

**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Economic Development
AGENDA DATE: August 24, 2010 Regular Agenda
CONTACT PERSON/PHONE: Kathryn Dodson, PhD, Director 541-4670
DISTRICT(S) AFFECTED: ALL

SUBJECT:

Discussion and action on adoption of an infill development incentive policy for the City of El Paso (All Districts) [Economic Development, Kathryn Dodson (915)541-4670]

BACKGROUND/DISCUSSION:

The infill development incentive policy seeks to bring currently underutilized sites throughout the city back to productive use by providing financial and other incentives to owners of infill sites. The policy received a positive recommendation from the Economic and Community Development/Quality of Life and Tourism Legislative Review Committee and asked that two (2) options for City Council consideration be presented with the second option including a concentric approach to grant more incentives to areas closer to downtown. Thus, two options for the infill development policy are provided for consideration. The policy would apply city-wide. The original policy provides a set of incentives equally throughout the city; the alternative policy includes a tiered approach with two levels of incentives based on proximity to the downtown core with more incentives provided within this area than in other parts of the city.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

No.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A.

BOARD/COMMISSION ACTION:

The Economic and Community Development/Quality of Life and Tourism Legislative Review Committee recommended approval at their meeting of June 10, 2010 and asked for a second option second option including a co-centric approach to be presented for City Council consideration.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____

(Example: If RCA is initiated by Purchasing, client department should sign also). *Information copy to appropriate Deputy City Manager*

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

That the City of El Paso Infill Development Incentive Policy attached hereto is adopted with an effective date of September 1, 2010.

ADOPTED this the _____ day of August 2010.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:



Kathryn B. Dodson, Ph.D., Director
Economic Development Department

Infill Development Incentive Policy

PURPOSE

It is the policy of the City of El Paso to provide incentives to promote infill development, reduce sprawl, increase the availability of attainable housing and increase economic activity and vitality throughout the City all of which will improve the local economy and enhance quality of life for the benefit of the residents of El Paso. Insofar as these goals are served by enhancing the value of the local tax base and increasing economic opportunities, the City of El Paso will give consideration to provide incentives for infill development.

The purpose of this policy is to define the financial or other incentives available to encourage infill development.

The City of El Paso is under no obligation to approve any requested incentive and the right to these incentives is neither intended nor implied.

DEFINITIONS

Infill – As per Title 20 of the El Paso Municipal Code (20.10.280), infill development is any property on which at least two of the following factors are present: the property is wholly or partially located within a designated tax increment financing district, or the property is wholly or partially located within an empowerment zone, or the property is wholly or partially located within a designated redevelopment area pursuant to Chapter 20.14 of this title, or the property is located within a designated historic district, or the property is within an older neighborhood of the city. An older neighborhood of the city is defined as a legally recorded and developed subdivision for at least 30 years.

Attainable Housing – residential rental housing for persons having an annual household income at or below 120% of area median income for the El Paso Region, as determined annually by the United States Department of Housing and Urban Development.

Vacant Building – A building is defined as vacant if it is 60% or more unoccupied and is registered as a vacant building with the City of El Paso.

PROGRAM POLICY

It is the policy of the City of El Paso that consideration will be provided in accordance with the guidelines, criteria and procedures outlined in this document. This policy applies to the owners of real property. Project consideration will include the potential impact of the reinvestment project on the immediate and surrounding area. The City of El Paso may provide incentives to a property owner if the proposed infill development project meets the following criteria:

1. Is private property that includes investment in new construction and/or renovation of single family residential uses with a total investments of \$25,000 or greater; for all other land uses is private property that includes investment in new construction and/or renovation with total investment of \$50,000 or greater. For the purposes of this ordinance, the total investment cost excludes property acquisition costs; and
2. Includes new construction on a vacant lot and/or renovation of existing vacant or blighted buildings including single-family homes to be used for the following land uses: housing, office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing City of El Paso Zoning Code; and
3. Will substantially enhance the economic health of the City of El Paso; and
4. Will result in a net increase or retention of jobs in the City, will add to the tax base, will result in additional attainable housing units, or will otherwise improve or enhance the economic welfare of the residents or businesses of the City; and
5. Demonstrates the potential to generate revenues to the City which outweigh costs associated with incentives; and
6. The property was purchased within one year or will be purchased before entering into the incentives contract. If the land is vacant this provision does not apply; and
7. The present owner (new owner) neither caused nor contributed to the present blighted condition.

