

**WOOD COUNTY, TEXAS
TAX ABATEMENT**

**AS ADOPTED BY THE COMMISSIONERS
COURT OF WOOD COUNTY, TEXAS**

(DATE)

GUIDELINES AND CRITERIA

EFFECTIVE (DATES)

RESOLUTION NO.



**STATE OF TEXAS
COUNTY OF WOOD**

IN THE COMMISSIONERS COURT

GUIDELINES AND CRITERIA FOR TAX ABATEMENTS

WHEREAS, The Wood County Commissioners Court has the authority pursuant to the Property Redevelopment and Tax Abate Act, Chapter 312, Texas Tax Code, to adopt a tax abatement policy and enter into tax abatement with eligible entities;

WHEREAS, The Wood County Commissioners Court has the authority pursuant to Section 381.004, Texas Local Government Code to develop and administer a program to stimulate business and commercial activity in the county:

1. for state and local economic development;
2. for small or disadvantaged business development;
3. to stimulate, encourage, and develop business location and commercial activity in the county;
4. to promote or advertise the county and its vicinity or conduct a solicitation program to attract conventions, visitors, and business; and
5. other purposes as set out in the statute;

WHEREAS, the Wood County Commissioners Court may develop and administer a program for granting tax abatement and entering into a tax abatement agreement with an owner or lessee of a proper interest subject to ad valorem taxation, the terms of a tax abatement agreement being governed by the provision of Section 312.0204, 312.205, and 312.211, Texas Tax Code;

WHEREAS, the Wood County Commissioners Court may contract with another entity for the administration of the program or use county employees and funds to administer the program,

WHEREAS, the Wood County Commissioners Court finds that tax abatement within certain guidelines and criteria will attract and retain desirable commercial enterprises in Wood County with the result that existing jobs will remain in the county and new jobs will be created in the county;

WHEREAS, the Wood County Commissioners Court find that tax abatement provided a valuable economic tool for use by the county and others interested in supporting and creating jobs in Wood County;

WHEREAS, the Wood County Commissioners Court finds that a tax abatement policy is in the public interest and will contribute to the economic development of the county;

WHEREAS, Wood County may not enter into a tax abatement agreement under Chapter 312 of the Texas Tax Code unless the Commissioners Court establishes guidelines and criteria governing the tax abatement agreements and, by resolution, elect to become eligible to participate in tax abatement;

WHEREAS, the guidelines and criteria adopted under this section are effective for two years from the date adopted; TEXAS TAX CODE 312.002; and

WHEREAS, The Wood County Commissioners Court wishes to renew and amend the Criteria and Guidelines and Application, as revised, to make tax abatement incentives available with the County;

WHEREAS, the Wood County Commissioners Court finds it to be in the public interest to adopt this tax abatement policy, including the Application, attached hereto and incorporated herein by reference, and application fee of \$500.00;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF WOOD COUNTY, TEXAS, that the “*Guidelines and Criteria for Tax Abatement in Wood County, Texas*” including the Application are hereby approved and renewed for a period of two years commencing _____, 20_____.

IT IS ACCORDINGLY RESOLVED that the Wood County Commissioners Court hereby establishes a program to stimulate business and commercial activity in Wood County, Texas, and adopts the following terms, conditions, and requirements for such program:

SECTION 1. PURPOSE: The purpose of the program is to provide an incentive for the current and future property owners and leaseholders, and selected businesses to invest in Wood County and provide increased job opportunities in the county thereby contributing to responsible economic growth of the county. In the implementation and direction of this program, the Commissioners Court shall take into consideration any other incentive

provided by the county in order to assure the overall incentive package offered to prospective beneficiaries achieves the objectives of the program and is in the best interests of the citizens of Wood County.

Nothing in this policy shall imply or suggest that Wood County is under any legal or equitable obligation to provide any incentive to any applicant. All applications for tax abatements shall be considered on an individual basis. The Wood County Commissioners Court has the final approval or disapproval of any application, at its discretion. Wood County has the option of having terms in any abatement agreement different from the terms in an abatement agreement with the initiation city. Wood County will exercise that option at its discretion.

