

## CITY OF FORT WORTH

### NEIGHBORHOOD EMPOWERMENT ZONE PROGRAM (NEZ) BASIC INCENTIVES AND TAX ABATEMENT POLICY

#### **I. GENERAL PURPOSE AND OBJECTIVES**

Chapter 378 of the Texas Local Government Code allows a municipality to create a Neighborhood Empowerment Zone (NEZ) when a "...municipality determines that the creation of the zone would promote:

- (1) the creation of affordable housing, including manufactured housing, in the zone;
- (2) an increase in economic development in the zone;
- (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- (4) the rehabilitation of affordable housing in the zone."

The City, by adopting the following NEZ Program Basic Incentives and Tax Abatement Policy, will promote affordable housing and economic development in Neighborhood Empowerment Zones. NEZ incentives will not be granted after the NEZ expires as defined in the resolution designating the NEZ. For each NEZ, the City Council may approve additional terms and incentives as permitted by Chapter 378 of the Texas Local Government Code or by City Council resolution. However, any tax abatement awarded before the expiration of a NEZ shall carry its full term according to its tax abatement agreement approved by the City Council.

As mandated by state law, the property tax abatement under this policy applies to the owners of real property. Nothing in the policy shall be construed as an obligation by the City of Fort Worth to approve any tax abatement application.

#### **II. DEFINITIONS**

*"Abatement or Tax Abatement"* means a full or partial exemption from City of Fort Worth ad valorem taxes on eligible real property located in a NEZ for a specified period on the difference between (i) the amount of increase in the appraised value (as reflected on the certified tax roll of the appropriate county appraisal district) resulting from improvements begun after the execution of a written Tax Abatement Agreement and (ii) the appraised value of such real estate prior to execution of a written Tax Abatement Agreement (as reflected on the most recent certified tax roll of the appropriate county appraisal district for the year prior to the date on which the Tax Abatement Agreement was executed).

*"Affordable Units"* means affordable to persons earning less than 80% Area Median Family Income (AMFI) as defined by U.S. Department of Housing and Urban Development (HUD) for single family housing and under 60% AMFI as defined by HUD for rental and multi-family.

*"Base Value"* is the value of the Real Property Improvements, excluding land, as determined by the Tarrant County Appraisal District, during the year rehabilitation occurs.

*"Building Standards Commission"* is the commission created under Sec. 7-77, Article IV. Minimum Building Standards Code of the Fort Worth City Code.

*"Capital Investment"* includes only Real Property Improvements such as new facilities and structures, site improvements, facility expansion, and facility modernization. Capital Investment does NOT include land acquisition costs and/or any existing improvements on the property prior to the City Council's authorization, or personal property (such as machinery, equipment, and/or supplies and inventory).

*"City of Fort Worth Tax Abatement Policy Statement"* means the policy adopted by City Council.

*“Commercial/ Development Project”* is a development project which proposes to construct or rehabilitate commercial facilities on property that is (or meets the requirements to be) zoned commercial as defined by the City of Fort Worth Zoning Ordinance.

*“Industrial Development Project”* is a development project which proposes to construct or rehabilitate industrial facilities on property that is appropriately zoned for industrial use as defined by the City of Fort Worth Zoning Ordinance and meets the criteria for industrial use as put forth in the City’s Comprehensive Plan.

*“Community Facility Development Project”* is a development project which proposes to construct or rehabilitate community facilities on property that allows such use as defined by the City of Fort Worth Zoning Ordinance.

*“Eligible Rehabilitation”* includes only physical improvements to Real Property Improvements. Eligible Rehabilitation does NOT include personal property (such as furniture, appliances, equipment, and/or supplies). Eligible Rehabilitation costs must be 30% or more of the current Base Value Improvements as defined by Tarrant Appraisal District at the time of application in order for a rehabilitation project to apply for any NEZ incentives.

*“Gross Floor Area”* is measured by taking the outside dimensions of the building at each floor level, except that portion of the basement used only for utilities or storage, and any areas within the building used for off-street parking.

*“Minimum Building Standards Code”* is Article IV of the Fort Worth City Code adopted pursuant to Texas Local Government Code, Chapters 54 and 214.

*“Minority Business Enterprise (MBE)”* and *“Women Business Enterprise (WBE)”* is a minority or woman owned business that has received certification as either a certified MBE or certified WBE by either the North Texas Regional Certification Agency (NTRCA) or the Texas Department of Transportation (TxDot), Highway Division.

