
**A RESOLUTION APPROVING THE
GUADALUPE COUNTY GUIDELINES AND CRITERIA FOR
GRANTING TAX ABATEMENT AND REINVESTMENT ZONES**

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, the communities within Guadalupe 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 Guadalupe 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 Guadalupe 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 re-circulating 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 school districts, cities and Guadalupe County;

WHEREAS, Guadalupe County Commissioners Court has approved the circulation of the attached Guidelines and Criteria to affected taxing jurisdictions for consideration as a common policy for all jurisdiction which choose to participate in tax abatement agreements; and

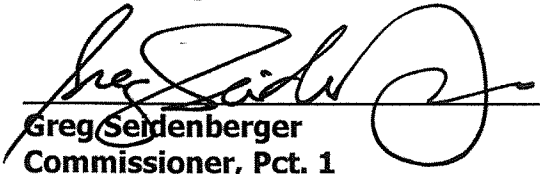
WHEREAS, the County's previous guidelines expired and need to be renewed.

NOW, THEREFORE, BE IT RESOLVED that Guadalupe County does hereby adopt these Guidelines and Criteria for granting tax abatement in reinvestment zones in Guadalupe County and are hereby adopted effective February 11, 2014.

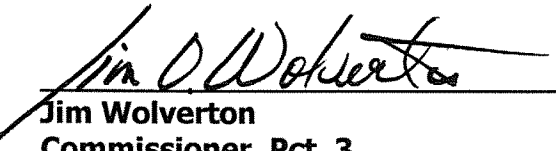
PASSED AND APPROVED on the **11th** day of **February 2014**, by Guadalupe County Commissioners Court.



Larry Jones
County Judge



Greg Seldenberger
Commissioner, Pct. 1




Jim Wolverton
Commissioner, Pct. 3

ATTEST:




Teresa Kiel
County Clerk

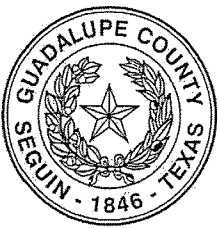




Kyle Katscher
Commissioner, Pct. 2



Judy Cope
Commissioner, Pct. 4



GUADALUPE COUNTY

GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT AND REINVESTMENT ZONES

The Guadalupe County Guidelines and Criteria for Granting Tax Abatement and Reinvestment Zones ("Guidelines") were adopted by the Commissioners Court ("Court") of Guadalupe County, Texas ("County") to be effective February 11, 2014 through February 11, 2016.

The Affected Jurisdiction located wholly within or partially within the County of Guadalupe, Texas, is committed to the promotion of high quality development in all parts of Guadalupe County, Texas; and to an ongoing improvement in the quality of life for the citizens residing within the Affected Jurisdiction. The Affected Jurisdiction recognizes that these objectives are generally served by enhancement and expansion of the local economy. The Affected Jurisdiction will, on a case-by-case basis, give consideration to providing tax abatement, as authorized by V.T.C.A., Tax Code, Chapter 312, as stimulation for economic development within the Affected Jurisdiction. It is the policy of the Affected Jurisdiction that said consideration will be provided in accordance with the guidelines and criteria herein set forth and in conformity with the Tax Code.

Nothing contained herein shall imply, suggest or be understood to mean that the Affected Jurisdiction is under any obligation to provide tax abatement to any applicant and attention is called to V.T.C.A., Tax Code, §312.002(d). With the above rights reserved all applications for tax abatement will be considered on a case-by-case basis.

