

**RESOLUTION
OF THE CITY OF MT. LAKE**

To Amend

Its Resolution # _____ entitled
“Business Subsidy Policy and Criteria”
originally passed
on January 19, 2000
and amended on
May 5, 2003

RESOLVED by the City Council of the City of Mt. Lake, County of Cottonwood that it shall adopt the following **Business Subsidy Policy and Criteria**:

Preamble. The following business subsidy criteria are intended to satisfy the requirements of Minnesota Statutes 116J.993 through 116J.995 (the Act) and Job Opportunity Building Zones (JOBZ) M.S. 469.310 - 0469.320.

Business Subsidy Public Purpose. The public purposes of this policy shall be to accomplish the following on behalf of the City of Mt. Lake.

1. Enhance economic growth in this area
2. Create job growth in this area
3. Retain jobs in this area
4. Stabilize the community

This policy is adopted in compliance with M.S. § 116J.994 Subd. 2. A copy of the policy shall be submitted to the Department of Employment and Economic Development along with the first annual Business Subsidy report.

Principles of Business Subsidy Implementation. Mt. Lake shall target its business subsidy assistance to businesses that demonstrate a clear and ongoing commitment to the community by providing living wage jobs to their employees and agree to comply with annual business subsidy reporting requirements as required by Job Opportunity Building Zone (JOBZ) statute M.S. §§ 469.310 - 469.320; and/or as required by the Business Subsidy statute M.S. §§ 116J.993 - 116J.995.

The City agrees to require that a qualified business shall not compete with or displace local businesses currently operating within the subzone community.

I. DEFINITIONS

“Authorized Business Subsidy Signatory,” means Community Development Director or City Administrator who are authorized by this Policy to execute business subsidy agreements on behalf of the City of Mt. Lake.

“JOBZ Business Subsidy” means tax exemptions or tax credits available to a qualified business located in a job zone under the Job Opportunity Building Zone (JOBZ) statute M.S. §§ 469.310 - 469.320. JOBZ Business Subsidies shall include:

1. Exemption from individual income taxes as provided under M.S. § 469.316; and

2. Exemption from corporate franchise taxes as provided under M.S. § 469.317; and
3. Exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in M.S. § 297A.68, subdivision 37; and
4. Exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under M.S. § 297B.03; and
5. Exemption from the property tax as provided in M.S. § 272.02, subdivision 64; and
6. Exemption from the wind energy production tax under M.S. § 272.029, subdivision 7; and
7. The jobs credit allowed under M.S. § 469.318.

“Business Subsidy” means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business, and as defined by the Business Subsidy statute M.S. §§ 116J.993 - 116J.995. Business subsidies shall include, but not be limited to:

1. Loan
2. Grant
3. Tax abatement
4. TIF or other tax reduction or deferral
5. Guarantee of payment
6. Contribution of property or infrastructure
7. Preferential use of governmental facilities
8. Land contribution
9. Other specified subsidy.

Business subsidies do not include the following:

1. assistance of less than \$25,000.
2. assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of businesses, size, location or similar general criteria;
3. public improvements to buildings or lands owned by the City that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
4. property polluted by contaminants being redeveloped as defined in M.S. § 116J.552, Subd. 3.
5. assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance to designated historic preservation sites or districts, provided that the assistance is equal to or less than 50% of the total cost of the development;
6. assistance to provide job readiness and training services;
7. assistance for housing;
8. assistance for pollution control or abatement, including assistance from a TIF hazardous substances subdistrict;
9. assistance for energy conservation;
10. tax reductions resulting from conformity with federal tax law;
11. workers compensation and unemployment compensation;
12. benefits derived from regulation;
13. indirect benefits derived from assistance to educational institutions;
14. funds from bonds allocated under M.S., Chapter 47A refunding bonds and 501(c)(3) bonds;
15. assistance for collaboration between a Minnesota higher education institution and a business;
16. assistance from a tax increment financing soils condition district as defined under M.S.469.174, subd.19;
17. redevelopment when the Recipients or Qualified Business’ investment in the purchase of the site and in site preparation is 70 percent or more of the assessor’s current years estimated market value;
18. general changes in tax increment financing law and other general tax law changes of a principally technical nature;

19. federal assistance until the assistance has been repaid to and reinvested by the local governmental unit;
20. funds from dock or wharf bonds issued by a seaway port authority;
21. business loans or loan guarantees of \$75,000 or less; and
22. federal loan funds provided through the U.S. Economic Development Administration.

“Business Subsidy Report” means the annual reports submitted each year for each business receiving a business subsidy in the community. The report is submitted by the LGU in order to comply with M.S. § 116J.994 Subd. 7. (b).

“Criteria” means the equitably applied, uniform standards by which the Economic Development Agency and /or the City bases its decision to award any business subsidy to a private business or development project establishing a business and creating jobs in the City.