*“Mixed-Use Development Project”* is a development project which proposes to construct or rehabilitate mixed-use facilities in which residential uses constitute 20 percent or more of the total gross floor area, and office, eating and entertainment, and/or retail sales and service uses constitute 10 percent or more of the total gross floor area and is on property that is (or meets the requirements to be) zoned mixed-use as described by the City of Fort Worth Zoning Ordinance.

*“Multi-family Development Project”* is a development project which proposes to construct or rehabilitate 3 or more multi-family residential living units on a property that is (or meets the requirements to be) zoned multi-family or mixed use as defined by the City of Fort Worth Zoning Ordinance.

*“New Construction”* is a newly constructed habitable structure improvement requiring a permanent foundation. This excludes accessory structures such as sheds, incidental out buildings and detached garages.

*“Primary Residence”* is the residence that has a Homestead Exemption on file with Tarrant County Appraisal District.

*“Project”* means a *“Residential Project”*, *“Commercial/Industrial Development Project”*, *“Community Facility Development Project”*, *“Mixed-Use Development Project”*, or a *“Multi-family Development Project.”*

*“Real Property Improvements”* – means a habitable structure as defined by the Fort Worth Building Code.

*“Reinvestment Zone”* is an area designated as such by the City of Fort Worth in accordance with the Property Redevelopment and Tax Abatement Act codified in Chapter 312 of the Texas Tax Code, or an

area designated as an enterprise zone pursuant to the Texas Enterprise Zone Act, codified in Chapter 2303 of the Texas Government Code.

*“Residential Project”* – means less than 3 residential units.

### **III. PROCEDURAL STEPS**

#### **A. APPLICATION FEE**

1. An application fee of \$25.00 for all basic incentives, excluding tax abatements. The Application Fee shall not be credited or refunded to any party for any reason.
2. The application fee for residential tax abatements is \$100.00 for each residential unit. The Application Fee shall not be credited or refunded to any party for any reason.
3. The application fee for tax abatements for multi-family, commercial, industrial, community facilities and mixed-use development projects is one-half of one percent (0.5%) of the proposed Project’s Capital Investment, with a \$200 minimum not to exceed \$2,000. The Application Fee shall not be credited or refunded to any party for any reason.

#### **B. APPLICATION SUBMISSION**

1. The applicant applying for any NEZ incentives must complete and submit a City of Fort Worth "Application for NEZ Incentives" and pay the appropriate application fee for certification of basic incentives to the Planning and Development Department. Incomplete applications will not be accepted or processed.
2. The applicant applying for Tax Abatement will pay the appropriate abatement application fee to the Neighborhood Services Department after Project certification for basic incentives by the Planning and Development Department. The application fee, review, evaluation and approval will be governed by City of Fort Worth Neighborhood Empowerment Zone Basic Incentives and Tax Abatement Policy for qualifying Development Projects.
3. All NEZ certifications for incentives will expire after five years and are project specific. Minor modifications to an existing certification may be made with correct documentation. Minor modifications will not change or extend the original certification date. New or additional projects at the same address or in the same development will require a new application for project certification.
4. City Council may change NEZ boundaries or terminate NEZ areas. Projects that have been certified eligible for basic incentives will maintain eligibility for the original five years from the date of certification. The certification date will not be modified or extended.

#### **C. CERTIFICATIONS FOR APPLICATIONS**

1. In order for a property owner/developer to be eligible to apply for any NEZ incentives for a Project, the property owner/developer:
  - a. Must submit a complete application to the City with all required documentation;
  - b. Must not be delinquent in paying property taxes for any property owned by the owner/developer or applicant;
  - c. Must not be responsible for City of Fort Worth liens on the project property;
  - d. Must not have any City liens filed against any property owned by the applicant or property owner/developer, including the project property. “Liens” includes but is not limited to, weed liens, demolition liens, board-up/open structure liens and paving liens; and

- e. Must not have been subject to a Building Standards Commission's Order of Demolition where the property was demolished within the last five (5) years;
2. The Planning and Development Department will review all NEZ applications for accuracy and completeness. A complete application must include:
  - a. Proof that the Project is located in a NEZ;
  - b. A completed NEZ application;
  - c. Attachment of all items on the NEZ Application Submittal Requirement Checklist; and
  - d. Compliance with the design guidelines under Section III D.

