive.

(2) Tax Rebate Schedule:

(A) Ad Valorem:

<u>Year</u>	<u>Maximum Tax Abatement (%)</u>
1	100
2	100
3	100
4	100
5	100
6	100
7	100
8	100
9	100
10	100

- (3) Rebates shall begin on March 1 following the tax year in which the required new value was added to the tax roll.

**Section 8. Other Economic Development Incentives.** (a) It is the intent of the city to offer tax incentives and other economic development incentives on an individual basis so that the total package of incentives may be designed specifically for each proposed project. This

approach will allow the city the flexibility necessary to satisfy the unique needs and concerns of each applicant and the needs and concerns of the city and its citizens.

(b) In addition to tax incentives, the following economic development incentives may be offered, providing the city council, in its sole discretion, approves the applicant's request: (1) Reduction, rebate, or elimination of capital recovery fees and the costs of certain other infrastructure improvements; (2) Implementation of special economic development utility rates for water and/or wastewater, as outlined in the utility rate ordinance; and/or (3) Reduction, rebate, or elimination of building permit fees, inspection contractor's fees, and utility tapping fees.

**Section 9. Application procedures.** (a) Any person, organization, joint venture, partnership, association or corporation desiring that the city consider providing tax incentives and other economic development incentives to encourage location of a business or expanded business operations within a reinvestment zone shall be required to comply with the following procedures. (1) Applicants shall make written application to the city; (2) A complete legal description of the property along with a plat showing the precise location of the project shall be submitted; (3) A brief description of the proposed improvements or expansion must be provided along with the project's estimated cost, the type of business operation proposed, the number and type of jobs created, the expected source of labor to fill such jobs, the projected date of beginning operation and the type and value of the tax abatement and other economic development incentives which are requested; (4) End use applicants shall submit either a current financial statement, if currently in business, or a prospective financial statement, if a start-up business; and (5) Applicants shall provide other information as required by the city.

(b) All applications will be reviewed by the mayor-authorized representative for completeness and accuracy, and comments will be received from appropriate city departments. Once this information is compiled, the application and review comments will be forwarded to members of the city council and to other taxing entities which may be involved in offering tax abatement. After the review by the city council and other taxing entities, additional information may be requested of the applicant.

(c) All requirements of the Property Redevelopment and Tax Abatement Act, Chapt. 312, Tex. Tax Code, shall be followed.

**Section 10. City Council Approval.** (a) If the city council determines in its sole discretion that it is in the best interest of the city to grant incentives to a particular applicant, a resolution shall be adopted approving the terms and conditions of a tax abatement and economic development incentive agreement ("tax abatement agreement") with the applicant. The tax abatement agreement will enumerate the types of incentives to be provided and the conditions applicable to such incentives.

(b) All such tax abatement agreements must, at minimum, be in writing and include: (1) A description of each of the types of incentives to be provided and their duration; (2) A legal description of the property indicating its location in the reinvestment zone; (3) Detailed information regarding the type, number, location and cost of planned improvements; (4) A

plan providing access to and inspection of the property and proposed improvements by city inspectors and officials to ensure that the improvements are made according to the requirements and conditions of the agreement; (5) A provision limiting the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that tax abatements and other economic development incentives are in effect; and (6) A method to provide for the city to recover property tax revenues and all waived fees and costs which are lost as a result of the agreement if the applicant fails to perform its obligations under the agreement.

**Section 11. Effective Date.** This Ordinance shall be in full force and effect immediately upon its final passage and publication in the manner required by the Texas Local Government Code.

**Section 12. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any section, paragraph, sentence, clause or phrase of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid section, paragraph, sentence, clause or phrase. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.


**Section 13. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

**PASSED AND APPROVED** on this the 21 day of June, 2006.

ATTEST:

**The City of Manor, Texas**

  
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Phil Tate, City Secretary

  
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Jeff Turner, Mayor