



CLAY COUNTY, TEXAS
GUIDELINES AND CRITERIA FOR TAX ABATEMENT AND
OTHER ECONOMIC DEVELOPMENT INCENTIVES

Section A. Definitions

The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The Commissioners Court shall have the power from time to time to provide such additional and/or modified definitions that they may find desirable and necessary. The words and phrases as herein set out shall be deemed and understood to mean:

1. **Abatement** shall mean the full or partial exemption from ad valorem taxes of certain real property and certain limited types of tangible personal property, as herein after provided, located in a reinvestment zone designated by the County of Clay for economic development purposes.
2. **Agreement** shall mean a contractual agreement (Tax Abatement Agreement) between a property owner and/or lessee and the County of Clay.
3. **Base year value** shall mean the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1, but before the execution of the Agreement.
4. **County** shall mean the County of Clay, Texas.
5. **Commissioners Court** shall mean the governing body of the County of Clay, Texas.
6. **Eligible facilities** shall mean new, expanded, or modernized buildings and structures, including fixed machinery and equipment, which are reasonably likely, as a result of granting abatement, to contribute to the retention or expansion of primary employment, or to attract major investment in the reinvestment zone that would be a benefit to the property, or that would contribute to economic development within the County. Eligible facilities may include, but shall not be limited to: retail sales establishments generating municipal sales taxes and providing goods and services to an intended wide distribution area, or that have the potential to stem the export of retail expenditures from the County, or have the potential to draw new retail expenditures into the County; manufacturing facilities; office buildings; hotels/motels; distribution facilities; service facilities; tourism facilities; and other facilities not herein expressly deemed ineligible; which in the sole opinion of Commissioners Court will have a positive impact on the economic well-being of the County.

7. **Expansion** shall mean the addition of buildings, structures, fixed machinery, as that term is defined herein, equipment, or payroll for the purposes of increasing production, efficiency, services, or combination thereof.
8. **Facility** shall mean property improvements completed or in the process of construction which together comprise an integral whole.
9. **Ineligible property** shall mean land; supplies; inventory; tools; furnishings; other moveable personal property; rolling stock, railroad cars, trucks, aircraft, or other forms of transportation; housing; deferred maintenance; property to be rented or leased.
10. **Manufacturing** shall mean a facility with the primary purpose being the manufacture or whole or partial assembly of tangible goods or materials by physical or chemical change.
11. **Office** shall mean a facility providing primarily office space which may be owner occupied and/or leased. Also included are corporate offices, which serve, as the principal office for a business enterprise, and from which orders for goods and billing for same may take place.
12. **Personal property** shall mean tangible machinery, equipment, or personal property, which is securely placed or fastened, and stationary within a building or structure, or permanently resides in the reinvestment zone.
13. **Reinvestment zone** shall mean any area of the County of Clay, which Commissioners Court has designated as such, a zone for the purpose of granting tax abatements. It is the intent of the County of Clay to create reinvestment zones on a case-by-case basis, so long as the abatement contemplated conforms to the guidelines herein contained.
14. **Retail facility** shall mean a facility providing for the storage and sale of goods directly to the consumer.

Section B. Purpose

1. The County of Clay, Texas (County), is committed to the promotion of economic development in all parts of the County to achieve the following goals and purposes:
 - a. to improve the quality of life for its citizens and taxpayers
 - b. to avoid harming, creating a diminution of existing value, discriminating against, or unduly affecting the quality of life for its citizens and taxpayers
 - c. to promote economic development in all parts of the County
 - d. to utilize, within its discretion, specific incentives to promote such economic development
 - e. to protect the environment, historical and cultural resources, and sites, wildlife species,

the aesthetic, and ethical integrity of the lands, property, and citizens of the County

- f. provide a transparent and open process for any persons or entities seeking any incentive from the County, to the County's citizens and taxpayers throughout the entire process
 - g. to provide initial minimum requirements, specific guidelines and a process for those individuals and entities seeking any support or incentive from the County, which the County believes is necessary and beneficial to the County, its citizens, and taxpayers
2. To help meet these goals, the County will consider providing tax abatement or other incentives to stimulate economic development in the County and expand the local tax base. It is the policy of the County that such incentives will be provided to appropriate businesses following the procedures and criteria outlined in this document. Nothing in this policy shall imply, suggest, or be construed to imply or suggest that the County is under any obligation to provide an abatement or incentive to any applicant. All applicants for tax reduction or other economic incentives shall be considered on an individual basis.