In addition, the following criteria must be satisfied.

The project must:

Option 1

1. Show a clear demonstration of public purpose and economic benefit through advancement of the City's economic goals which include expanding the tax base, creating quality jobs, increasing private capital investment in the community, spurring development in targeted City locations; encouraging development of targeted businesses or clusters desirable to enhance the City's economy; or creates additional attainable housing in the City of El Paso; and
2. Include solid evidence provided by the property owner that demonstrates the financial stability and capacity to complete the project, evidence can include financial statements for a corporation or tax statements for an individual; and
3. Be in compliance with all local, state and federal laws.

The property owner, in order to receive any such incentives from the City of El Paso will make available credible information to enable the City to prepare a fiscal impact analysis. The recipient will update this information annually during the term of any incentives contract. The decision to provide any economic development incentives will be considered on a project-by-project basis, in accordance with the criteria set forth in this policy, and at the discretion of the City Council of the City of El Paso. In order to be eligible for incentives, businesses or individuals must be current on all city taxes or any other obligation to the City.

ELIGIBILITY CRITERIA

The property must meet the City definition for infill development, must be within the City Limits and must meet the following eligibility criteria:

- A. The property must be a platted, unimproved lot; or
- B. The property must contain a vacant building; or
- C. The property must contain a building that has a CAD physical condition factor of thirty (30) or lower; or
- D. The property must be renovated for use as attainable, rental housing or attainable owner-occupied housing.

For purposes of this section, any property in a historic district or with a historic designation shall be subject to the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City Code, and shall not be waived by any provision of this policy.

Option 1

Agreements may be conditioned on the completion of specific improvements to real property. The Agreements shall contain recapture clauses in the event that such conditions are not met.

PROCEDURAL AND PROGRAM GUIDELINES

Any person, partnership, organization, corporation or other entity desiring that the City of El Paso consider providing infill incentives shall be required to comply with the following procedural guidelines. No representations made herein are considered binding unless and until approved by the City Manager or designee.

Application

Applicants shall submit a completed "Application for Infill Development Incentives" form for consideration of financial incentives to the Economic Development Department of the City of El Paso, 2 Civic Center Plaza, El Paso, Texas 79901.

Consideration of the Application

The City Manager or designee will consider requests for financial incentives in accordance with these policies and the Texas Local Government Code. Additional information may be requested as needed. Applicants satisfying the general criteria and meeting the qualification standards will be considered.

When authorized by City Council, the City may enter into an agreement/incentives contract that outlines the terms and conditions between the City and the applicant, and governs the provision of the incentives to be provided for the project.

Inspection of the Project

During the term of such agreement, the City of El Paso will have the right to inspect the project facility during regular business hours to ensure compliance with the agreement and accuracy of the owner certification.

Recapture

If a project is not completed as specified, or if the terms of the agreement are not met, the City has the right to cancel or amend the incentive agreement, recapture any rebated or exempted taxes, and assess penalty payments for the amounts previously secured by City liens against the property and all previously waived fees and abated taxes shall become due to the City.

Effect of Sale, assignment or lease of property

Option 1

No incentives rights may be sold or assigned without the approval of the City Council. Any sale, assignment or lease of the property may result in execution of the recapture provision, as outlined above.

Incentives cannot be transferred as a result of a change in the majority ownership of the property without the expressed written consent of the City of El Paso. Any new owner shall file a new application for an economic development incentive. It shall be the responsibility of the owner to notify the City of any such substantive change.

