

City of Houston, Texas, Ordinance No. 2024- 624

AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 44 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO TAX ABATEMENT; REAUTHORIZING GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENT AGREEMENTS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, pursuant to Section 312.002(a) of the Texas Tax Code, a municipality that desires to become eligible to participate in tax abatement must establish guidelines and criteria governing tax abatement agreements and elect to become eligible to participate in tax abatement; and

WHEREAS, Section 312.002(c) of the Texas Tax Code provides that the guidelines and criteria adopted by a municipality are effective for two years from the date adopted; and

WHEREAS, City Council last adopted tax abatement guidelines and criteria, which are codified in Article IV of Chapter 44 of the Code of Ordinances, Houston, Texas, pursuant to Ordinance No. 2022-344, which became effective on May 19, 2022, and expired on May 19, 2024, as provided in Section 44-138 of the Code of Ordinances, Houston, Texas; and

WHEREAS, City Council desires to adopt amendments to Section 44-121 and Section 44-132 of the Code of Ordinances, Houston, Texas, to encourage development of green stormwater infrastructure by increasing the value of tax abatement for construction and maintenance of green stormwater infrastructure; and

WHEREAS, City Council desires to adopt amendments to Section 44-126 and Section 44-138 of the Code of Ordinances, Houston, Texas, to update language relating to public hearing and notice requirements for consistency with Chapter 312 of the Texas Tax Code; and

WHEREAS, to continue to be eligible to participate in tax abatement, City Council further desires to reauthorize the tax abatement guidelines and criteria, as amended by this Ordinance; and

WHEREAS, pursuant to Section 312.002(c-1) of the Texas Tax Code, before City Council may adopt, amend, repeal, or reauthorize guidelines and criteria for tax abatement, City Council must hold a public hearing regarding the proposed adoption, amendment, repeal, or reauthorization at which members of the public are given the opportunity to be heard; and

WHEREAS, City Council held a public hearing regarding the proposed amendments to and reauthorization of guidelines and criteria for tax abatement on August 21, 2024; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That the City elects to continue its eligibility to participate in tax abatement.

Section 3. That the definition of the term *total green stormwater infrastructure cost* in Section 44-121 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Total green stormwater infrastructure cost means, with respect to a facility that is eligible for a green stormwater infrastructure tax abatement, the total cost to the owner for the construction of green stormwater infrastructure, including soft costs such as planning and design costs and interest incurred in financing the construction of green stormwater infrastructure, and, for green stormwater infrastructure described in subsection (c)(ii) of section 44-132, five years of maintenance costs, but excluding the costs associated with construction of conventional stormwater detention."

Section 4. That Section 44-126(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(a) Prior to entering into an agreement, the city council shall hold a public hearing at which interested persons shall be entitled to speak and present written materials for or against the approval of the agreement. Notice of the public hearing shall be published in a newspaper of general circulation and posted on the city's website not later than the seventh day before the date of the hearing. Notice of the public hearing may be given, posted or published in other places or by other means as the director deems appropriate, including giving notice to civic associations in the area surrounding the proposed zone."

Section 5. That Section 44-132(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(a) *Authorized facility.* A facility is eligible for a green stormwater infrastructure tax abatement if:

- (1) It is either an authorized facility as described in section 44-127(a) of this Code or a brownfield facility;
- (2) Construction or alteration of the facility has not commenced prior to the application for abatement; and
- (3) The total project cost is reasonably expected to be at least \$735,000, with a minimum total green stormwater infrastructure cost of \$35,000.

This type of tax abatement may be a stand-alone abatement or part of a standard economic development abatement."

Section 6. That Section 44-138 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 44-138. Sunset provision.

These guidelines and criteria for tax abatement are readopted and will expire at 12:00 a.m. on August 28th 2026.¹ These guidelines and criteria shall apply to all applications subsequently considered by city council prior to the expiration date. At the expiration of these guidelines and criteria, all reinvestment zones and agreements created and entered into pursuant to these provisions shall be reviewed to determine whether the goals have been achieved. Based on that review, the guidelines and criteria may be readopted, amended, repealed or reauthorized, after city council has held a public hearing regarding the proposed readopting, amendment, repeal or reauthorization at which members of the public are given the opportunity to be heard. Notice of the public hearing shall be given, posted or published in the same manner provided in section 44-126(a) of this Code. The expiration of these guidelines shall not affect the validity or enforceability (for the full term thereof) of any agreement entered into when these guidelines were in effect."

¹ City Secretary to insert month and day of effective date of this Ordinance.

Section 7. That City Council hereby reauthorizes the tax abatement guidelines and criteria codified in Article IV of Chapter 44 of the Code of Ordinances, Houston, Texas, as amended by Sections 3 through Section 6 of this Ordinance.

Section 8. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 9. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 10. That the provisions of this Ordinance shall apply to complete tax abatement applications filed on or after the effective date of this Ordinance. All complete applications for tax abatement filed prior to May 19, 2024, shall be processed and considered, as appropriate, pursuant to the provisions of Article IV, Chapter 44, Code of Ordinances, Houston, Texas, in effect prior to the effective date of this Ordinance, and the former provisions of Article IV, Chapter 44 of the Code of Ordinances are saved for that limited purpose.

Section 11. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND APPROVED this 28th day of August, 2024.



Mayor of the City of Houston

Prepared by Legal Dept.

JN:jn 07/15/2024

Requested by Gwendolyn Tillotson-Bell, Chief Economic Development Officer
LD-RE-0000002579

DocuSigned by: 
6D51050C001D4C0

Assistant City Attorney

Meeting 8/28/2024

Aye	No	
✓		Mayor Whitmire
....		Council Members
✓		Peck
✓		Jackson
✓		Kamin
✓		Evans-Shabazz
✓		Flickinger
✓		Thomas
✓		Huffman
✓		Castillo
✓		Martinez
✓		Pollard
✓		Castex-Tatum
✓		Ramirez
✓		Davis
✓		Carter
✓		Plummer
✓		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW
Date: 9/3/2024