SECTION 2. DEFINITIONS:

- a. **Abatement** as used herein means the full or partial exemption from ad valorem taxes of certain real property and improvements and personal property located in Wood County as authorized by Chapter 312, Texas Tax Code.
- b. **Affected Jurisdiction** as used herein means Wood County, Texas.
- c. **Agreement**, as used herein, means a contractual agreement between a property owner and/or lessee and an affected jurisdiction for the purposes of tax abatement.
- d. **Base Year Value** as used herein means the assessed value of the eligible property on the 1st of January, preceding the execution of the tax abatement agreement, plus the agreed upon value of eligible property improvements made after the 1st of January, but before the execution of the agreement.
- e. **Criminal District Attorney** as used herein means the Wood County Criminal District Attorney or their duly appointed designee.
- f. **Construction Phase** as used herein means the period between the beginning of modernization, construction, and refurbishing of the facility until actual production or operation of the business not to exceed two (2) years.
- g. **Deferred Maintenance** as used herein means improvements necessary for continued operations that do not improve productivity or alter the process technology.
- h. **Expansion** as used herein means the addition of buildings, structures, machinery, or equipment for purposes of increasing production capability.
- i. **Facility** as used herein means property improvements completed or in the process of construction which together comprise an integral whole.
- j. **Fixed Machinery and Equipment** or **Fixed Machinery or Equipment** as used herein means heavy, non-mobile machinery and/or equipment that cannot

be moved without injuring a building or structure and does not include movable machinery and equipment.

- k. **Local Business Incentive** as used herein means an additional abatement added for the use of Wood County businesses for construction and improvements.
- l. **Manufacturing Facility** as used herein means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or processing of such goods or materials by physical or chemical change.
- m. **Modernization** as used herein 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, fixed machinery, or equipment. It shall not be for the purpose of reconditioning, refurbishing, or repairing.
- n. **New Facility** as used herein means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- o. **Productive Life** as used herein means the number of years a property improvement is expected to be in service.
- p. **Regional Entertainment Facility** as used herein means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public.
- q. **Reinvestment Zone** as used herein means an area within Wood County that meets the criteria for municipal or county reinvestment zones and that has been formally designated a reinvestment zone following the procedures set out in Chapter 312, Texas Tax Code.
- r. **Research Facility** as used herein means buildings and structures, including 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 process thereto.
- s. **Value of Property** as used herein means the assessed value of the eligible property for purposes of ad valorem taxation.
- t. **Wage Requirement** as used herein means wage or salary equal to or greater than the current Wood County Median Wage as computed annually by the Bureau of Labor Statistics and provides health insurance benefits to employees for which the employer pays at least 50%.

SECTION 2. OBJECTIVE: The objective of this program is to encourage responsible economic development in the county to provide opportunities for the citizens of the

county and tax relief to the residential and agricultural property owners in the county by increasing the amount of ad valorem and sales taxes contributed by business and commercial enterprises without adversely affecting the quality of life for the current and future citizens of Wood County,

SECTION 3. LIMITATIONS:

1. Adoptions of the guidelines and criteria do not:
 - a. Limit the discretion of the Wood County Commissioners Court to decide whether to grant tax abatement or enter into a tax abatement;
 - b. Create new property, contract, or other legal right in any person or entity to have the Commissioners Court consider or grant a specific application or request for abatement.
2. Unless exemptions, variance, or waiver are granted by the Commissioners Court or other appropriate authority, facilities approved for tax abatement must be in compliance and comply with all federal, state, county, and municipal laws, rules and regulations, and other requirements approved by the Commissioners Court.
3. No tax abatement will be granted that will have the effect of reducing current ad valorem revenues.
4. The county shall not enter into a tax abatement agreement if the Commissioners Court finds that the application for tax abatement was filed after the commencement of construction, expansion, or modernization.
5. Guidelines and criteria adopted herein shall be effective for two years from the date of adoption.

SECTION 4. TAX ABATEMENT GUIDELINES AND CRITERIA:

1. The Commissioners Court may grant tax abatement to the owner of taxable real property located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or the tangible personal property, or both, for a period not to exceed ten years, on the condition that the owner of the property makes specific improvements to the property subject to the guidelines and criteria set out herein.
2. The Commissioners Court may grant tax abatement to the owner of a leasehold interest in tax-exempt real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real property, for a period not to exceed ten years, on the condition that the owner of the leasehold interest makes a specific improvement to the real property subject to the guidelines and criteria set out herein.