Attainable Housing Criteria

If the property is to be used for attainable, rental housing, the City of El Paso will require submission of income data documentation, recordation of declaration of restrictive covenants placed on the land and have a set affordability period of five (5) years for rental units with controls on rental prices charged to income qualified households. For owner-occupied housing, the qualified property owner has to retain occupancy for a period of five (5) years.

TYPES OF DIRECT FINANCIAL INCENTIVES AVAILABLE

Construction Materials Sales Tax Rebate

The Construction Materials Tax Rebate Program is an economic development tool designed to provide incentives for the new construction or renovation of single family homes, office, retail, restaurant and multi-family residential facilities that are considered infill development. A 100% rebate of the City's portion of sales tax used on materials and labor, that has been remitted to the City's general fund, for construction is available for investments in eligible properties that are equal or greater than the CAD value of the property upon contract execution. Construction Materials Tax Rebates are not available on residential properties unless they are used for attainable housing.

Property Tax Abatement

The City's portion of ad valorem property taxes may be abated to the property owner according to the following schedule if the City Council approves an amendment to the City's Tax Abatement Policy to allow for eligibility under this infill development policy:

Option 1

Percent of Abatement based on Investment Level

Single Family Investment	Other Investment	Year 1 Exemption	Year 2 Exemption	Year 3 Exemption	Year 4 Exemption	Year 5 Exemption
\$25,000	\$50,000	100%	0%	0%	0%	0%
\$50,000	\$100,000	100%	50%	0%	0%	0%
\$100,000	\$200,000	100%	66%	33%	0%	0%
	\$400,000	100%	75%	50%	25%	0%
	\$800,000+	100%	100%	75%	50%	25%

Ad valorem property tax abatement is only available on properties with available ad valorem taxes (i.e. taxes cannot be diverted through Historic Tax Credits, Transportation Reinvestment Zone, prior 380 agreements, Tax Increment Reinvestment Zones or other means), except for properties within Tax Increment Reinvestment Zone No. 5. Property Tax abatements are not available on residential properties unless they are used for attainable housing. The base year used for the calculation of incentives will be the year of contract execution.

Lien Waivers

In conjunction with receipt of a property tax exemption incentive, an Applicant may take advantage of the Lien Waiver Program to be implemented under this Policy. This program will provide property owners a release of liens which are attached to properties as the result of condemnation, sanitation, or other city-imposed non-property tax liens, and excluding Community Development or other federally-funded liens. Release of such liens would only be allowed in consideration for the Applicant's investment in new construction or renovation of eligible facilities and are only waived upon sale of the property to a new owner. Lien Waivers are not available on residential properties unless they are used for attainable, rental housing. Lien waivers must be used with a property tax abatement, as detailed above.

TERM OF FINANCIAL INCENTIVES

The availability of financial incentives under this Policy shall remain in effect until August 31, 2015.

SUPPLEMENTAL BENEFITS AVAILABLE TO PROMOTE INFILL DEVELOPMENT

Building Construction Fee Waivers

If the City Council approves by ordinance the reduction or the waiver of building construction fees and planning fees associated with the construction or redevelopment on infill development properties, the Economic Development

Option 1

Department will implement a Building Construction Fee Waiver Program for the purpose of providing eligible property owners an opportunity to apply for an exemption from planning and building fees associated with new construction or renovation and occupancy of their infill facilities. It is anticipated that the eligibility requirements will be as follows: if the property owner provides acceptable documentation to the City to demonstrate that the total renovation/construction cost is greater than the Central Appraisal District appraised value of the land, then up to 100% of the fees will be waived based on the fee schedule established in the ordinance or other appropriate resolution of Council, but in no event will the total fee waiver amount exceed \$2,000 for a single family residential project or exceed \$5,000 for a commercial, multifamily or mixed-use project.

