

A RESOLUTION OF THE CHAMBERS COUNTY COMMISSIONERS COURT OF ANAHUAC, TEXAS, ELECTING TO BECOME ELIGIBLE TO PARTICIPATE IN TAX ABATEMENT PURSUANT TO THE TEXAS PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT, CHAPTER 312; ADOPTING GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS IN A REINVESTMENT ZONE CREATED IN CHAMBERS COUNTY; ADOPTING SUCH GUIDELINES AND CRITERIA; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the creation and retention of job opportunities that bring new wealth is the highest civic priority; and

WHEREAS, new jobs and investment will benefit the area economy, provide needed opportunities, strengthen the real estate market and generate tax revenue to support local services; and

WHEREAS, Chambers County must compete with other localities across the nation currently offering tax inducements to attract jobs and investments; and

WHEREAS, any tax incentives offered in Chambers County would reduce needed tax revenue unless strictly limited in application to those new and existing industries that bring new wealth to the community; and

WHEREAS, any tax incentives should not have a substantial adverse effect on the competitive position of existing companies operating in Chambers County; and

WHEREAS, tax incentives should not be used to attract those industries that have demonstrated a lack of commitment to protecting our environment, but should be used to encourage projects designed to protect our environment; and

WHEREAS, the abatement of property taxes, when offered to attract primary jobs in industries which bring in money from outside a community instead of merely recirculating dollars within a community, has been shown to be an effective method of enhancing and diversifying an area's economy; and

WHEREAS, Texas law requires any eligible taxing jurisdiction to establish Guidelines and Criteria as to eligibility for tax abatement agreements prior to granting any tax abatement, said Guidelines and Criteria to be unchanged for a two-year period unless amended by a three-quarters vote; and

WHEREAS, to assure a common, coordinated effort to promote our communities' economic development, any such guidelines and criteria should be adopted only through the cooperation of affected municipalities, taxing jurisdictions, and Chambers County;

WHEREAS, the attached guidelines, last amended and approved by the Commissioners Court on April 23, 2019, amended now pursuant to HB 3143, have been reviewed by the Commissioners Court, and it has been determined that progress towards the goals therein stated has been made; NOW THEREFORE

BE IT RESOLVED BY THE CHAMBERS COUNTY COMMISSIONERS COURT OF CHAMBERS COUNTY, TEXAS:

Section 1: That the findings of the Chambers County Commissioners Court contained in the recitals of this resolution are hereby approved and adopted.

Section 2: That the Chambers County Commissioners Court elects to remain eligible to participate in tax abatement pursuant to the Texas Property Redevelopment and Tax Abatement Act, Chapter 312.

Section 3: That the Chambers County Commissioners Court hereby adopts the Guidelines and Criteria for granting tax abatements in a reinvestment zone, which are attached hereto and incorporated herein for all intents and purposes.

Section 4: This resolution shall take effect immediately from and after its passage by the Chambers County Commissioners Court of the Chambers County, Texas.

INTRODUCED, READ and PASSED, by the affirmative vote of the Chambers County Commissioners Court of Chambers County, Texas this the 12th day of November, 2019.



JIMMY SYLVIA, Judge

ATTEST:


 | KH
HEATHER HAWTHORNE, County Clerk

11/12/19

GUIDELINES AND CRITERIA FOR TAX ABATEMENT IN CHAMBERS COUNTY

SECTION 1 INTRODUCTION

In recognition of the fact that:

- a.) The creation and retention of job opportunities that bring new wealth is the highest civic priority;
- b.) New jobs and investments will benefit the area economy, provide needed opportunities, strengthen the real estate market and generate tax revenue to support local services;
- c.) The communities within Chambers County must compete with other localities across the nation currently offering tax inducements to attract new plant and modernization projects;
- d.) Any tax incentives offered in Chambers County would reduce needed tax revenue unless strictly limited in application to those new and existing industries that bring new wealth to the community;
- e.) Any tax incentives should not adversely affect the competitive position of existing companies operating in Chambers County;
- f.) The abatement of property taxes, when offered to attract primary jobs in industries which bring in money from outside a community instead of merely recirculating dollars within a community, has been shown to be an effective method of enhancing and diversifying an area's economy; and
- g.) Effective September 1st, 1987, Texas law requires any eligible taxing jurisdiction to establish guidelines and criteria for tax abatement agreements prior to granting tax abatement, said guidelines and criteria to be unchanged for a two-year period unless amended by a three-quarters vote; and Chambers County has developed the following guidelines and criteria for tax abatement effectuated under Texas Tax Code Chapter 312.

SECTION 2 DEFINITIONS

- a.) **“Abatement”** means the full or partial exemption from ad valorem taxes of the increase in value of certain real property in a reinvestment zone designated for economic development purposes.
- b.) **“Agreement”** means a contractual agreement between a property owner and an Eligible Jurisdiction for the purposes of tax abatement.
- c.) **“Base Year Value”** means the assessed value of eligible property on the January 1st preceding the execution of the agreement.
- d.) **“Community Impact Program”** means the economic development program intended to foster public-private investment in comprehensive literacy programs,

promotion of the arts, public health, and an array of targeted civic infrastructure which supports economic and community development.