“DEED” means Minnesota Department of Employment and Economic Development.

“Economic Development Agent” means the city department that is empowered to solicit, negotiate and form business subsidy agreements on behalf of the City of Mt. Lake. The Economic Development Agent for the City shall be the Community Development Department, hereinafter “Agent”.

“Living Wage Job” shall mean a job that pays wages and health benefits that total at least the rate of 1.5 times the present minimum wage.

“Local Governmental Unit” hereinafter LGU, means the statutory or home rule charter city, county, town, iron range resources and rehabilitation agency, regional development commission.

“Operation Start Date” shall mean the date by which the business begins its operations in the zone as evidenced by constructing a facility or relocating to an existing building in a facility and beginning revenue generating operations and/or hiring employees.

“Qualified Business” means a person that carries on a trade or business at a place of business located within a Job Opportunity Building Zone as referenced in M.S. § 469.310 Subd. 11; and complies with the reporting requirements specified by M.S. § 469.313 Subd. 2. (5); and shall comply with the criteria in Section II.C. of this agreement; and shall also mean “Recipient” as defined by Business Subsidy law. A qualified business shall not include a retail business, a low-wage service business, an agricultural production business, or a business that pays less than the living wage defined in this agreement.

“Recipient” means any business entity that receives a business subsidy as defined by M.S. § 116J.993, and that has signed a Business Subsidy Agreement with a city.

“Relocating Business” A business relocating from another Minnesota non-JOB Zone location.

“Relocation Agreement” means a binding written agreement between a relocating qualified business and the commissioner of DEED pledging that the qualified business shall either: (a) increase full-time for full-time equivalent employment in the first full year of operation within the job opportunity building zone by at least 20 percent, *or* (b) make a capital investment on the property equivalent to 10% of the gross revenues of operation that was relocated in the immediately preceding taxable year; and provides for repayment of all tax benefits if the requirements of (a) or (b) are not met.

“Subzone” means the parcel or parcel of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Building Zone within the boundaries of Mt. Lake to receive certain tax credits and exemptions specified under M.S. § 469.310-469.320.

“Zone” means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by the commissioner of Employment and Economic Development under M.S. § 469.314.

II. BUSINESS SUBSIDY REQUIREMENTS

A. Business Subsidy Policies. The City of Mt. Lake adopts the following:

1. Any time the City of Mt. Lake provides a business subsidy to a Qualified Business or Recipient, that business is subject to the wage levels, job creation and other criteria set forth in this policy and specified in the Business Subsidy Agreement made with the LGU. In the event of a conflict between the requirements of the Business Subsidy statute M.S. §§ 116J.993 - 116J.995 and the JOBZ statute M.S. §§ 469.310 - 469.320, the JOBZ statute shall supersede.
2. But-for Test. There is a substantial likelihood that the project would not go forward without the business subsidy requested. These criteria must be supported by presentations of the applicant for business subsidy.
3. Redevelopment. The project will remove, prevent, or reduce blight or other adverse conditions of the property, thereby projecting the City's property values and the general public health, safety and welfare.
4. Attraction of New Business. The project will attract or retain competitive and financially strong commercial and industrial companies, which offer the potential for significant growth in employment and tax base.
5. Highest and Best Land Use. The use of the business subsidy will encourage quality construction and promote the highest and best use of land, consistent with the City's Comprehensive Plan.
6. Unmet Housing Needs. The project will provide housing alternatives the community currently needs but are not available.
7. Economic Feasibility. The recipient can demonstrate that it has experience and adequate financing for the project, and that the project can be completed in a timely manner.
8. Needed Services. The project will provide a needed service in the community including health care, convenience and social services, which are not currently available.
9. Impact on City Services and Infrastructure. The project will not significantly and adversely increase the demands for service needs in the city.
10. Job Creation. The project will create or retain jobs that pay at a minimum 1.5 times the current minimum wage. The City may take into account the special needs of small or growth-phase businesses with potential to create high paying jobs in the future.
11. Tax Base. The project will increase the City's tax base and generate new property tax revenue.
12. The qualified business shall be identified in a JOBZ Business Subsidy Agreement as a: (**CHOOSE**)
 - a. Trade or business located in and operating in a JOBZ or APF Zone at the time of Zone designation; **OR**
 - b. New trade or business start-up located with the subzone; **OR**
 - c. Business expanding in the subzone which is a business that maintains its current operations in its current location and is expanding its operations *and* its payroll within the Mt. Lake subzone; **OR**
 - d. A business relocating from another state; **OR**
 - e. A business relocating from another Minnesota non-Zone location specifying the City.
13. The City of Mt. Lake may deviate from wage and job criteria in Section II, by documenting the reason in writing for the deviation and attaching a copy of this reason to the next annual Business Subsidy Report submitted to DEED.
14. The City of Mt. Lake authorizes the Community Development Staff to act as its Economic Development Agent for purposes of marketing, and initiating and negotiating Business Subsidy Agreements and executing Business Subsidy Agreements on its behalf.