3. The Commissioners Court may grant tax abatement to the owner of taxable real property located in the county, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or tangible personal property, or both, for a period not to exceed ten years, on the condition that the owner of the property make specific improvement to the property subject to the guideline and criteria set out herein.
4. The Commissioners Court may grant tax abatement to the owner of a leasehold interest in tax-exempt real property that is located in the county, but that is not in an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real property, for a period not to exceed ten years, on the condition that the owner of the leasehold interest makes specific improvements to the real property subject to the guidelines and criteria set out herein.
5. Creation of New Value. Tax abatement may be granted for the additional value of eligible improvements subject to such limitations as the Commissioners Court may require and:
 - a. Shall increase the appraised value of the improved property;
 - b. Shall promote increase employment opportunities based on the number of permanent jobs created and sustained in each year of the abatement;
 - c. Shall not have the effect of merely transferring existing employment from one part of the county to another without demonstration of increased future investment or unusual circumstances whereby, without such a move, employment is likely to be reduced; and
 - d. No tax exemption shall be granted for tangible personal property located on the subject real property at any time prior to the effective date of the granting of tax abatement, including inventory and supplies.
6. Enterprises Eligible for Tax Abatement. Tax abatement may be considered for the following types of enterprises, including but not limited to if the location of a new enterprise or the expansion of an existing enterprise will create substantial capital improvements within the county and increase employment opportunities;
 - a. Manufacturing, Assembly, and Processing facilities;
 - b. Corporate offices;
 - c. Research and Development industries;
 - d. Conference centers, hotels, motels, resort hotels, and other such facilities intended to provide locations for the conduct of conventions, seminars, and other such activities and provide lodging for persons attending such activities.
 - e. Distribution/warehouse facilities;
 - f. Advanced technology/emerging technology facilities;

- g. Medical care facilities, including hospitals, clinics, laboratories, and other such facilities dedicated to providing for the care and treatment of the ill, elderly, or disabled, or the improvement of the health and well-being of the residents of the county;
 - h. Educational facilities including schools, training centers, and other such facilities offering educational and training opportunities to residents of the count; and
 - i. Retail developments will be considered on an individual basis – only retail developments that draw consumers from outside of the county or that provide needed public infrastructure will be considered for tax abatement.
7. **Ineligible Projects.** The following types of developments or projects are not eligible for tax incentives:
- a. Projects that have been issued a building permit, including any conditional permits.
 - b. Developments that do not meet the Wage Requirements as specified in this policy.
8. **Priorities.** In determining whether to grant tax abatement, the Commissioners Court will consider the following priorities, including but not limited to:
- a. The location of the proposed development;
 - b. The development’s provision for the needed public infrastructure;
 - c. The number of new jobs created;
 - d. The expansion of businesses currently located in Wood County;
 - e. The increase in the appraised value of the improved property; and
 - f. The increased sales tax dollars generated by the development or property.

Applicants whose proposed developments are located in areas of the county not requiring incentives for additional business stimulation or added commercial activity, or with potential service needs that would drastically increase public services may have their application for tax abatement denied.

SECTION 5. ALLOWABLE TAX ABATEMENT: Wood County Commissioners Court will assess each application for abatement and determine the amount of abatement appropriate, if any. The percentage abated and the length of an abatement contract will vary. No tax abatement will be granted for a period exceeding ten (10) years. While each individual abatement application may vary, the **standard tax abatement** will be for a period not to exceed eight (8) years and will not exceed an average annual abatement of 54.375% of the qualified increased value.