Customized Plan Review

In order to facilitate redevelopment of infill properties, the Economic Development Department is committed to assisting applicants through the planning and permitting under an expedited review process at no additional cost to the applicant.

Infill Overlay

At the property owner's request, the City will initiate an infill overlay application on the property that may result in decreased parking requirements, a reduced setback provision, increased density, changes of use and other benefits as per section 20.10.280 of the City Code.

Infill Development Incentive Policy

PURPOSE

It is the policy of the City of El Paso to provide incentives to promote infill development, reduce sprawl, increase the availability of attainable housing and increase economic activity and vitality throughout the City all of which will improve the local economy and enhance quality of life for the benefit of the residents of El Paso. Insofar as these goals are served by enhancing the value of the local tax base and increasing economic opportunities, the City of El Paso will give consideration to provide incentives for infill development.

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2. Includes new construction on a vacant lot and/or renovation of existing vacant or blighted buildings including single-family homes to be used for the following land uses: housing, office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing City of El Paso Zoning Code; and
3. Will substantially enhance the economic health of the City of El Paso; and
4. Will result in a net increase or retention of jobs in the City, will add to the tax base, will result in additional attainable housing units, or will otherwise improve or enhance the economic welfare of the residents or businesses of the City; and
5. Demonstrates the potential to generate revenues to the City which outweigh costs associated with incentives; and
6. The property was purchased within one year or will be purchased before entering into the incentives contract. If the land is vacant this provision does not apply; and
7. The present owner (new owner) neither caused nor contributed to the present blighted condition.

In addition, the following criteria must be satisfied.

The project must:

Option 2

1. Show a clear demonstration of public purpose and economic benefit through advancement of the City's economic goals which include expanding the tax base, creating quality jobs, increasing private capital investment in the community, spurring development in targeted City locations; encouraging development of targeted businesses or clusters desirable to enhance the City's economy; or creates additional attainable housing in the City of El Paso; and
2. Include solid evidence provided by the property owner that demonstrates the financial stability and capacity to complete the project, evidence can include financial statements for a corporation or tax statements for an individual; and
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- C. The property must contain a building that has a CAD physical condition factor of thirty (30) or lower; or
- D. The property must be renovated for use as attainable, rental housing or attainable owner-occupied housing.

There are two levels of incentives with properties in the infill strategy areas defined as the inner core and first ring in the map in Exhibit A eligible for additional incentives as specified in the types of incentives available. For purposes of this section, any property in a historic district or with a historic designation shall be subject to the requirements and review provisions of Chapter 20.20 (Historic Landmark

Option 2

Preservation) of the City Code, and shall not be waived by any provision of this policy.

Agreements may be conditioned on the completion of specific improvements to real property. The Agreements shall contain recapture clauses in the event that such conditions are not met.

PROCEDURAL AND PROGRAM GUIDELINES

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Property Tax Abatement

The City's portion of ad valorem property taxes may be abated to the property owner according to the following schedule if the City Council approves an amendment to the City's Tax Abatement Policy to allow for eligibility under this infill development policy:

Option 2

First Level (Core & First Ring)

Single Family	Other	Year 1	Year 2	Year 3	Year 4	Year 5
Investment	Investment	Exemption	Exemption	Exemption	Exemption	Exemption
\$25,000	\$50,000	100%	50%	25%	0%	0%
\$50,000	\$100,000	100%	75%	50%	25%	0%
\$100,000	\$200,000	100%	100%	75%	50%	25%
	\$400,000	100%	100%	75%	66%	50%
	\$800,000+	100%	100%	75%	75%	66%

Second Level (Second & Outer Ring)

Single Family	Other	Year 1	Year 2	Year 3	Year 4	Year 5
Investment	Investment	Exemption	Exemption	Exemption	Exemption	Exemption
\$25,000	\$50,000	100%	0%	0%	0%	0%
\$50,000	\$100,000	100%	50%	0%	0%	0%
\$100,000	\$200,000	100%	66%	33%	0%	0%
	\$400,000	100%	75%	50%	25%	0%
	\$800,000+	100%	100%	75%	50%	25%

