

# CITY OF AMARILLO NEIGHBORHOOD EMPOWERMENT ZONE PROGRAM INCENTIVE POLICY

## I. Purpose Statement 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 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 geographic areas for the zones must meet certain criteria for economic distress and physical deterioration as determined by the requirements of section 378.003 and 312.202 of the Texas Tax Code. As allowed by Chapter 378.004, the City of Amarillo may offer incentives with limitations to promote the outcomes of the program. This policy describes the program to be administered by the Planning Department including the designation of zones, incentives available, and process for application and project certification.

The purpose of the Neighborhood Empowerment Zone program in Amarillo is to assist in the ongoing redevelopment and reinvestment efforts in areas of the city with adopted small-scale revitalization plans, including Downtown and those areas participating in the Neighborhood Planning Initiative. The primary objective is to improve housing conditions through the rehabilitation of existing housing stock and the creation of new affordable housing options in the designated areas. The secondary objective is to support business development that positively impacts neighborhood quality of life. The program will be implemented with an initial time-period of five years. At the conclusion of five years, it will be re-evaluated for its effectiveness in addressing conditions in the designated zones.

Measures will include:

- Number of NEZ certified projects
- Permit value of certified projects
- Zone-wide taxable value
- Owner/renter occupancy statistics
- Median home values per PRAD
- Number of businesses & employees

## II. Establishment of Zones

NEZs in Amarillo will be designated by the Amarillo City Council. To the extent possible, the program will supplement revitalization efforts in areas with adopted small-scale plans including Downtown, North Heights, Barrio, San Jacinto, Eastridge and future plan areas as selected

through the Neighborhood Planning Initiative. Each plan area will be designated as an individual zone ie Downtown NEZ, North Heights NEZ, etc.

Each zone will be adopted by resolution adhering to the requirements identified in Chapter 378, Section .003.

In addition, each zone may also include its own Development Guidelines which will further describe the revitalization goals for the particular plan area, the specific incentive options available, and any additional design standards as recommended by staff and/or the Recognized Neighborhood Association to further the goals of their respective plan. The Development Guidelines may limit the incentives granted through Chapter 378 in order to achieve the identified goals of each respective plan area. The Development Guidelines should be established through an inclusive process for each designated zone and recommended by each Recognized Neighborhood Association where one exists.

### **III. Eligibility**

Any property owner or business owner seeking NEZ incentives is required to submit an application to the City of Amarillo Planning Department for certification as an NEZ project. All applications must meet the below eligibility requirements:

#### **Eligible Project Type:**

The following types of projects are eligible to apply for NEZ incentives in Amarillo. Projects must be residential, neighborhood service, office, retail, institutional or light commercial in nature as defined by the city's Zoning Ordinance. This list may be further limited within each Zone based on the respective neighborhood's Development Guidelines.

- Owner-occupied single-family project – *rehabilitation or new construction*
- Investor-owned single-family project – *rehabilitation or new construction*
- Multi-lot single-family development projects to be owner-occupied – *new construction*  
Tax rebates may be considered through a Chapter 380 agreement.
- Duplex, townhome, and condominium project to be owner or renter-occupied – *rehabilitation or new construction*
- Multiple-family apartment (3+ unit) project – *rehabilitation or new construction*
- Mixed use project – *rehabilitation or new construction*
- Non-residential projects – *rehabilitation or new construction*. The eligible uses are restricted to neighborhood services, retail, office, institutional, and light commercial consistent with development guidelines and neighborhood plan.

#### **Other Eligibility Requirements:**

- Projects must be fully within a NEZ boundary.
- Owner/developer must submit a complete application to the city.
- Owner/developer must not be delinquent in paying property taxes for any property owned by them in the Potter-Randall County Appraisal District.
- Projects must be new construction or rehabilitation of a permanent structure and not a mobile structure.

- Projects must meet minimum standards created in the associated Zone's Development Guidelines.
- Projects must not have commenced prior to NEZ application.
- The property must be zoned correctly, or rezoning must be part of the project application.
- The property must be platted correctly, or platting must be part of the project application.
- For projects seeking a municipal tax abatement and/or sales tax rebates, the proposed investment must be 20% or more of the PRAD improvements value of the property.
- The property must meet applicable sidewalk standards regardless of any sidewalk waivers being granted.
- Projects are encouraged to attend a Preliminary Application Conference meeting with development review staff prior to application. There is no fee associated with this meeting.