Once the Planning and Development Department determines that the application is complete, the Planning and Development Department will certify the property owner/developer's eligibility to receive basic incentives and/or tax abatement based on the criteria set forth in this policy. Ineligible applications will be denied. Once an applicant's project is certified, the Planning and Development Department will inform appropriate departments administering the incentives.

Approval of the application and Project certification shall not be deemed to be approval of any aspect of the Project. Before construction, the applicant must ensure that the project is located in the correct zoning district.

#### **D. PUBLIC NOTIFICATION**

In order for an owner/developer to apply to receive any incentives provided for under the NEZ Program Basic Incentives and Tax Abatement Policy, Planning and Development staff will send a complete Project application packet dually for notification purposes to the following persons and organizations:

1. The neighborhood associations or community based organizations registered with the city located within 300 feet of the proposed Project. The measurement of the distance between the proposed project and Neighborhood Associations or Community Based Organizations shall be along the property lines of the street fronts and from front door to front door, and in direct line across the intersections. If recipients wish to comment on the Project, all comments must be received within 14 days/two weeks of notification; and
2. The Council Member for the District in which the Project is located. Any comments received within 14 days of notification from the registered neighborhood associations or community based organizations within 300 feet of the proposed Project will be sent to the Council Member for informational purposes.

#### **E. DESIGN GUIDELINES**

1. All applications for NEZ incentives must meet the following design requirements for certification.
  - a. No metal buildings except for industrial projects.
  - b. All new construction projects must contain 70% masonry product
  - c. Exceptions to the masonry product will be made at the City's discretion for design district overlays (where applicable) and approved planned development projects.
  - d. Compliance with design guidelines for Council adopted NEZ Strategic Plans is required for certification.
  - e. Attached garages for new single family homes may not extend more than 4 feet past the front building wall.

## **F. REFUND POLICY**

In order for an owner/developer of a Project in a NEZ to receive a refund of development fees or impact fees, the conditions set forth in the *Refund of Development and Impact Fee Policy*, attached as Attachment "A", must be satisfied.

## **IV. FEE WAIVERS**

### **A. ELIGIBLE RECIPIENTS/PROPERTIES**

1. In order for a property owner/developer to be eligible to apply for any fee waivers for a Project, the property owner/developer:
  - a. Must submit an application to the City and receive NEZ certification for the project;
  - b. Must be in compliance with Section III, A, B, C, D and E.

### **B. DEVELOPMENT FEES**

1. The following fees for services are waived for eligible, certified NEZ Projects:
  - a. All Building Permit related Fees (including Plans Review and Inspections) except as stated in IV B. 2. below
  - b. Plat Application Fee (including Concept Plan, Preliminary Plat, Final Plat, Short Form Replat)
  - c. Board of Adjustment Application Fee
  - d. Demolition fee
  - e. Structure Moving Fee
  - f. Community Facilities Agreement (CFA) Application Fee
  - g. Zoning Application Fee
  - h. Street and Utility Easement Vacation Application Fee
  - i. Ordinance Inspection Fees
  - j. Consent/Encroachment Agreement Application Fees
  - k. Transportation Impact Fees
  - l. Urban Forestry Application Fees
  - m. Sign Permit Fees
2. If a permit or application listed in B (1) is expired, the fee to reactivate, renew or reapply shall not be waived. In addition, penalties and extension fees or re-permitting fees will not be waived.
3. Fire inspection and permit fees will not be waived.
4. Fees for special services, such as simultaneous plan and plat review or expedited plan review will not be waived.
5. Infrastructure Plan Review Center fees will not be waived.
6. Development Fees not specifically listed in the policy and the project certification letter will not be waived or reduced.
7. Other development related fees not specified in this policy may be brought forward to City Council on a case-by-case basis as determined by staff analysis.

## **C. IMPACT FEES**

1. Single family and multi-family residential development projects in the NEZ. Automatic 100% waiver of water and wastewater impact fees will be applied.
2. Commercial, industrial, mixed-use, or community facility development projects in the NEZ.
  - a. Automatic 100% waiver of water and wastewater impact fees up to \$55,000 or equivalent to two 6-inch meters for each commercial, industrial, mixed-use or community facility development project; whichever is less.
  - b. If the project requests an impact fee waiver exceeding \$55,000 or requesting a waiver for larger and/or more than two 6-inch meter exceeding \$55,000, then City Council approval is required. Applicant may request the additional amount of impact fee waiver through the Planning and Development Department.