Ad valorem property tax abatement is only available on properties with available ad valorem taxes (i.e. taxes cannot be diverted through Historic Tax Credits, Transportation Reinvestment Zone, prior 380 agreements, Tax Increment Reinvestment Zones or other means), except for properties within Tax Increment Reinvestment Zone No. 5. Property Tax abatements are not available on residential properties unless they are used for attainable housing. The base year used for the calculation of incentives will be the year of contract execution.

Lien Waivers

In conjunction with receipt of a property tax exemption incentive, an Applicant may take advantage of the Lien Waiver Program to be implemented under this Policy. This program will provide property owners a release of liens which are attached to properties as the result of condemnation, sanitation, or other city-imposed non-property tax liens, and excluding Community Development or other federally-funded liens. Release of such liens would only be allowed in consideration for the Applicant's investment in new construction or renovation of eligible facilities and are only waived upon sale of the property to a new owner. Lien Waivers are not available on residential properties unless they are used for attainable, rental housing. Lien waivers must be used with a property tax exemption, as detailed above.

TERM OF FINANCIAL INCENTIVES

Option 2

The availability of financial incentives under this Policy shall remain in effect until August 31, 2015.

SUPPLEMENTAL BENEFITS AVAILABLE TO PROMOTE INFILL DEVELOPMENT

Building Construction Fee Waivers

If the City Council approves by ordinance the reduction or the waiver of building construction fees and planning fees associated with the construction or redevelopment on infill development properties, the Economic Development Department will implement a Building Construction Fee Waiver Program for the purpose of providing eligible property owners an opportunity to apply for an exemption from planning and building fees associated with new construction or renovation and occupancy of their infill facilities. It is anticipated that the eligibility requirements will be as follows: if the property owner provides acceptable documentation to the City to demonstrate that the total renovation/construction cost is greater than the Central Appraisal District appraised value of the land, then up to 100% of the fees will be waived based on the fee schedule established in the ordinance or other appropriate resolution of Council, but in no event will the total fee waiver amount exceed \$4,000 for a single family residential project or exceed \$10,000 for a commercial, multifamily or mixed-use project for properties in the core and first ring (first level); or exceed \$2,000 for a single family residential project; or exceed \$5,000 for a commercial, multifamily or mixed-use project for properties in the second and outer rings (second level).