**Ineligible Project Types:**

The following projects or businesses shall not be eligible for any incentives under the City of Amarillo's Neighborhood Empowerment Zone (NEZ) Program Incentive Policy:

- Uses that are exclusively allowed in the following zoning districts: Heavy Commercial, Light Industrial, and Heavy Industrial
- Uses listed under D-Utility and Service Uses and G-Transportation Related Uses within the Schedule of Uses table of Section 4-10-82 of the Zoning Ordinance
- Adult businesses and topless establishments
- Mobile structures
- Stand-alone bars (bars as part of a mixed-use project may apply for NEZ incentives)
- Liquor stores
- Pawn shops
- Projects to be constructed on property purchased or to be purchased under a contract for deed
- Any development type specifically restricted in the neighborhood's Development Guidelines and Neighborhood Plans

**IV. Incentives Available in a NEZ**

**A. Fee Waivers:** A NEZ certified project may be eligible for all or some of the following development fee waivers. Fee waivers for certified projects are approved administratively by program staff.

If the combined fee amount to be waived is greater than \$10,000, approval must be granted by the City Manager or Designee.

The following fees for services may be waived for NEZ certified projects:

- o Platting fees
- o Preliminary Plan fees
- o Zoning fees (including specific use permits and planned developments)
- o Vacation fees (does not include fair market value requirement)

- Sign Permit fees
- Demolition fees
- Building Permit fees
- Trade Permit fees
- Plan Review fees
- Inspection fees
- Certificate of Occupancy fees
- Technology fees
- Water and Sewer Tap administrative fees
- Construction Plan Review fees (does not negate surety costs if required)
- Drainage Report Review fees
- Fire inspection fees

If a permit or application listed above 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.

Other development related fees not specified in this policy may be requested on a case-by-case basis and approved by City Manager or Designee.

**B. Property tax abatements:** A NEZ certified project proposing an investment amount of 20% or more of the PRAD improvements value of the property may be eligible for a maximum 10-year property tax abatement. (For example: if a property has a taxable value of improvements of \$50,000, the project application must demonstrate an investment of \$10,000 or more). Property tax abatements are only granted for the increase in taxable value caused by the improvements to the property as a result of the investment amount.

Single-Family and Multiple-Family Residential Rehabilitation

- 10 Years – 100% municipal property tax abatement

Single-Family and Multiple-Family Residential New Construction Projects

- 5 Years – 100% municipal property tax abatement

Non-Residential Rehabilitation Projects

- 10 Years – 100% municipal property tax abatement

Non-Residential New Construction Projects

- 5 Years – 100% municipal property tax abatement

All tax abatement agreements are subject to approval by the Amarillo City Council. Certified projects meeting the objectives of this program; goals of the adopted Neighborhood Plans, and respective neighborhood Development Guidelines will be recommended for the maximum abatement term. Recognized Neighborhood associations will also be provided the opportunity to review and comment on requests for tax abatements.

Chapter 380 agreements can be utilized within this program in specific instances where a large amount of investment is being contributed to the area.

**C. Sales Tax Rebates:** An NEZ certified project for a new retail or commercial business, or the relocation of an existing business into a Zone, may request a sales tax rebate. The City collects 2% sales tax on any taxable retail sales in the city limits, and it is distributed as follows: 1% is allocated to the city's general fund, .5% is allocated to property tax relief, and .5% is allocated to the Amarillo Economic Development Corporation. Sales tax rebate applications must show the same level of investment as property tax abatement applications, 20% or more of the PRAD improvements value of the property.

Mixed Use, Neighborhood Services, Retail - Rehabilitation and New Construction Projects

- Half cent (0.5%) for five years

All sales tax abatement agreements are subject to approval by the Amarillo City Council. Certified projects meeting the objectives of this program; goals of the adopted Neighborhood Plans, and respective neighborhood Development Guidelines will be recommended to City Council for sales tax rebate when requested on the submitted application. Recognized Neighborhood Associations will also be provided the opportunity to review and comment on requests for sales tax rebate.

## **V. Application and Review Process**

### **A. Application and Fee**

An individual applying for any NEZ project incentive must submit the City of Amarillo application for NEZ project incentives and provide the information and documents requested on the application. Incomplete applications will not be accepted or processed. Other documents or information may be requested from the applicant as needed for accurate review and consideration. Application must be signed by the owner of the property on which the project is to be located or a legally authorized agent of the owner. There is no program fee for applications.

### **B. Submission and Review**

The application with any required documents shall be submitted to the City of Amarillo Planning Department for processing and review. The Planning Department will review the application for completeness and inform the applicant of any additional information that is needed to review the project for certification within three business days. The applicant will have 30 days from the request for additional information to submit the documents or the application will expire. (Please see "Expired or Denied Applications" section below for more information.) If applicable, the application may be distributed to other appropriate departments for review and comments at which time additional information may be requested.

A complete application must include:

- a. Proof that the project is fully located within a NEZ;
- b. A completed application for NEZ project incentives;
- c. Attachment of any items identified on the application checklist that is needed for review; and,
- d. Attachment of any additional documents needed to determine compliance with the associated NEZ Development Guidelines.

