

# **CITY OF LAKE CITY**

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## **LAKE CITY ECONOMIC DEVELOPMENT AUTHORITY**

### **TAX ABATEMENT FINANCING POLICY**

Cities are authorized pursuant to Minnesota Statutes 469.1812 through 469.1815 to provide tax abatements for economic development purposes. In determining whether or not the City of Lake City/EDA should utilize tax abatements for economic development purposes, the following factors will be considered:

- The benefits to the City must be at least equal to the costs of the abatement.
- Whether the public interest will be served in one of the following respects:
  - ◆ Increase or preserve the tax base
  - ◆ Provide employment opportunities in the City
  - ◆ Provide or help acquire or construct public facilities
  - ◆ Help or develop or renew blighted areas
  - ◆ Help provide access to services for residents of the City
- Total tax abatements in the City cannot exceed ten percent (10%) of the current net levy or \$200,000 whichever is greater.
- The extent to which the proposal adds to the City's net commercial, industrial or general tax base
- Whether or not the proposal provides services not already provided in the City or which are needed.
- The extent to which the proposal results in an increase in new employment opportunities that provide good wages and benefits for employees, or the retention of good jobs. Proposals that provide quality employment, which is paid above the minimum wage, and provides prospects for advancement, are preferred.
- Establishments which will be engaged in the retail sales of merchandise or services to the public will not be considered for economic development tax abatements unless they provide substantial opportunities for quality employment and economic development, substantial tax base or are part of the redevelopment of a substantially underutilized property.
- The City/EDA does not support tax abatements for proposals that are not economically feasible. Any developer requesting business assistance should be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed.

- The fundamental purpose of Tax Abatement Financing is to encourage desirable projects that would not otherwise occur “but for” the assistance provided through Tax Abatement Financing.
- The project should maximize the amount of private development investment in a site.
- The extent to which the project represents “new” dollars into the City. The City/EDA will not consider a tax abatement application that abates existing tax dollars unless the proposed project leads to significant job creation or retention. In either case a minimum of 25 jobs must be created or retained.
- Each project will be reviewed on a case-by-case basis.
- In the case of job retention, to demonstrate the need for public subsidy in order to retain jobs, the applicant will submit a pro forma showing cash flows and resulting profit margins with and without the subsidy being requested. The application must indicate:
  - ◆ That target profit margins are not being met without the subsidy and will result in the elimination or relocation of jobs within the community.
  - ◆ The jobs being retained as a result of the subsidy and will submit reports each year verifying the continued existence of said jobs within the community.
  - ◆ Failure to retain those jobs for a period of time (agreed upon and specified within the Development Agreement) will require the repayment of a prorated share of any subsidy provided plus interest.
- The extent to which the project requires improvements in all aspects of City infrastructure.
- Whether or not the project will generate significant environmental problems or alleviate such problems.
- Tax abatements cannot be considered in conjunction with an existing Tax Increment Financing District. The term of an abatement on a parcel of property may be granted for up to 15 years for each taxing entity (8 year maximum if no initial duration is specified) or 20 years if one taxing jurisdiction does not participate. If an abatement has been granted to a parcel of property and the period of the abatement has expired, the political subdivision that granted the abatement may not grant another abatement for eight years after the expiration of the first abatement.
- The City may grant an abatement for a period of up to 20 years, if the abatement is for a qualified business. Qualified businesses have at least 50 percent of the payroll of the operations of the business that qualify for the abatement are engaged in one of the following lines of business or any combination of them:
  - ◆ Manufacturing
  - ◆ Agricultural processing
  - ◆ Mining
  - ◆ Research and development
  - ◆ Warehousing
  - ◆ Qualified high technology

Alternatively, a qualified business also includes a taxpayer whose real and personal property is subject to valuation under MN Rules, chapter 8100.