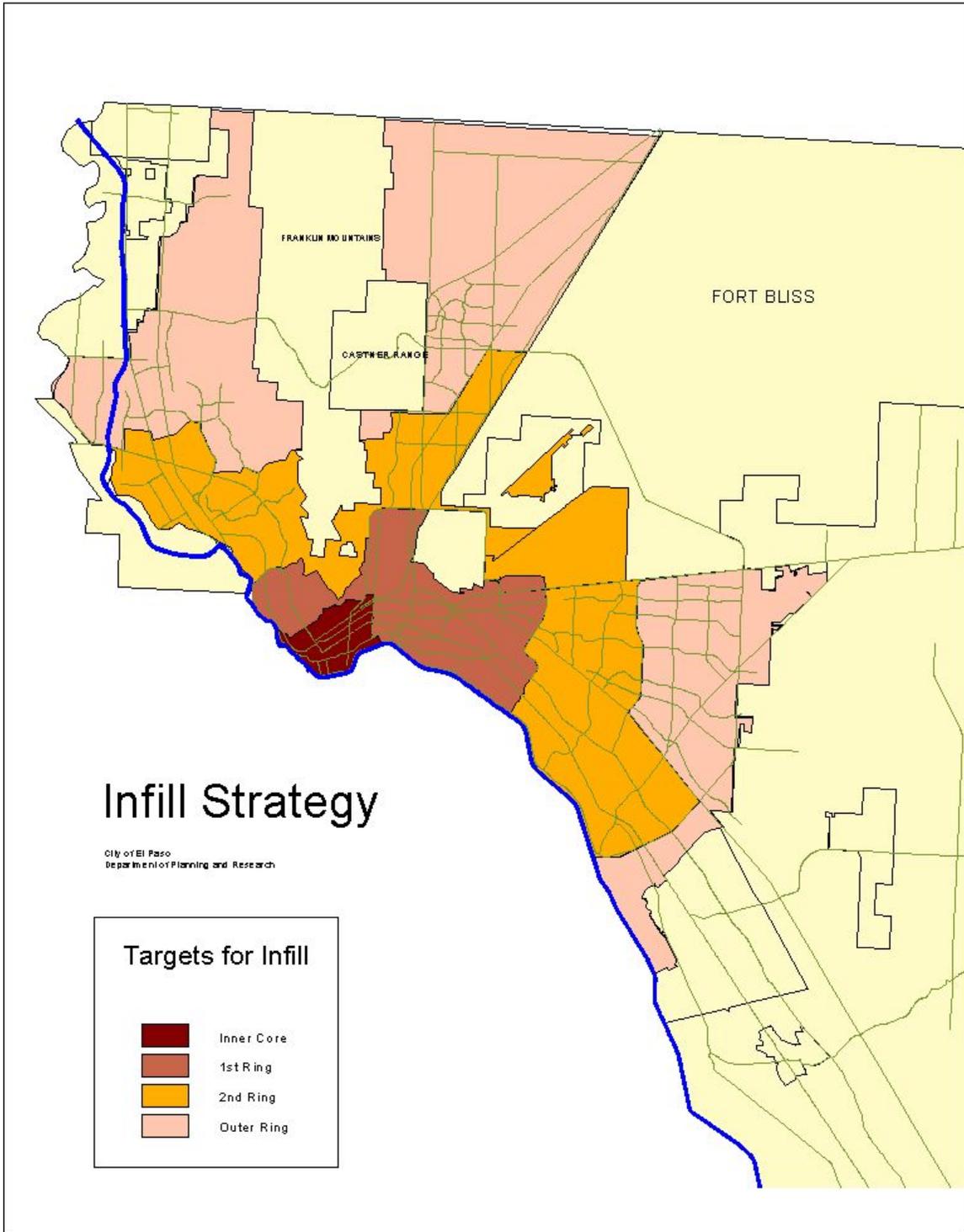
Customized Plan Review

In order to facilitate redevelopment of infill properties, the Economic Development Department is committed to assisting applicants through the planning and permitting under an expedited review process at no additional cost to the applicant.

Infill Overlay

At the property owner's request, the City will initiate an infill overlay application on the property that may result in decreased parking requirements, a reduced setback provision, increased density, changes of use and other benefits as per section 20.10.280 of the City Code.

Exhibit A





City of El Paso Infill Development Incentive Policy Proposal





Infill Development Incentives Policy.

The policy provides specific incentives to property owners who redevelop infill parcels.

A contract delineating the eligible incentives is entered into with each property owner for this program and is approved by City Council.

The Policy sunsets after 5 years (August 31, 2015)

Assistance mapping eligible properties/parcels will be provided by staff with the disclaimer that information is for planning purposes only. This service may help potential developers find varying levels of opportunity for infill incentive eligible sites.

Convert underutilized properties to a productive use

Policy targets vacant lots, vacant buildings and blighted structures.