## **V. RELEASE OF CITY LIENS**

### **A. ELIGIBLE RECIPIENTS/PROPERTIES**

1. In order for a property owner/developer to be eligible to apply for release of any City liens for a Project, the property owner/developer:
  - a. Must submit an application to the City and receive NEZ certification for the project;
  - b. Must be in compliance with Section III, A, B, C, D and E.
  - c. Liens listed in this Policy shall be released once the Project Improvements have been made to the property. Applicants must contact City after project completion for lien releases.
  - d. Any liens filed after the initial certification of the property shall not be released.

For certified applicants of Projects requesting release of City liens, the Neighborhood Services Department will request the release of the appropriate liens on NEZ tax abatement Projects. The Planning & Development Department will request the release of the appropriate liens on NEZ basic incentives Projects.

### **B. WEED LIENS**

The following are eligible to apply for release of weed liens:

1. Single unit owners performing rehabilitation on their properties.
2. Builders or developers constructing new homes on vacant lots.
3. Owners performing rehabilitation on multi-family, commercial, industrial, mixed-use, or community facility properties.
4. Developers constructing new multi-family, commercial, industrial, mixed-use or community facility development projects.

### **C. DEMOLITION LIENS**

Builders or developers developing or rehabilitating a property for a Project are eligible to apply for release of demolition liens for up to \$30,000. Releases of demolition liens in excess of \$30,000 are subject to City Council approval.

### **D. BOARD-UP/OPEN STRUCTURE LIENS**

The following are eligible to apply for release of board-up/open structure liens:

1. Single unit owners performing rehabilitation on their properties.
2. Builders or developers constructing new single family homes on vacant lots.

3. Owners performing rehabilitation on multi-family, commercial, industrial, mixed-use, or community facility properties.
4. Developers constructing multi-family, commercial, industrial, mixed-use, or community facility projects.

## **E. PAVING LIENS**

The following are eligible to apply for release of paving liens:

1. Single unit owners performing rehabilitation on their properties.
2. Builders or developers constructing new homes on vacant lots.
3. Owners performing rehabilitation on multi-family, commercial, industrial, mixed-use, or community facility properties.
4. Developers constructing multi-family, commercial, industrial, mixed-use, or community facility projects.

### **ALL OTHER CITY LIENS WILL NOT BE WAIVED**

## **VI. MUNICIPAL PROPERTY TAX ABATEMENTS**

### **A. ABATEMENT GUIDELINES**

1. Staff will review and evaluate each Residential, Multi-Family, Commercial, Industrial, Community Facilities and Mixed-Use tax abatement application prior to submission to the City Council. The City Council has designated certain areas of the City as Tax Increment Reinvestment Zones (TIFs). If a NEZ is located in a TIF, a person or entity seeking Tax Abatement on property owned or leased in a TIF shall not be granted a NEZ Tax Abatement.
2. A tax abatement shall not be granted for any development project in which a building permit application, excluding grading and/or demolition, has been filed with the City's Planning and Development Department. In addition, the City will not abate taxes on the value of real property improvements for any period of time prior to the year of execution of a Tax Abatement Agreement with the City.
3. Tax Abatements for a new construction project will automatically terminate two years after Council approval of the tax abatement if a building permit has not been pulled and a foundation has not been poured (unless otherwise specified in the tax abatement agreement).
4. Tax Abatements for a rehabilitation project will automatically terminate two years after Council approval of the tax abatement if the project is not complete (unless otherwise specified in the tax abatement agreement).
  - a. Abatements for Residential, Commercial, Industrial, Mixed-Use, Multi-Family and Community Facilities Projects for up to 5 years are subject to City Council approval. The applicant may apply with the Neighborhood Services Department for such abatement after project certification. In order to be eligible to apply for a tax abatement, the property owner/developer must:
  - b. Submit an application to the City and receive NEZ certification for the project;
  - c. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable.
  - d. Real Property Improvements are newly constructed or rehabilitated after NEZ designation and City Council approval of the tax abatement is granted before improvements are made;
  - e. Property is not in a tax-delinquent status when the abatement application is submitted;
  - f. Property is in conformance with the City of Fort Worth Zoning Ordinance however, a property use that is legal non-conforming shall not be eligible to receive a tax abatement.