Section C. Criteria for Tax Abatement and other Economic Development Incentives

1. The following criteria will be addressed by the Clay County Commissioners Court for an applicant to be considered eligible to contract for tax abatement or any other economic development incentive:
- a. An investment by the applicant that will increase the fair market value ("FMV") of the reinvestment zone property by not less than \$1,000,000.00 is required. If the project is too small to increase the FMV by \$1,000,000.00, it must increase the FMV of the reinvestment zone property by not less than 50% of the current FMV.
 - b. The application shall include personal (capital equipment) or real property improvements.
 - c. Tax abatement may be granted to owners of real and personal property for projects where the real property is leased, and special terms and conditions may be set in the agreement governing each specific tax abatement.
 - d. Ineligible property shall not be included.
 - e. The project must meet the requirements of the building codes and other applicable County requirements and City Codes, within the city limits or extraterritorial jurisdiction ("ETJ") of the cities with ETJ in Clay County.
2. In addition to the minimum requirements stated above, the following criteria will be considered in determining what level of tax abatement or other incentives may be provided to the applicant:
- a. Expansion of the local tax base.
 - b. Creation of permanent full-time employment and projected 5-year growth in the number of employees.

- c. Anticipated salary and employee benefits package for new employment opportunities created.
 - d. The types of public improvements (e.g., county roads, city streets, water, sewer, drainage) and services (e.g., fire, police) and the expected cost of those improvements to the County or any impacted City/ Town in the County.
 - e. The types and cost of public improvements which will be made by the applicant.
 - f. The type of commercial activity (e.g., office, retail, manufacturing, energy, etc.).
 - g. The time necessary to complete the project by the applicant.
 - h. The impact of the project on the environment, wildlife, historical and cultural sites, and on existing businesses.
 - i. Community perception of the project, including how that perception was determined, who was polled, including the perception of any potential routes from project to energy transmission lines and pipelines.
 - j. A table of applicants requested tax abatement percentage for each year of a request incentive or abatement.
 - k. The setback of the project from any pre-existing structure if needed.
3. The County will give preference to businesses that use local suppliers, labor force, and that require no new public facilities.

Section D. Types of Incentives

- 1. The County intends to consider tax abatement and other economic development incentives on a case-by-case basis so that the total package of incentives may be designed specifically for each project.
- 2. The criteria outlined in Section C, above, will be used to determine whether or not it is in the best interest of the County, its citizens, and taxpayers to provide any tax abatement or other economic development incentives to a particular applicant.

The County will also consider the following:

- a. The extent to which a proposed project furthers the goals and objectives of the County.
 - b. The projected impact of the project on the County will determine the types and value of the incentives provided.
3. An abatement may be for any amount that the County determines. The County may provide for an

abatement on a sliding scale. The County may determine there will be no abatement or economic incentive at all.

Section E. Application Procedures

1. Any person, or entity, including an organization, joint venture, partnership, association or corporation, desiring that the County consider providing a tax abatement or other economic development incentives to encourage the location of a business or expand a business operation in the County must comply with the following application procedures.
 - a. The applicant shall file an application with the office of the County Judge in a form provided by the County. The application shall detail the entire scope of the project and the type and value of economic development incentives requested. The application may require any statutorily authorized application or administrative fee.
 - b. The applicant shall also file a copy of the above-referenced application with any city or ETJ with jurisdiction, if the city or ETJ also has an abatement process.
 - c. The application will immediately be a public document, subject to review by any party requesting such. It will be posted on the county's website at least 30 days before the required public hearing on the application.
2. The following information shall accompany each application:
 - a. Applicant & Project Name and relevant contact information.
 - b. If any other local entity has provided an abatement or if any application is currently pending before another local entity.
 - c. A detailed description of the project business.
 - d. A description of the project location (including a plat with precise location and legal description.) It must show the details of all proposed ingress and egress and all county, state and federal roads that might be affected); and the location of any pre-existing structure within one mile of the reinvestment zone or project.
 - e. A description of the project size, scope and footprint (if possible, include a drawing or concept sketch of the proposed project layout); and in the case of re-energy, the number and size of units.
 - f. The expected fair market value ("FMV") of the project upon completion showing a separate FMV of the land on which the project will be located and the added FMV of the projects facility.
 - g. The increase in FMV of the reinvestment zone property when the project is completed and operational, showing the FMV both before and after the project is completed.

- h. Identify any land outside the reinvestment zone property, affected for additional resources such as water, sewer, drainage, roads, easements, pipelines, and electricity (showing route to a transmission line or pipeline).
- i. The number of full-time permanent employees/jobs to be created by the project when operational.
- j. The salary ranges for permanent employees, including employee benefits, stated separately.
- k. The initial determination of applicable City, County, State, Federal or other jurisdictional entities (such as TCEQ, FDA, DOD) Codes or Requirements, and any Extraterritorial Jurisdiction (ETJ) impacting the proposed project.
- l. Expected additional resources required of the County such as water, sewer, drainage, roads, easements, fire, and security.
- m. Any plans for environmental, historical, anthropological, cultural, and aesthetical impact to the reinvestment zone property and the properties of the immediate neighbors of the project, the general area of the project will be an important consideration in approval of abatement agreement.
- n. Anticipated time to complete the project showing all phases as scheduled.
- o. Applicant's requested abatement by percentage, by year.
- p. The percentage of local suppliers, contractors, or labor force to be used in the construction of the project.
- q. Determination of how proposed affected land and property is currently taxed (FMV or Ag value) and how the property will be classified after project development.
- r. All accompanying supporting information, such as photos, plats, maps, and written documents, shall be accurate, legal and correct copies.
- s. The projected dates for the beginning construction and the beginning of actual operations
- t. Whether the facility is expected to require connection to an energy source (electric or gas) including generally the route(s) to connect to any existing energy source (electric transmission line or pipeline).
- u. Whether or not securing a connection to an energy source will cause acquiring rights-of-way by eminent domain. (This shall identify all public roads and landowners to be crossed to connect to a transmission line.).

