

## Chapter 4.52

### Business Development Incentive Plan

#### 4.52.010 Plan Summary

An economic development incentive plan is established to encourage the location of new businesses and the expansion of existing businesses within the City. This will stimulate the general economic well-being of the City providing the foundation of the tax base required for the provision of City services and the direct general public welfare by benefiting every public and private sector through the generation of employment opportunities with the attendant increase of disposable income. The policy is constructed into two distinct categories; those associated with one-time development costs, sales and use tax, and those associated with a longer term personal property tax rebate.

(A) Incentives shall be available to businesses in the calendar year in which the business has completed construction or expansion, if such construction or expansion meets the criteria, exclusions and definitions established in Subsections (A and B) of 4.52.016. (Ord. 19, 1995, §1(part); Ord. 26, 1994 §1; Ord. 48, 1986 §1(part))

(B) The incentives shall be enforced upon the execution of a written agreement between both parties.

**4.52.015 Waiver of City Building Permit Fees and City Sales and Use Tax shall be available as provided in the following sections; 4.52.016, 4.52.020, 4.52.030**

#### 4.52.016 Requirements and Definitions

(A) The incentives described below shall be available to any new or expanding manufacturing, processing, distribution, research and development or computer system/software product support or technical service business, as defined in Subsection (B) of this Section, which meets the following criteria:

(1) New or expanding business shall not include any corporate reorganization, sale of an existing business or resumption of business activities unless such business has been closed for at least the previous twenty-four (24) months.

(2) Eligible new or expanding business shall derive more than fifty percent (50%) of its income from manufacturing, processing, distribution and/or research and development and/or computer system/software product or technical service activities and may not derive twenty-five percent (25%) or more of its gross income during any twelve-month period from direct retail sales.

(3) Eligible new or expanding business shall invest a minimum of five hundred thousand dollars (\$500,000.00) in a new or replacement plant and/or equipment/machinery during the calendar year in which application is made for incentives.

(4) For development fee waiver, the additional employment level shall be determined by comparing projected employment totals with the firm's previous three (3) years' annual average employment within the City.

(B) The following definitions shall apply in determining the eligibility of companies for the economic development incentives plan.

*Computer system/software product support or technical service business* means a business engaged in providing technical service to users of computer systems or software products manufactured or created by the company or other companies.

*Distribution* means the temporary storage of tangible personal property for later dissemination.

*Full-time employee* means an employee of the firm which is expected in the normal course of employment to provide at least two thousand eighty (2,080) hours of compensated service during any consecutive twelve-month period and who earns an annual gross income from such compensated service equal to or above the county's annual average wage for all industries according to the Colorado Department of Labor's most recent annual

industry standards and who has an employee health plan that is paid a minimum of fifty percent (50%) by the employer.

*Machinery and equipment* means those articles of tangible machinery personal property exclusively used in the industrial manufacturing process, research and development or computer hardware not used for word processing.

*Manufacturing or processing* means the operation of producing, in an industrial use, an item of tangible personal property different from and having a distinctive name, character or use from raw or prepared materials.

*Research and development* means those activities directly related to the development of an experimental or pilot model, a plant process, a product, a formula, an invention or similar property and the improvement of already existing property of the type mentioned. *Research and development* shall not include ordinary testing or inspection of materials or products for quality control or those for efficiency surveys, management studies, consumer surveys, advertising, promotions or research related to literary, historical or similar projects.

#### **4.52.020 Waiver of fees.**

(A) For businesses qualifying under Section 4.52.016 City building permit fees shall be waived at a rate of five hundred dollars (\$500.00) per new full-time employee created. In no event shall the amount of fees waived exceed the total of required fees.

(B) The following fees shall not be waived under Subsection (A) of this Section: water and sewer plant investment fees, drainage fees, police fees, fire fees and street construction fees. (Ord. 19, 1995, §1(part); Ord. 48, 1986 §1(part))

#### **4.52.030 Waiver of taxes.**

(A) Sales and use taxes for businesses qualifying under Section 4.52.016 shall be waived, for the period of construction or expansion only, as follows:

(1) Sales and use taxes on construction materials, fixed equipment and machinery installation, or facilities lease:

a. Sales and use taxes on the first five hundred thousand dollars (\$500,000.00) shall be one hundred percent (100%) waived.

b. Sales and use taxes on amounts in excess of five hundred thousand dollars (\$500,000.00) shall be waived in the amount of fifteen thousand dollars (\$15,000.00) plus one percent (1%) per one hundred thousand dollars (\$100,000.00), including the first five hundred thousand dollars (\$500,000.00), to a maximum of one hundred percent (100%) waiver when the amount of material costs or lease reaches or exceeds ten million dollars (\$10,000,000.00).