15. Requirements of businesses. The City of Mt. Lake shall require all businesses receiving a business subsidy to comply with the following:

15. The business shall attend a properly noticed public hearing shall be held by the City as provided by M.S. § 116J.994, when the value of the subsidy does or is expected to exceed \$100,000 from local sources. The purpose of the hearing shall be held to identify define the criteria that the qualified business or recipient shall meet in order to be eligible to receive a business subsidy or become a qualified business for purposes of the JOBZ statute. The hearing shall specify the subsidy provided, public purpose(s) that shall be achieved by offering the subsidy, and shall specify the measurable, specific, and tangible goals committed to by the qualified business. As provided by M.S. 116J.994, Subd. 5., a public notice shall be published in print and if possible, on the internet, at least 10 days prior to the hearing, identifying the location, date time and place of the hearing; and providing information about the business subsidy proposed, including a summary of the terms of the subsidy.

16. If the business is qualified to receive JOBZ tax benefits, that business shall agree to continue to operations in the jurisdiction where the subsidy is used (the subzone) for the duration of the job zone term.

17. If the qualified business or recipient is a relocating business under the definition in this agreement, the business shall be required to enter into a binding written "Relocation Agreement between the qualified business and the commissioner of DEED pledging that the qualified relocating business shall:

(a) Commit to signing a Relocation Agreement with DEED; and

CHOOSE ONE from b or c:

(b) Cease one or more operations or functions at a non-Zone location and begin performing substantially the same functions inside the Mt. Lake Zone; or

(c) Reduce employment at the non-Zone location starting one year before and ending one year after beginning operations in the Zone where its employees in the Zone are engaged in the same line of business as the employees at the location where it reduced employment; and

CHOOSE ONE (or BOTH, if applicable) from d and e:

(d) Increase full time employment by 20% (measured relative to the operations that were relocated) within the first full taxable year of operation within the Zone and maintains the required level of employment during each year of zone designation; or

(e) Make a capital investment in the Zone equivalent to at least 10% of gross revenues for the taxable year immediately preceding relocation to the Zone.

d. The business shall identify an operation start date when business operations for the proposed qualified business are planned to begin in the zone. The date when business operations begin is called the "operation start date".

18. Non-JOBZ (Job Opportunity Building Zone) Business Subsidy Evaluation

a. The City will evaluate each request for a business subsidy on a case-by-case basis. Applicants for assistance shall complete an application form and supply all additional information requested by the City. A decision to approve or reject a request for subsidy will be based on the merits of the project and the overall benefit to the community.

19. Valuation of a Non-JOBZ (Job Opportunity Building Zone) Business Subsidy

a. If the subsidy is a contribution or sale of real or personal property, the amount of the subsidy will be fair market value of the property as determined by the City, less any amount paid.

b. If the subsidy is a loan, the amount of the subsidy will be the principal amount of the loan.

b. If the subsidy is a loan guarantee, the amount of the subsidy will be the principal amount of the loan guaranteed.

c. If the subsidy takes the form of payments over time (such as pay-as-you-go tax increment) the amount of the subsidy will be the same of projected payments, discounted to a present value using a discount factor determined by the City which approximates the interest rate available to the business from a commercial lender.

RESOLUTION AMENDING BUSINESS SUBSIDY
CRITERIA TO REFLECT JOBZ LEGISLATION

WHEREAS, the Economic Development Authority of the City of Mountain Lake, Mn acknowledges the need to provide financial assistance to businesses in the City to further the economic and development objectives of the City; and

WHEREAS, the Economic Development Authority, to comply with Minnesota Statutes 116J.993 through 116J.995, adopted a Business Subsidy Policy in January, 2000 and amended it in April, 2003; and

WHEREAS, Job Opportunity Building Zones (Minnesota Statutes 469.310-469.320) were enacted in 2003 and designated effective January 1, 2004; and

WHEREAS, parcels within the City of Mountain Lake were granted Job Opportunity Building Zone designation; and

WHEREAS, such designation, necessitates amendment of the City's current business subsidy designation.

THEREFORE, BE IT RESOLVED by the Economic Development Authority of the City of Mountain Lake as follows:

The EDA hereby amends its present Business Subsidy Policy to fulfill the requirements of Minnesota Statutes 116J. 993 through 116J.995 and 469.310 through 469.320.

Motion by Lynee, seconded by Dean to approve the adoption of the resolution.

Voting yes: Jay Franz, Mark Hanson, Lynee Hamilton, Dean Janzen and Phil Skow.

Voting no: None.

Motion carried.

Public Hearing was then closed.

Dated: April 9, 2004.

s/Phil Skow

Phil Skow-Chairman

Economic Development Authority