- v. A certification of the applicant's intent to comply with all applicable local, state, and federal laws.
 - w. The name and address of any public official that has or may have any interest (financial or otherwise) in the success of the project, or that is in any way employed by any person or entity associated with the applicant.
 - x. The application fee set forth in the application.
 - y. Any other information about the proposed project that may be required by the County.
3. The application will be signed and sworn to by an officer of the entity, or a principal, with Notary Public attesting.
 4. The applicant shall submit accurate and correct copies of all applications, to any other taxing entity related to the proposed project.
 5. The County Judge will review the application for completeness and accuracy and comments from the appropriate departments. The County Judge will forward compiled application, review comments, and recommendations to the members of the Commissioners Court.
 6. The Commissioners Court may employ any professional services (e.g., legal, engineering, tax) necessary to assist in making a decision on the application.
 7. All requirements of Chapter 312 of the Texas Tax Code, known as the Property Redevelopment and Tax Abatement Act, must be followed.
 8. Applying for abatement after the commencement of construction, alteration, or installation of improvements related to the proposed modernization, expansion, or a new facility, may result in the County denying Applications for tax reduction, abatement, or other economic development incentives made.
 9. Public hearings will be held to get public input on the proposed project, with at least 30 days posted notice before the required public hearing.

Section F. Approval of Tax Abatement and Other Economic Development Incentives

1. If the Commissioners Court determines that it is in the best interest of the County, its citizens, and taxpayers to provide abatements or incentives to a particular applicant, a resolution shall be adopted. The approval of the terms and conditions of tax abatement or other economic development incentive agreement with the applicant will enumerate the types of incentives, and the conditions which apply to them.
2. Any tax abatement and economic incentive agreement must include the following items:
 - a. A description of each type of incentives to be provided and their duration.

- b. A legal description of the property on which the agreement will operate.
- c. Detailed information regarding the type, number, location, and cost of all improvements on the property.
- d. A plan which provides access to and inspection of the property and proposed improvements by the Court or its designee. (This condition is to ensure that the improvements are made according to the specifications and conditions of the agreement.)
- e. A provision limiting the uses of the property consistent with the general purpose of encouraging development or redevelopment of the reinvestment zone property during the period that the property tax abatement or other economic development incentives are in effect.
- f. A non-compliance penalty shall require payment of all abated taxes immediately if the abatement agreement is violated or canceled.
- g. Require the owner of the reinvestment zone property to certify annually to the governing body of each taxing unit involved that the owner complies with each applicable term of the agreement.
- h. Provide that the Commissioners Court may cancel or modify the agreement if the property owner fails to comply with the agreement.
- i. Require the property owner to pay timely all assessed ad valorem taxes on the property subject to the agreement, or the County shall cancel the agreement.
- j. In applications of renewable energy projects, require the applicant to provide to the county satisfactory evidence of financial assurance in the form of certified funds, cash escrow, a bond, a letter of credit, or parent guarantee, to cover the cost of decommissioning. Decommissioning will include, but not be limited to, removal of infrastructure, restoring, through soil stabilization and revegetation, the first four feet of depth (without the addition of topsoil) of the soil on any land affected by the facility.
- k. Require that the applicant reimburse the County for expenses related to any professional services rendered that the County deemed necessary to enter into the agreement.
- l. Any other terms and conditions that the Commissioners Court deems necessary and in the best interest of the County.

Section G. Resolution and Duration of Guidelines

Now therefore be it resolved that the guidelines and criteria adopted herein shall be adopted by the Clay County Commissioners Court and shall remain in effect for two years unless otherwise repealed or modified by a three-fourths ($\frac{3}{4}$) vote of the Commissioners Court.

This Resolution is adopted on APRIL 24, 2023.

Mike Campbell, County Judge.....✓ Aye ___ Nay
*Richard Lowery, Commissioner Precinct 1___ Aye ___ Nay
Jack Pickett, Commissioner Precinct 2✓ Aye ___ Nay
Retta Collins, Commissioner Precinct 3✓ Aye ___ Nay
Chase Broussard, Commissioner Precinct 4✓ Aye ___ Nay

* RICHARD LOWERY ABSENT