SECTION I - Definitions

1. **Abatement:** The full or partial exemption from ad valorem taxes of certain eligible property (including fixed-in-place machinery & equipment) in a reinvestment zone designated for economic development purposes.
2. **Abatement of Taxes:** To exempt from ad valorem taxation all or part of the value of certain Improvements placed on land located in a reinvestment zone designated for economic development purposes as of the date specified in the Tax Abatement Agreement for a period of time not to exceed ten (10) years.
3. **Affected Jurisdiction:** The County of Guadalupe.
4. **Abatement Agreement:**
 - (a) A contract between a property owner and an Affected Jurisdiction for the abatement of taxes on qualified property located within the reinvestment zone; or
 - (b) A contract for the abatement of taxes between an Affected Jurisdiction and a certified air carrier who owns or leases Real Property located within the reinvestment zone or Personal Property or both as authorized by V.T.C.A., Tax Code, §312.204(e).
5. **Base Year Value:** The assessed value of property eligible for tax abatement as of January 1 preceding the execution of an Abatement Agreement as herein defined.
6. **Competitively-Sited Project:** A project where the applicant has completed a written evaluation of competing locations for expansion, relocation, or new operations, including identification of specific sites in those locations.
7. **Distribution Center Facility:** A building or structure including Tangible Personal Property used or to be used primarily to receive, store, service or distribute goods or materials.
8. **Economic Life:** The number of years a property improvement is expected to be in service in a facility.
9. **Eligible Jurisdiction:** Guadalupe County and any municipality, school district, college district or other taxing district eligible to abate its taxes according to Texas law that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.
10. **Employee:** A person whose employment is both permanent and fulltime, who works for and is an employee of the Owner or an employee of a Contractor, who works a minimum of 1,750 hours per year exclusively within the Zone, who receives industry-standard benefits, and whose employment is reflected in the Owner's (and Contractor's, if applicable) quarterly report filed with the Texas Workforce Commission; but *excluding* any direct contract (seasonal, part-time, and full-time equivalent).
11. **Expansion of Existing Facilities or Structures:** The addition of buildings, structures, machinery or equipment to a Facility.
12. **Existing Facility or Structure:** A facility as of the date of execution of the Tax Abatement Agreement, located in or on Real Property eligible for tax abatement.

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13. **Facility:** The improvements made to Real Property eligible for tax abatement and including the building or structure erected on such Real Property and/or any Tangible Personal Property to be located in or on such property.
14. **Improvements to Real Property or Improvements:** Shall mean the construction, addition to, structural upgrading of, replacement of, or completion of any facility located upon, or to be located upon, Real Property, as herein defined, or any Tangible Personal Property placed in or on said Real Property.
15. **Job(s):** A full-time employment position, filled or available to be filled from time to time, including full time job equivalents. Jobs might not be filled by the same persons over an entire year, as the same full time job position may have more than one (or two) persons holding that position during any calendar year despite the employer's effort to maintain a stable job base. A job is not seasonal and is intended to average 35 or more hours per week employment, or such other average hourly employment standard as the employer utilizes to define a permanent position for the purpose of offering full benefits. A job does not require that the person filling the job accept offered benefits (such as health insurance), as some persons filling a full time job position will elect not to accept offered benefits rather than to contribute toward the cost of those benefits.
16. **Manufacturing Facility:** A Facility which is or will be used for the primary purpose of the production of goods or materials or the processing or change of goods or materials to a finished product.
17. **Modernization/Renovation of Existing Facilities:** The replacement or upgrading of existing facilities.
18. **New Facility:** The construction of a Facility on previously undeveloped real property eligible for tax abatement.
19. **New Permanent Job:** A new employment position created by a business that has provided employment to an employee of at least 1,820 hours annually and intended to be an employment position that exists during the life of the abatement.
20. **Other Basic Industry:** A Facility other than a distribution center facility, a research facility, a regional service facility or a manufacturing facility which produces goods or services or which creates new or expanded job opportunities and services a market of which 50% of revenues come from outside of Guadalupe County, Texas.
21. **Owner:** The record title owner of Real Property or the legal owner of Tangible Personal Property. In the case of land leased from an Affected Jurisdiction or buildings leased from a private party or tax-exempt property, the lessee shall be deemed the owner of such leased property together with all improvements and Tangible Personal Property located thereon.
22. **Productive Life:** The number of years a Facility is expected to be in service.
23. **Real Property:** Land on which Improvements are to be made or fixtures placed.
24. **Regional Distribution Center Facility:** Building 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 where (i) a majority of the goods or services are distributed to points at least 100 miles from any part of Guadalupe County or (ii) where the facility is a Distribution Center Facility which qualifies in the "Exceptional Capital Investment and Job Creation Category" as defined in Section II (b) below.
25. **Regional Entertainment Facility:** Buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of users reside at least 100 miles from any part of Guadalupe County.
26. **Regional Services Facility:** A Facility, the primary purpose of which is to service or repair goods or materials and which creates job opportunities within the Affected Jurisdictions.
27. **Reinvestment Zone:** Real Property designated as a Reinvestment Zone under the provisions of V.T.C.A., Tax Code, §312.202.
28. **Research Facility:** A Facility used or to be used primarily for research or experimentation to improve or develop new goods and/or services or to improve or develop the production process for such goods and/or services.
29. **Tangible Personal Property:** Any Personal Property, not otherwise defined herein and which is necessary for the proper operation of any type of Facility.