5. Once a NEZ property owner of a residential property (including multi-family) in the NEZ satisfies the criteria set forth in Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable, and applies for an abatement, a property owner may enter into a tax abatement agreement with the City of Fort Worth. The tax abatement agreement shall automatically terminate if the property subject to the tax abatement agreement is in violation of the City of Fort Worth's Minimum Building Standards Code and the owner is convicted of such violation.
6. A tax abatement granted under the criteria set forth in Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable, can only be granted once for a property in a NEZ for a maximum term as specified in the agreement. If a property on which tax is being abated is sold, the City may assign the tax abatement agreement for the remaining term as allowed by the tax abatement agreement, once the new owner submits an application so long as the new owner complies with all of the terms of the tax abatement agreement.
7. A property owner/developer of a multifamily development, commercial, industrial, community facilities and mixed-use development project in the NEZ who desires a tax abatement must:
  - a. Satisfy the criteria set forth in Section III, A, B, C, D and E and Section VI, A, B, C and D, as applicable, and
  - b. Submit an application to the City and receive NEZ certification for the project;
  - c. The property owner must enter into a tax abatement agreement with the City of Fort Worth. In addition to the other terms of agreement, the tax abatement agreement shall provide that the agreement shall automatically terminate if the owner receives one conviction of a violation of the City of Fort Worth's Minimum Building Standards Code regarding the property subject to the abatement agreement during the term of the tax abatement agreement; and
  - d. If a property in the NEZ on which tax is being abated is sold, the new owner may enter into a tax abatement agreement on the property for the remaining term as allowed by the tax abatement agreement.
8. If the terms of the tax abatement agreement are not met, the City Council has the right to cancel or amend the abatement agreement. In the event of cancellation, the recapture of abated taxes shall be limited to the year(s) in which the default occurred or continued.
9. The terms of the agreement shall include the City of Fort Worth's right to: (1) review and verify the applicant's financial statements in each year during the life of the agreement prior to granting a tax abatement in any given year, (2) conduct an on-site inspection of the project in each year during the life of the abatement to verify compliance with the terms of the tax abatement agreement, (3) terminate the agreement if the Project contains or will contain an ineligible Project as defined in Section VII 1 through 6.
10. Upon completion of construction of the Project, the City shall no less than annually evaluate each project receiving abatement to insure compliance with the terms of the agreement. Any incidents of non-compliance will be reported to the City Council.
11. On or before February 1st of every year during the life of the agreement, any individual or entity receiving a tax abatement from the City of Fort Worth shall provide information and documentation which details the property owner's compliance with the terms of the respective agreement and shall certify that the owner is in compliance with each applicable term of the agreement. Failure to report this information and to provide the required certification by the above deadline shall result in cancellation of agreement and any taxes abated in the prior year being due and payable.
12. If a property in the NEZ on which tax is being abated is sold, the new owner may enter into a tax abatement agreement on the property for the remaining term as allowed by the tax abatement agreement. Any sale, assignment or lease of the property which is not permitted in



the tax abatement agreement results in automatic cancellation of the agreement and recapture of any taxes abated after the date on which an unspecified assignment occurred.

13. All Multi-Family, commercial, industrial, community facilities and mixed use tax abatements will be capped at 150 percent of the Capital Investment.
14. Residential owner occupied tax abatements will be capped at the annual median home value as reported by the National Association of Realtors for Tarrant County. This value will be updated annually.

## **B. APPLICATION REVIEW AND EVALUATION FOR APPLICATIONS**

1. Property Tax Abatement for Residential Properties, Commercial, Industrial, Mixed Use, Community Facilities and Multi-family Development Projects
  - a. For a completed and certified application for no more than five years of tax abatement, with Council approval, the City Manager shall execute a tax abatement agreement with the applicant.
  - b. Tax abatement applications will be reviewed by staff prior to submission to the City Council. Commercial, Industrial, Mixed Use, Community Facilities and Multi-family Development Projects must provide evidence of:
    - i. Production of development with no net additional cost to the City while producing a positive economic impact to the tax paying citizens of Fort Worth;
    - ii. Promotion of quality, affordable housing and/or mixed income development;
    - iii. Advancement of high quality development or redevelopment opportunities on nearby or adjacent properties in a manner that supports the establishment of a cohesive, distinctive and walkable district or neighborhood;
    - iv. Effectively leverage private investment;
    - v. Possesses economic gap “but-for”;
    - vi. Furthers community revitalization.
2. Consideration by the City Council
  - a. The City Council retains sole authority to approve or deny any tax abatement agreement and is under no obligation to approve any tax abatement application or tax abatement agreement. The City of Fort Worth is under no obligation to provide tax abatement in any amount or value to any applicant.
  - b. Effective Date for Approved Agreements
    - i. All tax abatements approved by the City Council will become effective on January 1 of the year following the year in which a Certificate of Occupancy (CO) is issued for the qualifying development project (unless otherwise specified in the tax abatement agreement). Unless otherwise specified in the agreement, taxes levied during the construction of the project shall be due and payable.
    - ii. Owners/developers are responsible for informing the City when a certified Project is complete.