- The City/EDA may limit the amount of the abatement to the following:
  - ◆ A specific dollar amount per year or in total,
  - ◆ The increase in property taxes resulting from the project,
  - ◆ The increases in property taxes resulting from increases in market value or tax capacity of the property,
  - ◆ The tax attributable to the value of land may not be abated,
  - ◆ Any other criterion the City/EDA determines is appropriate.
- Each project will be reviewed on a case-by-case basis.

Tax abatement assistance can be provided in one of two different forms. The preferred form is “pay as you go” wherein the City compensates the applicant for a predetermined amount for a predetermined number of years. Annual payments are reissued to the applicant with tax dollars after payment of property taxes by the applicant. The City/EDA will give special consideration to applicants applying for “pay as you go” assistance.

Another form of assistance is “up front” payment to the applicant wherein the City must issue revenue or general obligation bonds, or use cash reserves. The increment generated from the applicant’s project is then used for repayment of the bonds. The City/EDA because of the additional risk incurred in case of default does not look upon this form of assistance favorably, and will only consider this form of assistance if the applicant is able to demonstrate, to the City’s sole satisfaction, the need for “up front” payment.

The City/EDA shall require a deposit in the amount of \$5,000 from the applicant for the City/EDA's consultants to investigate the feasibility of providing tax abatement financing assistance to the applicant's project whether it is by the creation of a new tax increment financing district or the modification of a current district. If the costs reach the deposited amount, the City/EDA shall notify the applicant in writing and the applicant will be required to deposit additional funds prior to any additional work on the project being completed. The additional deposit required would include an aggregate total from the consultants to finish their work and other costs that are expected to be incurred.

If the project is approved and the applicant proceeds with the project, the City/EDA shall reimburse any remaining applicant's deposit or bill the applicant for any additional fees incurred above the initial deposit. If the applicant does not proceed with the project, the City/EDA shall reimburse the applicant for the unused portion of the deposit.

The procedure to receive tax abatement is:

- Applicant meets with the EDA Director, discusses the project and receives an application.
- Applicant submits the completed application, deposit, plans and specifications, financial information including past information and pro forma future projections for the project and company information to the EDA Director.

- EDA Director meets with the City Administrator to discuss the project including conformity with the City policies and plans.
- EDA Director discusses project with the City/EDA's tax abatement consultants and receives a not to exceed quote for completing the work should the EDA Board accept the project as feasible for tax abatement financing.
- Project is placed on the EDA Agenda for the next regularly scheduled meeting.
- The EDA Director and applicant present the project to the EDA Board.
- Within 10 days, the EDA will determine to accept or reject the application and deposit. If rejected, nothing further happens and deposit is returned.
- If the EDA Board accepts the application and deposit, staff will be directed to work with the consultants and City Staff to put together a tax abatement financing plan and enter into negotiations with the applicant to secure agreeable terms for the development agreement. The development agreement will not be drafted until after City Council approval.
- Upon completion of a draft of the tax abatement financing plan, district plan and development agreement terms that are agreeable to the applicant, the EDA Board will hold a special meeting to discuss these drafts.
- If approved, the EDA Board will make a recommendation to the City Council to proceed with allowing this project to move forward.
- The EDA Director, applicant and consultants will make a presentation to the City Council and request public hearings and other statutory items be scheduled and other board review scheduled, if appropriate.
- The public hearings will be conducted and after hearing the public input and receiving other board recommendations, the City Council may: 1) accept the plans and recommendations and direct staff to complete these plans, 2) reject the plans and project or 3) modify the plans accordingly and re-enter negotiations.

**If/once approved and both parties sign the documents, construction may commence.**

#### **Criteria for Economic Development Abatements**

In considering whether or not the City/EDA should approve Tax Abatements for a specific project, the following will be considered, in addition to the statutory and City/EDA restrictions listed above. These points will be specifically defined in an Economic Development Agreement between the City of Lake City and the Developer:

- Equal consideration will be given to both existing business expansion and new businesses locating in the county.
- The extent that the use of Tax Abatements would create an unfair and significant competitive financial advantage over existing projects in the area.
- The extent that the developer is able to demonstrate a market demand for a proposed project.
- Tax Abatements will not be used in circumstances where land and/or property price is in excess of fair market value.
- The extent to which the project increases costs for road construction, traffic control, law enforcement, human services and other budgetary items.
- The extent to which other public assistance is provided to the project.