Infill Definition

Any property on which at least two of the following are present:

- the property is located within a designated tax increment financing district, or
- the property is located within a designated state or federal enterprise zone, or
- the property is located within an empowerment zone, or
- the property is located within a designated redevelopment area pursuant to Chapter 20.14 of this title, or
- the property is located within a designated historic district, or
- the property is within an older neighborhood of the city. An older neighborhood of the city defined as a legally recorded and developed subdivision for at least thirty years



Project Criteria

1. Investment of either \$25,000 or greater (single family residential) or \$50,000 or greater.
2. New construction/renovation for housing, office, retail, restaurant and multifamily residential, commercial and industrial
3. Enhances the economic health of the City
4. Results in net increase or retention of jobs, adds to the tax base, results in attainable housing, or otherwise enhances the economic welfare of the residents or businesses
5. Potential to generate revenues outweighing cost of incentive
6. Property purchased within one year or will be purchased
7. The present owner (new owner) neither caused nor contributed to the present condition



Eligibility Criteria

- A. The property must be a platted, unimproved lot; **or**
- B. The property must contain a vacant building; **or**
- C. The property must contain a building that has a CAD physical condition factor of thirty (30) or lower; **or**
- D. The property must be renovated for use as attainable, rental housing or attainable owner-occupied housing.



Incentives Available

- **Construction Materials Sales Tax Rebate** – 100% rebate of the City's portion of sales tax used on materials and labor for construction remitted to the City's general fund for investments equal or greater than the CAD value of the property
- **Property Tax Abatement** – no more than five years with the percentage of abatement based on the value of improvements and the type of project (single family vs. other land uses).
- **Building Fee Waivers**
- **Customized Plan Review** – no additional cost to applicant
- **Lien Waivers** – property owners a release of liens attached to properties as the result of condemnation, sanitation, or other city-imposed non-property tax liens, excluding Community Development liens and only waived upon sale of property to a new owner
- **Infill Overlay** – city-initiated application at property owner's request