Once the Planning Department determines the application is complete, it will review the project for program eligibility and compliance with all standards and requirements based on the criteria set forth in this Policy and the associated NEZ Development Guidelines within 10 business days. Notification will also be sent to the Recognized Neighborhood Association in which the project is located.

**C. Project Certification and Fee Waiver Process**

If a project is determined to be eligible and meets all requirements, it will receive NEZ certification. Once an applicant's project is certified, the Planning Department will inform the appropriate departments. Project certification shall qualify the project for fee waivers up to a combined amount of \$10,000. For projects where the combined fees amount to more than \$10,000, the City Manager (or designee) may grant a fee waiver amount past the \$10,000 at his or her discretion.

Project certification does not obligate a project to receive municipal property tax abatement or sales tax rebates. If a project is not granted NEZ certification, it is not eligible for property tax abatement or sales tax rebates under this program. Once NEZ certified, a project seeking municipal property tax abatement or sales tax rebates through this program will be directed by Planning Department staff through the appropriate process.

All NEZ certifications for incentives are project specific and will expire after two years if Certificate of Occupancy has not been issued, or building/trade final when the project does not require the issuance of a Certificate of Occupancy. If approaching the date of expiration and situations have hindered the completion of the project within the original two years, a written request for certification extension can be submitted to the Planning Director for determination. If granted the extension will delay the expiration date one year from the original expiration.

As determined by the Planning Director, 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, as well as major modifications to previously certified projects, will require a new application.

Project certification shall not be deemed to grant approval of development reviews such as site plans, construction plans, or building plans. The City's development review process is required for all projects. This process shall not override existing development review requirements.

At its discretion, the Amarillo City Council may change NEZ boundaries or terminate NEZ areas. If a property is removed from an NEZ area by one of these events, projects that have been NEZ certified will maintain eligibility for the original two years from the date of certification. After the termination or change of an NEZ that affects a project, an NEZ certified project's expiration date will not be extended.

At the time of application for a permit or process for which fees might be waived through this program, applicant will have the ability to identify participation in the NEZ program or waive the right to participation on the application. If identifying participation in the program on an application, the associated certified NEZ project letter shall be presented as well.

## **VI. Release of Municipal Liens**

The City recognizes the value in offering a process within this program for the total or partial release of liens on properties located within a Neighborhood Empowerment Zone. Liens can be a barrier to redevelopment especially during the transfer of ownership.

No program is currently in place for lien removal; however, applicants can submit an NEZ Request for Release of Liens to the Planning Department for consideration in conjunction with their NEZ project application. Staff will coordinate with other departments to determine any options for lien removal and indicate those options upon project certification.

## **VII. Expired or Denied Applications**

NEZ applications will expire 30 days after the application completeness review if all required or additionally requested documentation is not received by the city.

If an application is denied by the Planning Department, the applicant can appeal the decision to the Board of Review for Landmarks, Historic Districts, and Downtown Design (LHD&DD) if a request for appeal is received by the Planning Department within 10 business days following the date of denial. If a Recognized Neighborhood Association exists for the plan area in which the proposed project resides, the organization will be requested to provide a recommendation for or against the project to be presented at the LHD&DD Board meeting. If denied by the LHD&DD Board of Review the applicant must wait one year before reapplying unless the project scope of work has changed. If the appeal is approved by the LHD&DD Board of Review and the applicant is seeking tax abatement or sales tax rebates through this program, staff will continue the process for these requests. Final approval of any NEZ property tax abatement and/or sales tax rebates is at the discretion of City Council. City Council is under no obligation to approve any tax abatement and/or sales tax rebate agreements even if an appeal was approved by the LHD&DD Board of Review.

## **VIII. Property Tax Abatement and Sales Tax Rebate Agreement Guidelines**

- Staff will review and evaluate each tax abatement application and sales tax rebate application prior to submission to the City Council.
- The City Council has designated certain areas of the City as Tax Increment Reinvestment Zones (TIRZ). If a NEZ overlaps with a TIRZ, a person or entity seeking Tax Abatement or Sales Tax Rebate on property owned or leased in a TIRZ shall not be granted NEZ Tax Abatements or Sales Tax Rebates.
- A tax abatement or sales tax rebate agreement shall not be granted for any development project in which a building permit, excluding grading and/or demolition, has been issued by the City's Building Safety Department. In addition, the City will not abate taxes on the value of real property improvements or rebate sales tax for any period of time prior to the year of execution of the associated Agreement with the City.
- Tax Abatement or Sales Tax Rebate Agreements for any construction projects will automatically terminate eighteen months after Council approval of the Agreement if the project has not received its Certificate of Occupancy (unless otherwise specified in the Agreement).
- Tax abatement or sales tax rebate agreements for a rehabilitation project will automatically terminate eighteen months after Council approval of the agreement if the project is not complete (unless otherwise specified in the Agreement).
- If the property on which an agreement is active under this program has a city lien applied to it during the agreement term, the tax abatement or sales tax rebate agreement will be terminated. Subsequently, the owner will also be responsible for the full tax amount for the year in which it was terminated.
- An agreement under this program shall automatically terminate if the property subject to the agreement is in violation of the City of Amarillo's building and construction standards and the owner is convicted of such violation.
- Tax abatement or sales tax rebates granted under the program 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 an agreement is active under this program is sold, the City may assign the agreement for the remaining term as allowed by the agreement once the new owner submits an application and so long as the new owner complies with all of the terms of the agreement. Assignment of agreement requires consideration of City Council. Any sale, assignment or lease of the property which is not permitted in the agreement will result in automatic termination of the agreement and recapture of any taxes after the date on which an unspecified assignment occurred.
- If the property on which an agreement is active under this program has a change in use, an application must be submitted the same as a change in ownership.