- The nature and type of the new development.
- Redevelops area that has experienced blight or contamination and/or brownfields remediation and environmental cleanup. For this purpose, the term “brownfields” is defined as abandoned, idled or under-used industrial or commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.
- If the Tax Abatements will be used to facilitate the relocation of commercial or industrial enterprises within the City, the effects of the relocation on the former neighborhood will be considered and analyzed.
- The proposal must include property identification numbers or legal descriptions and must be an existing parcel of record.
- The extent, to which the project adds to, diversifies or preserves the city’s net commercial, industrial or general tax base.
- The project must be consistent with the City’s Comprehensive Plan, Land Use Plan, Zoning Ordinance, and Transportation Plan.
- The extent that Tax Abatements will result in development on sites which would not otherwise be developed.
- The developer shall demonstrate that the project is not financially feasible but-for the use of tax abatements. This requirement must include tax abatements and all other sources of funds from other government jurisdictions, private sector and non-profit organizations.

**The City/EDA requires that an Economic Development Agreement be completed for each Tax Abatement project. Recommendations of the City/EDA will be the basis of the Agreement. The Agreement will contain specific language regarding the following items:**

- A base application fee of \$5,000 will be charged at the time the application is formally submitted. After an initial analysis of the project, the City/EDA may propose a fee for administrative and investigative work on the project. The City/EDA may deduct administrative fees from the abatement during the life of the project, if so outlined at the beginning of the project.
- A cash equity investment by the developer will be determined through analysis of the project by an EDA recommendation.
- The developer must provide adequate financial guarantees to ensure completion of the projects, such as: assessment agreements, letters of credit, personal guaranties, financing commitments, etc.
- The Developer shall adequately demonstrate, to the City/EDA’s sole satisfaction, an ability to complete the proposed project based on past development experience, general reputation, and credit history, among other factors, including the size and scope of the proposed project.
- For the purposes of underwriting the proposal, the developer shall provide any requested market, financial, environmental, or other data requested by the City/EDA or its consultants, at a cost to be paid by the Developer.
- The Tax Abatement will not be transferable to another party without City/EDA approval.
- Rescission of Tax Abatement Benefits

- Rescission of benefits is at the sole discretion of the taxing authority and is considered on a case-by-case basis, and will be stated in each Economic Development Agreement. Reasons for rescission of the abatement benefits, interest, and penalties include:
  - ◆ Sale or closure of the facility and departure of the company from the jurisdiction.
  - ◆ Significant change in the use of the facility and/or the business activities of the company.
  - ◆ Employment reductions not reflective of the company's normal business cycle and/or local and national economic conditions.
  - ◆ Failure to comply with annual reporting requirements.
  - ◆ Significant departure from the goals of the project.

## **SUBSIDY AGREEMENT & REPORTING REQUIRMENTS**

### **Business Subsidy**

Tax abatement is a business subsidy, as defined in MS 116J.993 to 116J.995, and is subject to the reporting requirements under that law as summarized below.

All developers/businesses receiving Tax Abatement assistance shall enter into a *Subsidy Agreement* with City of Lake City that identifies: the reason for the subsidy, the public purpose served by the subsidy, and the goals for the subsidy, as well as other criteria set forth by statute 116J.993.

The developer/business shall file a report annually for two years after the date the benefit is received or until all goals set forth in the application and performance agreement have been meet, whichever is later. Reports shall be completed using the format drafted by the State of Minnesota and shall be filed with City/EDA no later than March 1 of each year for the previous calendar year. Applicants fulfilling job creation requirements must file a report to that effect with the City/EDA within 30 days of meeting the requirements.