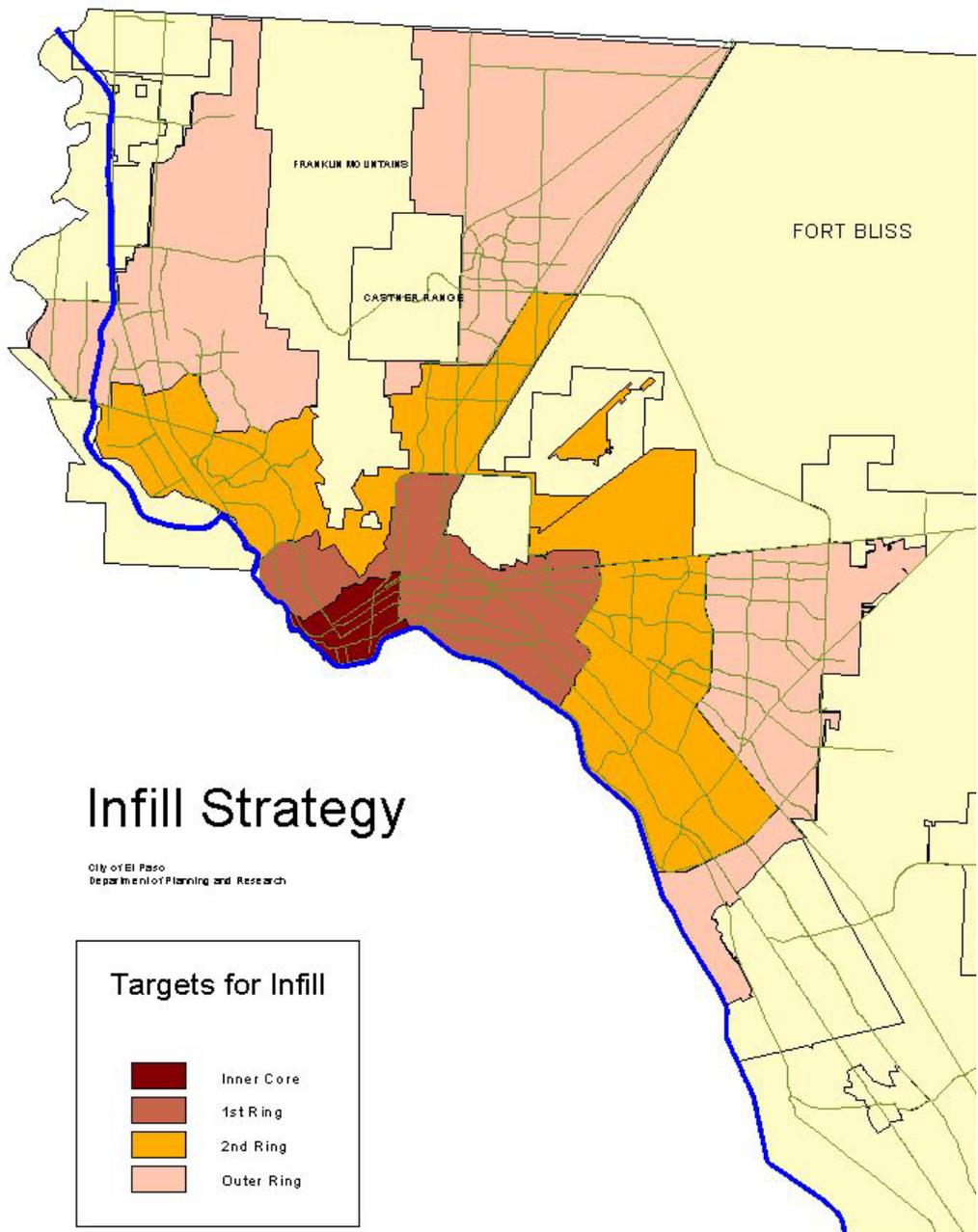


Incentives Available (cont)

- **Property Tax Abatement** – Per schedule below for Option 1*

Single Family	Other	Year 1	Year 2	Year 3	Year 4	Year 5
Investment	Investment	Rebate	Rebate	Rebate	Rebate	Rebate
\$25,000	\$50,000	100%	0%	0%	0%	0%
\$50,000	\$100,000	100%	50%	0%	0%	0%
\$100,000	\$200,000	100%	66%	33%	0%	0%
	\$400,000	100%	75%	50%	25%	0%
	\$800,000+	100%	100%	75%	50%	25%

**Current Tax Abatement Policy to be amended to include infill development as an eligible activity*



Two Options for Incentive Levels

- Core & First Ring eligible for first level of incentives
- Second & Outer Ring eligible for second level of incentives



Two Incentive Levels Option

- **Building Fee Waivers***

- First Level not to exceed \$4,000 for single family residential project and not to exceed \$10,000 for commercial, multifamily or mixed-use project.
- Second Level not to exceed \$2,000 for single family residential project and not to exceed \$5,000 for commercial, multifamily or mixed-use project

** Amendments to the pertinent Building Codes (subdivision, zoning, etc.) to be processed for infill projects*



Two Incentive Levels Option

- **Property Tax Abatement** – Per schedule below

First Level

Single Family	Other	Year 1	Year 2	Year 3	Year 4	Year 5
Investment	Investment	Rebate	Rebate	Rebate	Rebate	Rebate
\$25,000	\$50,000	100%	50%	25%	0%	0%
\$50,000	\$100,000	100%	75%	50%	25%	0%
\$100,000	\$200,000	100%	100%	75%	50%	25%
	\$400,000	100%	100%	75%	66%	50%
	\$800,000+	100%	100%	75%	75%	66%

Second Level

Single Family	Other	Year 1	Year 2	Year 4	Year 4	Year 5
Investment	Investment	Rebate	Rebate	Rebate	Rebate	Rebate
\$25,000	\$50,000	100%	0%	0%	0%	0%
\$50,000	\$100,000	100%	50%	0%	0%	0%
\$100,000	\$200,000	100%	66%	33%	0%	0%
	\$400,000	100%	75%	50%	25%	0%
	\$800,000+	100%	100%	75%	50%	25%