SECTION II – Abatement Authorized

- (a) **Authorized Facility.** A facility may be eligible for abatement if it is a: Manufacturing Facility, Research Facility, Regional Distribution Center Facility, Regional Service Facility, Regional Entertainment Facility, Research and Development Facility, Other Basic Industry, or located within an identified Commercial Historic District.
- (b) **Exceptional Capital Investment and Job Creation Category.** Projects with a capital investment in excess of \$50,000,000 and an anticipated job creation of over 500 jobs within a five (5) year period commencing at the moment a certificate of occupancy is issued, are eligible for a special tax abatement category negotiable by Guadalupe County Commissioners' Court for a period of up to ten (10) years at one-hundred (100) percent.
- (c) **Creation of New Value.** Abatement may only be granted for the additional value of eligible real property (including fixed-in-place machinery and equipment) listed in an abatement agreement between the County and the property owner and lessee (if required), subject to such limitations as Commissioners Court and the property tax code may require.
- (d) **New and Existing Facilities.** Abatement may be granted for new facilities, the expansion of existing facilities, or the improvement to existing facilities having the effect of improving current environmental conditions.
- (e) **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. The value of all property shall be the Certified Appraised Value for each year, as finally determined by the Guadalupe County Appraisal District ("GCAD").
- (f) **Ineligible Property.** The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings, and other forms of movable personal property; vehicles; vessels; aircraft; housing; hotel accommodations; deferred maintenance investments; property to be rented or leased (except as provided in the Section II (f), "Owned/Leased Facilities"); 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, or any property exempted by local, state or federal law. When such exempted property includes manufacturing machinery and equipment listed in the Investment Budget (as required in Section III, "Application"), then the value of such property may not be included toward the achievement of the investment or valuation thresholds set out in the Tax Abatement Agreement.
- (g) **Owned/Leased Facilities.** If a leased facility is granted abatement the agreement shall be executed with the lessor and the lessee.
- (h) **Value and Term of Abatement.** A tax abatement shall be granted in accordance with the terms of a Tax Abatement Agreement, as follows:
1. Either with the January 1st valuation date immediately following the date of execution of the agreement or a subsequent January 1st valuation date not more than three years after execution of a tax abatement agreement, but not beyond the completion of construction. Projects are eligible for abatement of new value, subject to an abatement cap: to be calculated as \$1,000,000 per job created/retained times the number of such jobs as required in the abatement agreement. Such cap shall not exceed the increased value requirement as set out in the abatement agreement, and will be adjusted annually (as set out in Section II (j), "Taxability"). To determine the amount of each year's exemption, the adjusted cap shall be multiplied by 56 percent in each year, up to a total of ten (10) years. Under no circumstances will any facility be granted the benefit of a tax abatement for longer than ten (10) years. Value subject to abatement must remain greater than or equal to the contractually defined "Minimum Value Requirement."