- e.) **“Community Impact Program Contribution”** means for tax abatement agreements entered into in conjunction with and executed concurrently with a Chapter 381 Economic Development Agreement, an amount equal to 1.50% of derived tax savings for each tax year as set forth in the tax abatement agreement.
- f.) **“Deferred Maintenance”** means improvements necessary for continued operations, which do not improve productivity or alter the process technology.
- g.) **“Economic Life”** means the number of years a property improvement is expected to be in service in a facility.
- h.) **“Eligible Jurisdiction”** means Chambers County and any municipality, school district or college district that levies ad valorem taxes upon property located within the proposed or existing reinvestment zone.
- i.) **“Expansion”** means the addition of buildings, structures, or fixed machinery or equipment for purposes of increasing production capacity.
- j.) **“Facility”** means property improvements completed or in the process of construction which together comprise an integral whole.
- k.) **“Manufacturing Facility”** means buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- l.) **“Modernization”** means the replacement and upgrading of existing facilities, which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, of fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- m.) **“New Facility”** means a property previously undeveloped, which is placed into service, by means other than or in conjunction with expansion or modernization.
- n.) **“Other Basic Industry”** means buildings and structures including fixed machinery and equipment not elsewhere described, used or to be used for the production or products or services and which result in the creation of new permanent jobs and bring in new wealth.
- o.) **“Wholesale Distribution Facility”** means buildings and structures, including fixed machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator.
- p.) **“Entertainment and Recreation Facility”** means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment through the admission of the general public.
- q.) **“Service Facility”** means buildings and structures, including fixed machinery and equipment, used or to be used to service goods.

- r.) **“Research Facility”** means building structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes of such goods or materials.

**SECTION 3
ABATEMENT AUTHORIZED**

- a.) **Authorized Facility.** A facility may be eligible for abatement if it is a: Manufacturing Facility, Research Facility, Wholesale Distribution Facility, Service Facility, Entertainment and Recreation Facility, or other Basic Industry.
- b.) **Creation of New Value.** Abatement may be only be granted for the additional value over the base year value resulting from eligible property improvements made subsequent to and listed in tax abatement agreement between the Eligible Jurisdiction and the property owner subject to such limitations as the Eligible Jurisdiction may require.
- c.) **New and Existing Facilities.** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- d.) **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility.
- e.) **Ineligible Property.** The following types of property shall be fully taxable and ineligible for tax abatement: land; inventories; supplies; tools; furnishings and other forms of movable personal property; vehicles; watercraft; aircraft; housing; deferred maintenance investments; any improvements, including those to produce, store or distribute natural gas, fluids or gases, which are not integral to the operation of the facility; property which has an economic life of less than 15 years; property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.
- f.) **Owned/Leased Facilities.** In order for a facility to qualify for tax abatement, the land and eligible property must be owned and operated by the same individual or company or be leased to a facility operator whose lease term is at least 10 years.
- g.) **Value and Term of Abatement.** Tax Abatement for eligible property shall be granted effective with the January 1st valuation date immediately following the date of execution of the agreement and shall not exceed five (5) years, including construction time. The percentage of the new value created pursuant to the agreement on which taxes will be abated in each of the years for which abatement is granted shall be as follows:

1 st year	100%
2 nd year	100%
3 rd year	75%
4 th year	60%
5 th year	50%

If a modernization project includes facility replacements, the value to which abatement applies shall be the value of the new unit(s) less the value of the old unit(s).

Provided, however, that the value on which abatement is granted in any year shall not exceed the estimated increase in market value (required to be included in the tax abatement agreement in accordance with Section 6 (a), (1) resulting from construction of or improvements to eligible facilities.)

h.) **Community Impact Program.** For abatements associated with Chapter 381 Economic Development Agreements, the Community Impact Program and Community Impact Program Contributions will apply.

i.) **Economic Qualification.** In order to be eligible for designation as a reinvestment zone and receive tax abatement, the proposed improvement:

- (1) Must be reasonably expected to increase the value of property in the amount of \$750,000 or more after the period of abatement has expired;
- (2) Must be reasonably expected to prevent the loss of employment and to directly create or prevent the loss of permanent full-time employment for at least five people and the owner must agree to exercise its best efforts to insure that new employees are residents of Chambers County .
- (3) Must not be expected to solely or primarily have the effect of transferring employment from one part of Chambers County to another; and
- (4) If a new facility, must be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements.

Further, the owner of the proposed improvement must make every reasonable effort to use local resources in employees, goods and services at the facility.

j.) **Taxability.** For tax years beginning on or after the execution of the tax abatement agreement to the end of the agreement period taxes shall be payable as follows;

- (1) the value of ineligible property as provided in Section 3(e) shall be fully taxable;
- (2) the base year value of existing eligible property shall be fully taxable; and
- (3) the value of eligible property shall be taxable in the manner described in Section 3(g).