The developer/business owner shall maintain and operate its facility at the site where Tax Abatement assistance is used for a period of five years after the benefit is received.

In addition to attaining or exceeding the jobs and wages goals set forth in the *Subsidy Agreement*, the borrower shall achieve at least one of the criteria set forth in each of Sections 3.1 A and 3.1 B of this document.

Developers/Businesses failing to comply with the above provisions will be subject to fines, repayment requirements, and be deemed ineligible by the State to receive any loans or grants from public entities for a period of five years. Costs will be assessed against the property.

\* Subsidies greater than \$150,000 require their own public hearing\*

**PLEASE ALLOW UP TO 90 DAYS TO COMPLETE THIS PROCESS!**

## **TAX ABATEMENT FINANCING APPLICATION**

1. General information:

Business Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_ Email: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Business Form: \_\_\_ Corporation \_\_\_ Partnership \_\_\_ Sole Proprietorship  
State of Incorporation or Organization: \_\_\_\_\_  
Years in Business: \_\_\_\_\_ Years a Lake City Business: \_\_\_\_\_

2. Brief description of the business:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Proposed project site:

Location: \_\_\_\_\_ Present Ownership: \_\_\_\_\_  
Zoning: \_\_\_\_\_ Rezoning Required: \_\_\_\_\_  
Will property be subdivided? \_\_\_ If so, please attach a layout of planned subdivision.  
Will variances of the Zoning Ordinance be requested? \_\_\_ If so, please list.

4. Estimated Project Costs:

a. Land Acquisition	\$ _____
b. Site Development	_____
c. Building Cost	_____
d. Equipment	_____
e. Architectural/Engineering Fees	_____
f. Legal Fees	_____
g. Financing Costs	_____
h. Broker Costs	_____
i. Contingencies	_____
j. Other (please specify)	_____
Total	\$ _____

5. Total Estimated Market Value at completion: \$ \_\_\_\_\_

6. Description of proposed project: Building square footage, size of property, description of buildings, materials, etc.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Sources of Financing:

a. Equity \$ \_\_\_\_\_  
b. Bank Loan \_\_\_\_\_  
c. Tax Abatement Assistance \_\_\_\_\_  
d. Other (please specify) \_\_\_\_\_  
  
Total \$ \_\_\_\_\_

8. Form of tax abatement financing assistance requested:

Pay As You Go \_\_\_\_\_  
Bond Issuance \_\_\_\_\_

9. Requested tax amount to be abated: \$ \_\_\_\_\_ per year

10. Requested duration of abatement: \_\_\_\_\_ years

11. Has a tax abatement application been submitted to the County or School District?  
\_\_\_\_\_ If so, please provide details of the requested abatement.

12. Description of expected financial benefit to the City:

\_\_\_\_\_  
\_\_\_\_\_

13. Professional services of applicant:

Architectural Firm/Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Engineering Firm/Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

General Contractor/Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Attorney Firm/Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Accounting Firm/Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

14. Project construction schedule:

a. Construction Start Date: \_\_\_\_\_

b. Construction Completion Date: \_\_\_\_\_

If construction will not be completed at year end, what % of construction will be completed by year end? \_\_\_%

15. Current and projected employment:

Type	Existing Jobs	First Year	Second Year	Wage
Professional/Managerial	___ FT ___ PT	___ FT ___ PT	___ FT ___ PT	\$ ___/___
Technical/Skilled	___ FT ___ PT	___ FT ___ PT	___ FT ___ PT	\$ ___/___
Unskilled/Semi-skilled	___ FT ___ PT	___ FT ___ PT	___ FT ___ PT	\$ ___/___

16. Statement of necessity for the use of tax abatement financing assistance for the project:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

17. Signatures:

I declare that any statement in this application or information provided herein is true and complete in substance and in fact. Also, I authorize this information to be released to the appropriate agencies that may be able to assist in this request.

Name of Business: \_\_\_\_\_  
By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