## **C. RESIDENTIAL PROPERTIES LOCATED IN A NEZ- FULL ABATEMENT FOR 5 YEARS**

1. A homeowner or developer of residential single family property developed for a homeowner, shall be eligible to apply for a tax abatement by meeting the following after certification of the project:
  - a. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable;

- b. For rehabilitated Real Property Improvements, Eligible Rehabilitation costs on the Real Property Improvements shall be equal to or in excess of 30% of the Base Value of the Real Property Improvements and City Council approval of the tax abatement is granted before improvements are made.

**D. MULTI-FAMILY AND MIXED-USE DEVELOPMENT PROJECTS LOCATED IN A NEZ – 100% ABATEMENT FOR 5 YEARS**

1. A developer of a Multi-Family or Mixed-Use Development Project shall be eligible to apply for a tax abatement by meeting the following after project certification:
  - a. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable.
  - b. For a multi-family development project newly constructed, the project must provide at least five (5) residential living units OR have a minimum Capital Investment of \$200,000;
  - c. For a multi-family rehabilitation project, the Eligible Rehabilitation costs on the Real Property Improvements shall be at least 30% of the Base Value of the Real Property Improvements. Such Eligible Rehabilitation costs must come from the rehabilitation of at least five (5) residential living units or a minimum Capital Investment of \$200,000;
  - d. Residential uses in a mixed-use project must constitute 20 percent or more of the total Gross Floor Area of the project;
  - e. Office, eating and entertainment, and/or retail sales and service uses in a mixed-use project must constitute 10 percent or more of the total Gross Floor Area of the project; and
    - i. A mixed-use development project newly constructed must have a minimum Capital Investment of \$200,000; or
    - ii. For a rehabilitation project, Eligible Rehabilitation costs on the Real Property Improvements shall be at least 30% of the Base Value of the Real Property Improvements, or \$200,000, whichever is greater.
2. Multi-family and mixed-use projects must satisfy one of the following:
  - a. At least ten percent (10%) of the total residential units constructed or rehabilitated shall be affordable (as defined by the U. S. Department of Housing and Urban Development) and set aside to persons with incomes at or below eighty percent (80%) of area median income based on family size and at least another ten percent (10%) of the total units constructed or rehabilitated shall be affordable (as defined by the U. S. Department of Housing and Urban Development) and set aside to persons with incomes at or below sixty percent (60%) of area median income based on family size; or
  - b. If specifically permitted by the City Council, in its sole discretion, and as specified in the tax abatement agreement, pay the Fort Worth Housing Finance Corporation an annual sum equal to \$200.00 for each rental residential unit located on the property which is subject to the tax abatement. The Fort Worth Housing Finance Corporation is a housing finance corporation created pursuant to authorization by the City Council of the City of Fort Worth in accordance with Chapter 394, Texas Local Government Code, to assist in the financing of the costs of residential development and ownership for citizens of decent, safe and sanitary housing at affordable prices. An applicant's choice as to whether to commit to an affordable housing set-aside or to an annual payment to the Fort Worth Housing Finance Corporation must be made prior to execution of the tax abatement agreement and may not be changed during the term of the agreement. This annual payment will be due on or before February 1 of each year in which a tax abatement is granted (or such other date that may be agreed to in the tax abatement agreement). Failure to pay the annual payment to the Housing Finance Corporation when due will result in the forfeiture of the entire tax abatement for the tax year in which payment was due. Additional terms and conditions

governing this annual payment requirement will be set forth in the tax abatement agreement.