2. No tax abatement shall be given in any year in which the facility fails to meet the contractually defined "Minimum Value Requirement."
 3. All Tax Abatement Agreements shall set out in detail the exact method to be used in computing each year's exemption.
 4. No tax abatement shall be given in any year in which the facility fails to meet the employment minimum set forth in Section II (h), "Basic Qualifications for Tax Abatement."
- (i) **Basic Qualifications for Tax Abatement.** To be eligible for designation as a reinvestment zone and receive tax abatement the planned improvement:
1. Must be shown to increase the assessed value of the property at least \$1.0 million upon completion of the contractually defined "Construction Period;"
 2. Must be shown to directly create or prevent the loss of permanent full-time employment for at least 25 people within the reinvestment zone upon completion of the contractually defined "Employment Period;"
 3. Must be competitively-sited; and
 4. Must be shown not to solely or primarily have the effect of transferring employment from one part of Guadalupe County to another.
- (j) **Research and Development Projects.** If the planned project improvement is for a research and development facility, in order to be eligible for tax abatement the planned improvement:
1. Must be reasonably expected to increase the value of the property by a minimum amount of \$1.0 million upon the completion of construction, and
 2. Must be expected to create permanent employment for at least five people on a permanent basis in the designated zone, provided that this employment qualification shall take effect no more than two years after the effective date of the agreement and continue through the term of the agreement. The abatement period shall not exceed five years from the effective date of abatement and the percentage of value to be abated shall be up to 100 percent of new value throughout the abatement period, subject to a maximum abatable new value of \$1,000,000 per job created/retained.
- (k) **Taxability.** From the execution of the abatement to the end of the agreement period, taxes shall be payable as follows:
1. Value of ineligible property (as provided in Section II (e), "Ineligible Property,") shall be fully taxable;
 2. The non-abatable real property within the reinvestment zone shall be fully taxable each year;
 3. Additional value of new eligible property shall be taxable in the manner described in Section II (g), "Value and Term of Abatement;"
 4. When due to the employment formula (as described in Section II (g), "Value and Term of Abatement"), the maximum amount eligible for abatement ("the cap") is less than the total value of the new facility, the amount of the cap will be reduced each year at the same rate as the taxable improvements are reduced in value from the previous year's value; and
 5. Each year's exemption will be computed by GCAD in the following manner:
 - (a) The Base Property Value will be the current value of all real property plus fixed-in-place machinery and equipment within the zone that is not subject to abatement.
 - (b) The Base Year Value will be subtracted from the value of the Abated Property plus the Base Property Value, the result to be called Current Amount Eligible for Abatement. In no case can this amount exceed the cap set out in the abatement contract.
 - (c) The Current Amount Eligible for Abatement is then multiplied by 56 percent to determine the amount of each year's exemption.
- (l) **Environmental and Worker Safety Qualification.** In determining whether to grant a tax abatement, consideration will be given to compliance with all state and federal laws designed to protect human health, welfare and the environment ("environmental laws") that are applicable to all facilities in the State of Texas owned or operated by the owner of the facility or lessee, its parent, subsidiaries and, if a joint venture or partnership, every member of the joint venture or partnership ("applicants"). Consideration

may also be given to compliance with environmental and worker safety laws by applicants at other facilities within the United States.

SECTION III – Application (Attached hereto as Exhibit “A”) shall include, but is not limited to the following:

- (a) Timely application:** Any current or potential owner or lessee of taxable property in Guadalupe County must request a tax abatement by filing a completed application with the Guadalupe County Commissioners Court prior to any public expression of a citing decision or any commitment (legal or financial) to the proposed project.
- (b) A complete application package for consideration of a tax abatement shall consist of:**
1. A completed Guadalupe County Application form;
 2. A completed narrative prepared in accordance with the template provided with the Guadalupe County Application and its instructions;
 3. An “Investment Budget” detailing components and costs of the real property improvements and fixed-in-place improvements for which tax abatement is requested, including type, number, economic life, and eligibility for a tax exemption granted by the Texas Commission on Environmental Quality (“TCEQ”), if known;
 4. Map and legal description of the property;
 5. Time schedule for undertaking and completing the proposed improvements;
 6. Ten (10) - year environmental and worker safety compliance history for all facilities located within the State of Texas and owned in whole or in part by applicants (as defined in Section II, (k), “Environmental and Worker Safety Qualification”);
 7. A copy of the evaluation of competing locations, as described in Section I, “Definitions”;
 8. Information pertaining to the reasons that the requested tax abatement is necessary to ensure that the proposed project is built in Guadalupe County (i.e., documentation supporting assertion that “but for” a tax abatement, the stated project could not be constructed in Guadalupe County);
 9. Copies of the immediately preceding quarterly report(s) filed with the Texas Workforce Commission, documenting the current number of permanent full-time employees, and full-time Contractor employees, if any, at the time the application is submitted;
 10. Financial and other information, as the County deems appropriate for evaluating the financial capacity and other factors of the applicant;
 11. Certification prepared by Guadalupe County Tax Assessor-Collector stating that all tax accounts within Guadalupe County are paid on a current basis;
 12. A \$1,000.00 non-refundable application fee (checks should be made payable to Guadalupe County);
 13. **For a leased facility**, the applicant shall provide with the application the name and address of the lessor and a draft copy of the proposed lease, or option contract. In the event a lease or option contract has already been executed with owner of site, the document must include a provision whereby abatement applicant may terminate such contract without penalty or loss of earnest money, in the event that Guadalupe County does not grant a tax abatement.
- (c)** Upon receipt of a completed application, the Guadalupe County Commissioners Court shall notify in writing and provide a copy of the application to the presiding officer of the governing body of each eligible taxing jurisdiction.
- (d)** After receipt of an application for creation of a reinvestment zone and application for abatement, the County shall determine whether the application qualifies for a tax abatement under the terms of these guidelines and criteria. Such determination may be delegated to an employee or County department. If it is determined that an application qualifies for abatement, it shall be recommended to the Commissioners Court that the applicant be notified in writing that subject to a public hearing, if applicable, and approval of a contract by Commissioners Court, the project qualifies for abatement.
- (e)** The County shall not establish a reinvestment zone or enter into an abatement agreement if it finds that the request for the abatement was filed after the commencement of construction, alteration, or