SECTION 4 APPLICATION

a.) **Filing of Application.** Any present or potential owner of taxable property in Chambers County may request the creation of a reinvestment zone and tax abatement by filing a written request with the County Judge of Chambers County if the property is located outside of the taxing jurisdiction of a municipality. A non-refundable application fee of \$500.00, made payable to Chambers County, must be provided with the application.

- b.) **Content of Application.** The application shall consist of a completed application form accompanied by: a general description of the new improvements to be undertaken; a general descriptive list of the improvements for which an abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and/or aerial and location of all proposed improvements of the property; a map and property description; and a time schedule for undertaking and completing the proposed improvements. In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property shall be given for the tax year immediately preceding the application. The application form may require such financial and other information as the municipality or County deems appropriate for evaluating the financial capacity and other factors of the applicant.
- c.) **Notice to Eligible Jurisdiction.** Upon receipt and approval of an application, Chambers County shall notify in writing the presiding officer of the governing body of each Eligible Jurisdiction.
- d.) **Abatement Inapplicable to Prior Projects.** Chambers County shall not establish a reinvestment zone or enter into an abatement agreement if it finds that the request for the abatement was approved by Commissioner's Court after the construction, alteration, or installation of improvements began as related to a proposed modernization, expansion or new facility.
- e.) **Variance.** Requests for variance from the provisions of Subsections (a), (e) and (g) of Section 3 must be made in written form. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance.

SECTION 5 PUBLIC HEARING AND APPROVAL

- a.) **Public Hearing for Designation of Zone.** A resolution designating a reinvestment zone may not be adopted until the Commissioners Court has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be published at least seven (7) days prior to the hearing in a newspaper having general circulation in the Eligible Jurisdiction. The presiding officers of other Eligible Jurisdictions shall be notified in writing at least (7) days prior to the hearing.
- b.) **Findings Required for Agreement.** In order to enter into a tax abatement agreement, the Eligible Jurisdiction must find that the terms of the proposed agreement and the subject property meet these guidelines and criteria and that:
 - (1) there will be no substantial adverse effect on the provision of the jurisdiction's service or tax base; and
 - (2) the planned use of the property will not constitute a hazard to public safety, health or morals.

**SECTION 6
AGREEMENT**

- a.) **Contents of Agreement.** The Eligible Jurisdiction shall formally approve and execute an agreement with the owner of the facility upon meeting the requirements set forth in Section 312.207, Chapter 312, of the Texas Property Redevelopment and Tax Abatement Act. The agreement shall include:
- (1) estimated value to be abated and the base year value;
 - (2) percent of value to be abated each year as provided in Section 3(g);
 - (3) the commencement date and the termination date of abatement;
 - (4) the proposed use of the facility; nature of construction, time schedule, map, property description and improvement list as provided in Section 4(b);
 - (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Sections 3(a), 3(f), 3(g), 7, 8, and 9, or other provisions that may be required for uniformity or by state law; and
 - (6) amount of investment and average number of jobs involved.

Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information and documentation to the County. Upon execution of this agreement, it becomes the responsibility of the applicant to file with the County the necessary reports annually certifying employment and investment level as stated in the executed contract.

**SECTION 7
RECAPTURE**

The tax abatement agreement shall contain provisions for recapture of taxes abated in the event that 1) the improvements for which abatement was granted are not completed in accordance with agreement, 2) the owner allows ad valorem taxes owed the Eligible Jurisdictions granting abatement to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes, 3) the owner discontinues operating or using the property as required by the agreement, or 4) the owner breaches any of the terms or conditions of the agreement.

**SECTION 8
ADMINISTRATION**

- a.) **Appraisal and Assessment.** The Chief Appraiser of the County shall annually determine an appraisal of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions, which levy taxes of the amount of the assessment.

- b.) **Access to Property.** The agreement shall stipulate that employees and/or designated representatives of the contracting Eligible Jurisdiction shall have access to the subject property during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only upon twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility.
- c.) **Annual Evaluations.** Upon completion of construction, the jurisdiction creating the reinvestment zone shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations of the agreement to the Eligible Jurisdictions.

SECTION 9 ASSIGNMENT

A tax abatement agreement may not be assigned unless written consent is first granted by the Eligible Jurisdiction that has entered into the agreement, which consent shall be at the sole discretion of such Eligible Jurisdiction. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of a tax abatement agreement shall be to an entity that contemplates the same improvements to, and operation of the property as the assignor, except to the extent such improvements have been completed. No assignment shall be approved by an Eligible Jurisdiction if the assignor or the assignee is indebted to the Eligible Jurisdiction for ad valorem taxes or other obligations.

SECTION 10 SUNSET PROVISIONS

- a.) These guidelines and criteria are effective upon the date of their adoption and will remain in force for two years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the County or its designated representative to determine whether the goals have been achieved. Based on that review, the guidelines and criteria will be modified, renewed, or eliminated.
- b.) This policy applies only to the tax abatement under the provisions of Chapter 312. Property Redevelopment and Tax Abatement Act, Texas Tax Code.