3. In addition at least 5% of the total residential units constructed or rehabilitated shall be compliant with the Americans with Disability Act (ADA) in accordance with Section 504 of the Rehabilitation Act, and must be fully accessible and 2% of the total units constructed must be fully accessible to persons with sensory impairments.

**E. COMMERCIAL, INDUSTRIAL AND COMMUNITY FACILITIES DEVELOPMENT PROJECTS LOCATED IN A NEZ – 100% ABATEMENT FOR 5 YEARS**

1. A developer of a Commercial, Industrial or Community Facilities Development Projects shall be eligible to apply for a tax abatement by meeting the following after project certification:
  - a. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable;
  - b. have a minimum capital investment of \$75,000 for a proposed new construction project; or
  - c. for a rehabilitation project, Eligible Rehabilitation costs on Real Property Improvements shall be at least 30% of the Base Value of the Real Property Improvements, or \$75,000, whichever is greater.

**VII. INELIGIBLE PROJECTS**

The following Projects or Businesses shall not be eligible for any incentives under the City' of Fort Worth's Neighborhood Empowerment Zone (NEZ) Basic Incentives and Tax Abatement Policy:

1. Sexually Oriented Businesses
2. Non-residential mobile structures
3. Stand-alone bars (Bars as part of a mixed use project may apply for NEZ incentives)
4. Single family investor owned projects
5. Package stores or liquor stores
6. Projects to be constructed on property purchased or to be purchased under a contract for deed

**VIII. DENIED APPLICATIONS**

1. NEZ applications will be denied 30 days after submission if all required or additionally requested documentation is not received by the City.
2. The applicant will have 90 days after the date of denial to resubmit the NEZ application without paying a new application fee.

## REFUND OF DEVELOPMENT AND IMPACT FEES POLICY

### PURPOSE

This refund policy is for the purpose of establishing the conditions under which the City may refund development and impact fees, normally waived through the Neighborhood Empowerment Zone (NEZ).

### APPLICABILITY

Unless expressly accepted, this policy applies to all development and impact fees waived by the City through the NEZ.

### CONDITIONS FOR REFUNDS

The City will consider refunds only when circumstances beyond the developers/owners control prevent them from obtaining the certification letter from the Planning and Development Department.

A property owner and/or developer may qualify for a refund if the proposed development project meets all criteria to receive a fee waiver under the NEZ Program Basic Incentives and Tax Abatement Policy and:

1. The owner and/or developer was not made aware of the NEZ incentives at the time the fees were paid; or
2. The owner and/or developer was mistakenly told that his/her property was not in a designated NEZ; or
3. The owner and/or developer has put funds in an escrow account with a City Department while awaiting certification of his/her project; or
4. City Council authorizes a City Department to issue a refund to the owner/developer.

### REFUND CHARGE

A refund charge will be assessed to help defray administration cost associated with the processing of refund check. The charge shall be 20% of the amount of the refund. This charge will be automatically deducted from the total refund amount.

### STATUTE OF LIMITATIONS

Any request, action or proceeding concerning the refund of fees normally waived through the NEZ must be filed within ninety days following the date that the fees were paid. An applicant who does not submit a refund request within 90 days of the transaction shall not qualify for a refund.

To obtain a refund the applicant needs to:

- submit a NEZ application to the Planning and Development Department for determination of the eligibility for NEZ fee waivers, and
- submit a written request to the Department in which the fees were paid. Upon receiving a confirmation from the Planning and Development Department that the project meets all NEZ fee waiver criteria, that Department shall process the request based on the qualifications discussed in this policy.

### EXEMPTIONS

The provisions of this policy do not apply to:

1. Fees that are not waived through the NEZ program; and
2. Taxes and special assessments; and
3. City liens such as mowing, board-up, trash, demolition and paving liens.

An applicant shall not qualify for any refund if:

1. The applicant was made aware of the NEZ incentives before he/she pays the fees; or
2. The applicant does not meet the requirements for NEZ incentives at the time he/she paid the fees;  
or
3. The applicant paid the fees before the refund policy was put in place; or
4. The applicant paid the fees before the designation date of the NEZ.

#### **DISCLAIMER**

In the event of any conflict between the City's ordinances or regulations and this policy, such ordinances or regulations shall control. In the event of any conflict between this policy and other policies or regulations adopted by the City Department issuing the refund, such department policies or regulations shall control. The City reserves the right to deny any or all request for refunds.