Standard 8-Year Tax Abatement	
Years	Percentage

1-3	70%
4-6	55%
7-8	30%

SECTION 6. PROCEDURES FOR TAX ABATEMENT APPLICATIONS:

1. The applicant shall submit an application with all required information and supporting documentation to the Executive Director of the Wood County Economic Development Commission under the purview of the Wood County Judge.
2. The Executive Director of the Wood County Economic Development Commission under the purview of the County Judge will review the application and provide the application to the Criminal District Attorney and County Auditor for review. Any additional information, if necessary, will be requested from the applicant and must be submitted timely in accordance with the deficiency notice. The applicant shall allow the county reasonable access to review and audit any records related to information provided in the application.
3. Once the application is complete, the applicant must submit 6 copies of the completed application for review.
4. If permitted by the Open Meetings Act, some of the deliberations concerning the application may be discussed by Commissioners Court and staff in executive session.
5. To be effective, any and all tax abatement agreements must be approved by the affirmative vote of a majority of the members of the Commissioners Court at a regularly scheduled meeting thereof. (Texas Tax Code, Section 312.402)
6. After the public hearing, the Commissioners Court shall adopt a resolution finding that the proposed agreement filed with the resolution, a copy of which must be attached thereto, meets the applicable provisions of these Guidelines and Criteria. The resolution shall also authorize the execution of the agreement with the owner of the facility or, if applicable, the lessee.

SECTION 7. TAX ABATEMENT AGREEMENT:

1. Upon direction from the County Judge, and the County Commissioners Court, and the Executive Director of the Wood County Economic Development Commission shall prepare an agreement with the applicant that shall include the following:
 - a. A description of the proposed improvements and an estimate of the total cost of said improvements;
 - b. The appraised value of the subject property without the proposed improvements- the base year value;
 - c. The projected value of the property with the improvements;

- d. The abated schedule, including the commencement date of the abatement and termination date of the abatement;
 - e. The construction or modernization time schedule;
 - f. A provision that the applicant will provide access to and authorize the inspection by the county officer and employees to ensure that the improvements are being made according to the conditions and specifications of the agreement;
 - g. A provision that the applicant shall collect and maintain all relevant records related to information provided in the application and each of the economic development considerations and incentives and performance requirements, and allowing the County reasonable access to review and audit these records;
 - h. The proposed use of the facility and a provision limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the reinvestment zone during the time the property tax abatement is in effect;
 - i. A provision for recapturing property tax revenue lost as a result of the agreement if the applicant fails to make the improvements as provided by the agreement or otherwise violates the terms of the agreement;
 - j. A requirement that the applicant certify annually to the Commissioners Court that the applicant is in full compliance with the agreement;
 - k. A provision that the applicant must submit an Application for the Property Tax Abatement Exemption to the Wood County Appraisal District by April 30th of each year of the abatement period;
 - l. A provision that the Commissioners Court may cancel or modify the agreement if the applicant fails to comply with the agreement;
 - m. As an attachment, a map or approved plat of the subject property and a property description; and
 - n. Usual contract terms as conditions require uniformity or by state law.
2. The Executive Director of the Wood County Economic Development Commission shall provide the tax abatement agreement to the applicant for review and execution prior to it being placed on the Commissioners Court agenda for approval. Any tax abatement agreement not finalized within thirty (30) calendar days after being provided to the applicant shall expire. Upon expiration, the applicant shall be required to submit a new application in order for the potential improvement project to be reconsidered for tax abatement.

SECTION 8. DEFAULT AND RECAPTURE:

1. In the event of default of any term or condition of the application for tax abatement the tax abatement agreement by the applicant the Commissioners Court shall have

the right to terminate the agreement and cease the abatement of taxes. Taxes based on the appraised value of the subject property with improvements will be due and payable for the year in which the tax abatement is terminated.