Determination on continuance or termination of agreement requires consideration by City Council.

- If the terms of the agreement are not met, the City Council has the right to cancel or amend the agreement. In the event of cancellation, the recapture of taxes shall be limited to the year(s) in which the default occurred or continued.
- The terms of the agreement shall include the City of Amarillo'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 or sales tax rebate in any given year, (2) conduct an on-site inspection of the project in each year during the life of the agreement to verify compliance with the terms of the agreement, (3) terminate the agreement if the Project contains or will contain an ineligibility as described by this policy or the individual Zone's Development Guidelines for which the project is located.
- Upon completion of construction of the Project, the City shall no less than annually evaluate each project receiving abatement or rebates to ensure compliance with the terms of the agreement and NEZ certification. Any incidents of non-compliance will be reported to the City Council.
- If City Council terminates or changes the NEZ program, tax abatement or sales tax rebate agreements shall continue the length specified within the agreement to the extent allowed within the agreement.
- The City Council of the City of Amarillo retains sole authority to approve or deny any municipal property tax abatement or sales tax rebate agreements. The City is under no obligation to approve any tax abatement or sales tax rebate agreements. The City of Amarillo is under no obligation to provide tax abatement or sales tax rebates in any amount or value to any applicant.
- Effective Date for Approved Agreements
  - All tax abatements or rebates 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 or when the project opens for business to the public (unless otherwise specified in the agreement). Taxes levied during the construction of the project shall be due and payable (unless otherwise specified in the agreement).
  - Owners/developers are responsible for informing the City of Amarillo when a certified project is complete.

## **IX. Definitions**

*"Abatement or Tax Abatement"* means a full or partial exemption from City of Amarillo 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).

"Building and Construction Standards Code" is Article IV of the Amarillo City Code adopted pursuant to Texas Local Government Code, Chapters 54 and 214.

"Certified Project" is a project that has been determined to meet all standards of the Policy and Design Guidelines and has not lost its certification status.

"Condominium Project" is a development project which proposed to construct or rehabilitate a multiple-family building portions of which may be individually owned by the occupants on a property that is (or meets the requirements) to be zoned for such use as defined by the City of Amarillo Zoning Ordinance.

"Duplex Project" is a development project which proposes to construct or rehabilitate two connected housing units on property that is (or meets the requirements to be) zoned for such use as defined by the City of Amarillo 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 20% or more of the current base value improvements as defined by Potter Randall Appraisal District at the time of application in order for a rehabilitation project to apply for any NEZ incentives.

"Improvements Value" is the value of the real property improvements, excluding land, as determined by the Potter-Randall County Appraisal District, during the year rehabilitation occurs.

"Mixed-Use Project" is a development project which proposes to construct or rehabilitate mixed-use facilities that contain at least one housing unit and one or more Non-Residential Uses allowed in the Zoning District in which the mixed-use project is located. The housing unit(s) may be located above the ground floor or behind the non-residential floor area. The floor space above the ground floor may be occupied by non-residential floor area in addition to housing units.

"Multiple-family Project" is a development project which proposes to construct or rehabilitate three or more housing units on a property that is (or meets the requirements to be) zoned for such use as defined by the City of Amarillo 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.

"Non-Residential Project" is a development project which proposes to construct or rehabilitate facilities with neighborhood services, retail, office, institutional, or light commercial related land uses on property that is (or meets the requirements to be) zoned for such use as defined by the City of Amarillo Zoning Ordinance.

“Real Property Improvements” means a habitable structure as defined by the Amarillo Building Code.

“Single-Family Project” is a development project that proposes to construct or rehabilitate one-family housing units on property that is (or meets the requirements to be) zoned for such use as defined by the City of Amarillo Zoning Ordinance.

“Townhome Project” is a developed project that proposed to construct or rehabilitate attached one-family housing units on property that is (or meets the requirements to be) zoned for such use as defined by the City of Amarillo Zoning Ordinance