installation of improvements related to a proposed modernization, expansion or new facility. Property eligible for abatement includes only the new improvements that occur after the completion of an abatement agreement with Guadalupe County or participating municipality.

SECTION IV – Public Hearing and Approval

- (a) The Commissioners Court may not adopt a resolution designating a reinvestment zone for the purposes of considering approval of a tax abatement until it 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 clearly identified on the Commissioners Court agenda at least 72 (seventy-two) hours prior to the hearing.
- (b) At the public hearing, interested persons shall be entitled to speak and present written materials for or against the approval of the proposed project or tax abatement agreement.
- (c) In order to enter into a tax abatement agreement, the Commissioners Court must find that the terms of the proposed agreement meet these Guidelines and Criteria and that:
 - 1. There will be no substantial adverse effect on the provision of the jurisdictions' service or tax base; and
 - 2. The planned use of the property will not constitute a hazard to public safety, health or morals. Any variance to these guidelines must be approved by a majority vote of the Commissioners Court.

SECTION V – Agreement

After approval the County shall formally execute an agreement with the owner of the facility and lessee as required which shall include:

- (a) Estimated value to be abated and the base year value;
- (b) Percent of value to be abated each year as provided in Section II ("Abatement Authorized");
- (c) The commencement date and the termination date of abatement;
- (d) The proposed use of the facility; nature of construction, time schedule, survey, property description and improvement list;
- (e) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Section II ("Abatement Authorized"), Section VI ("Recapture"), Section VII ("Administration"), and Section VIII ("Assignment"), or other provisions that may be required for uniformity or by state law;
- (f) Amount of investment, increase in assessed value and number of jobs involved, as provided in Section II ("Abatement Authorized");
- (g) A requirement that the applicant annually submit to the Guadalupe County Judge, a January employee count for the abated facility which corresponds to employment counts reported in the facility's Employer's Quarterly Report to the Texas Workforce Commission for the quarter most recently ended at calendar year-end, and a separate notarized letter certifying the number of jobs created or retained as a direct result of the abated improvements and the number of employees in other facilities located within Guadalupe County and the compliance with the environmental and worker safety requirements in the agreement for the preceding calendar year, for as of January 1. Submission shall be used to determine abatement eligibility for that year and shall be subject to audit if requested by the governing body. Failure to submit will result in the ineligibility to receive an abatement for that year; and
- (h) A requirement that the owner or lessee shall:
 - 1. Obtain and maintain all required permits and other authorizations from the United States Environmental Protection Agency and the TCEQ for the construction and operation of its facility and for the storage, transport and disposal of solid waste; and
 - 2. Seek a permit from the TCEQ for all grandfathered units on the site of the abated facility by filing with the TCEQ, within three years of receiving the abatement, a technically complete application for such a permit.

Such agreement normally shall be executed within 60 (sixty) days after the applicant has forwarded all necessary information and documentation to the County.