2. In the event that the facility is completed and begins producing products or services, but subsequently ceases to produce products or services for any reason (except for acts of God, war, riot, strike, or natural catastrophe), then the tax abatement shall terminate and no amount of taxes shall be abated for any calendar year during which the facility does not produce goods and services.
3. In the event that the applicant fails to pay ad valorem taxes owed to Wood County or any other taxing entity located in the county when due, violates any of the terms or conditions of the tax abatement policy; or is in default with any other county-sponsored program; then the county shall have the right to terminate the tax abatement, in which event, taxes based on the full value of the subject property with all improvements shall be immediately due and payable, including any amount of taxes abated during the calendar year in which the termination occurs and any amount of taxes abated during prior years.
4. Added Actual Value. Should the Wood County Appraisal District determine that the total value of Added Value during the term of this agreement after completion of the Construction Phase is lower than the Estimated Added Value, such that a lower percentage of Abatement is applicable, for a year during which an Abatement has been granted, the difference between the tax abated and the tax which should have been abated based upon the actual Added Value shall be determined by the County and paid within sixty (60) days of notification to the Owner of such determination. Penalty and interest shall not begin to accrue upon such sum until the first day of the month following such sixty (60) day notice, at which time penalty and interest shall accrue in accordance with the laws of the State of Texas.
5. Notice of Default. Should the County determine that the Owner is in default according to the terms and conditions of this Agreement, it shall notify the Owner that such notice (“Cure Period”), and then this Agreement may be terminated. In the event the Owner fails to cure said default during the Cure Period, this Agreement may be terminated and the taxes abated by virtue of the agreement will be recaptured and paid as provided herein. (Texas Tax Code, Section 312.208)

SECTION 9: LITIGATION:

If the County modified or terminated this Agreement pursuant to this Section 6, it shall provide the Owner written notice of such modification or termination. If Owner believes that such modification or termination is improper, the Owner may file suit in the Wood County District Court, where the exclusive venue for enforcing this Agreement shall lie, appealing such modification or termination within sixty (60) days after the written notice of the modification or termination by the County. If an appeal is filed, the Owner shall

remit to the County within such sixty (60) days after the notice of termination, any additional and/ or recaptured taxes as may be payable during the pendency of the litigation pursuant to the payment provisions of Section 42.08, Texas Tax Code. If the final termination of the appeal increases the Owner's tax liability above the amount of taxes paid, the Owner shall remit the additional tax to the County pursuant to Section 42.42, Texas Tax Code. If the final determination of the appeal decreases Owner's tax liability, the County shall refund the Owner the difference between the amount of tax paid and the amount of tax for which the Owner is liable pursuant to Section 42.43, Texas Tax Code.

SECTION 10: CONFIDENTIALITY:

Information that is provided in connection with a tax abatement request that describes specific processes or business activities that are considered proprietary and not subject to public disclosure will be confidential until the Tax Abatement agreement is fully executed and approved by the Commissioners Court. (Texas Tax Code, Section 312.003)

SECTION 10: CITY TAX ABATEMENTS:

It is the intent of Wood County to negotiate an agreement for tax abatement of the County Ad Valorem Taxes, provided the City refers the property owner or lessee to the County for separate negotiation of the Tax Abatement Agreement.

1. The city must have valid and current abatement policy and a defined reinvestment zone concerning the requested tax incentive.
2. Any valid City Reinvestment Zone will be honored as a valid County Reinvestment Zone.

SECTION 11. ASSIGNMENT OF TAX ABATEMENT AGREEMENT:

1. There shall be no assignment of tax abatement agreement unless such assignment is approved by the Wood County Commissioners Court.
2. The assignment of an agreed-upon Tax Abatement **cannot be transferred as a result of a change in majority ownership** of the business with the expressed written consent of the Wood County Commissioners and the Wood County Judge.
3. Any new owner shall file a new application for an abatement agreement and shall be responsible for notifying the Executive Director of the Wood County Economic Development Commission of any changes to the abatement application.

SECTION 12: BONDED INDEBTEDNESS

The Wood County Commissioners and Wood County Judge may authorize at its discretion, the issuance of bonds or other financings to support economic development project(s) granted an approved upon Tax Abatement Agreement.

SECTION 13. SUNSET PROVISION FOR TAX ABATEMENTS:

1. These guidelines and criteria are effective upon the date of adoption and remain in force for two years from the date of adoption. Before expiration, the Commissioners Court shall review the guidelines and criteria and either adopt the guidelines and criteria for another two-year period, adopt revise guidelines and criteria, or terminate the tax abatement policy.
2. During the two-year period following the adoption of these guidelines and criteria, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the Commissioners Court.

Approved this _____ day of _____, 20_____.

Wood County Judge

Kevin White

Commissioner, Precinct #1

Virgil Holland

Commissioner, Precinct #3

Mike Simmons

Commissioner, Precinct #2

Jerry Gaskill

Commissioner, Precinct #4

Russell Acker

ATTEST: County Clerk

Kelley Price