(2) Sales and use taxes on equipment and machinery, research equipment and computer hardware not used for word processing when the business investment for such equipment reaches a minimum of one hundred thousand dollars (\$100,000.00):

a. Sales and use taxes on the first five hundred thousand dollars (\$500,000.00) shall be one hundred percent (100%) waived.

b. Sales and use taxes on amounts in excess of five hundred thousand dollars (\$500,000.00) shall be waived in the amount of fifteen thousand dollars (\$15,000.00) plus one percent (1%) per one hundred thousand dollars (\$100,000.00), including the first five hundred thousand dollars (\$500,000.00), to a maximum of one hundred percent (100%) waiver when the amount of equipment and machinery reaches or exceeds ten million dollars (\$10,000,000.00). (Ord. 48, 1986 §1(part))

**4.52.040 Personal Property Tax Rebate shall be available as provided in the following sections; 4.52.050, 4.52.060, 4.52.070, 4.52.080, 4.52.090, 4.52.100**

**4.52.050 Payment negotiations; reference source.**

Incentive payments may be negotiated with qualifying new business facilities or expanded business facilities, as referenced and defined pursuant to Chapter 4.52.016 of this Code. (Ord. 19, 1995, §1(part); Ord. 56, 1994 §1; Ord. 10, 1992 §1(part))

**4.52.060 Amount.**

The annual incentive payment pursuant to this policy shall not be greater than fifty percent (50%) of the amount of the taxes levied by the City upon the taxable personal property located at or within such new business facilities or directly attributable to the expansion of existing business facilities, and used in connection with such facilities for the current property tax year. (Ord. 10, 1992 §1(part))

**4.52.070 Qualified recipients; definitions.**

(A) Incentive payments shall be available to any qualifying new or expanding businesses which are basic industries which create primary jobs, import dollars into the community and which also meet the following criteria:

(1) New or expanding businesses shall not include any corporate reorganization, sale of an existing business or resumption of business activities unless new investment is created.

(2) Eligible new or expanding businesses shall derive at least fifty percent (50%) of their principal source of gross annual income from the sale of products or services consumed outside of the City either directly or indirectly. The intent of these criteria is to assist firms engaged in manufacturing, processing, research and development and provision of externally directed services, e.g., insurance claims.

(3) Eligible new or expanding businesses shall not derive more than twenty-five percent (25%) of their gross annual income from direct retail sales. (Ord. 10, 1992 §1(part))

**4.52.080 Minimum investment.**

Eligible new or expanding businesses shall invest a minimum of one million dollars (\$1,000,000.00) in a new business facility or expanded business facility, as referenced by Section 30-11-123, C.R.S., during the calendar year in which application is made for the incentive payment. (Ord. 10, 1992 §1(part))

**4.52.090 Term of agreement.**

The term of the written agreement made pursuant to this policy shall not exceed ten (10) years and is subject to revenue availability and annual appropriations. (Ord. 10, 1992 §1(part))

**4.52.100 Notification of negotiated written agreements.**

The City will notify the County in which a new business facility is located or an expanded business facility is located, whichever is applicable, of any negotiated written agreements with such facilities. (Ord. 10, 1992 §1(part))

**4.52.120 Precedents.**

Any decision concerning a specific application shall not set any precedent for future applications. (Ord. 10, 1992 §1(part))

**4.52.130 Policy void; when.**

This policy shall be void if a State Constitutional or Home Rule Charter provision limiting the property taxes collected or revenues collected by the City is passed by the voters from this date forward or if the authority for exclusion from property tax limits is held unconstitutional or invalid by a court of competent jurisdiction. (Ord. 10, 1992 §1(part))

#### **4.52.140 Failure to Perform.**

If the business receives the incentive payment and fails to perform or accomplish the terms and conditions of the City's incentive agreement in accordance with the time set forth, the business shall be liable to repay all awarded incentives.

#### **4.52.150 Documentation required**

Businesses wishing to apply for the benefits of the economic development incentive plan shall submit to the City's chief financial officer, or such officer's designee, all documentation necessary for determination of qualification for the plan. Failure to submit adequate documentation to determine eligibility shall disqualify the business. Application for determination must occur within the calendar year in which eligible expenditures and hiring have occurred.

#### **4.52.160 Appeals**

Any business aggrieved by a decision of the chief financial officer concerning eligibility or computation of waivers shall submit, within ten (10) calendar days of the decision, in writing, a request for hearing before the City Manager. Failure to submit a request within ten (10) days shall be deemed a waiver of the right to a hearing. The decision of the City Manager may be appealed to the City Council. Such appeal must occur in writing within ten (10) days of the City Manager's decision and must specify the reasons for such appeal. Failure to submit a request within ten (10) days shall be deemed a waiver of the right of appeal. The decision of the City Council shall be final. (Ord. 48, 1986 §1(part))