



WHEREAS, the County must elect to become eligible to participate in tax abatement to promote development and redevelopment in certain areas of the County.

NOW, THEREFORE, BE IT RESOLVED, by Nacogdoches County, Texas, acting by and through its duly elected Commissioners Court, as follows:

1. The County hereby re-elects to become eligible to participate in tax abatement under the provisions of the Act; and
2. The County hereby adopts the Guidelines and Criteria for Tax Abatement attached hereto as Exhibit "A," for use in all tax abatements as required by the Act. The Guidelines and Criteria for Tax Abatement are effective for two years from the date adopted. During that period, the Guidelines and Criteria for Tax Abatement may be amended or repealed only by a vote of three-fourths of the members of the Commissioner's Court.

**GUIDELINES AND CRITERIA  
FOR GRANTING TAX ABATEMENT  
NACOGDOCHES COUNTY, TEXAS**

**I. DEFINITIONS**

- A. *"Abatement"* means the full or partial exemption from ad valorem taxes of a certain real and/or personal property in a Reinvestment Zone designated for economic development purposes pursuant to Chapter 312 of the Texas Tax Code.
- B. *"Agreement"* means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.
- C. *"Base Year Value"* means the assessed value of eligible property 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.
- D. *"County"* means Nacogdoches County, Texas.
- E. *"Deferred Maintenance"* means improvements necessary for continued operations which do not improve the productivity or alter the process technology.
- F. *"Distribution Center Facility"* means buildings and structures, including machinery and equipment, used or to be used primarily to receive, store, service, or distribute goods or materials owned by the facility operator where a majority of the goods or services are distributed to points at least fifty (50) miles from its location in the County.
- G. *"Expansion"* means the addition of buildings, structures, fixed machinery, equipment and personal property located on real property located in a properly established reinvestment zone for purposes of increasing production capacity.
- H. *"Facility"* means real and personal property improvements completed or in the process of construction which together comprise an integral whole.
- I. *"Manufacturing Facility"* means buildings and structures including machinery and equipment and other personal property, the primary purpose of which is or will be for the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change, including the assembly of goods and materials from multiple sources in order to create a finished or semi-finished product.
- J. *"Modernization"* means the replacement and upgrading of existing facilities which increases the productivity 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, equipment or other personal property. It shall not be for the purpose of reconditioning, refurbishing, or repairing, except as may be integral to or in direct connection with an existing expansion.

- K. *"New Facility"* means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- L. *"Other Basic Industry"* means buildings or structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services which serve a market primarily outside the County and result in the creation of new permanent jobs and create new wealth in the County.
- M. *"Personal Property"* means tangible personal property located on the real property, excluding that personal property located on the real property prior to the period covered by the abatement agreement with the County.
- N. *"Productive Life"* means the number of years a property improvement is expected to be in service.
- O. *"Project"* means any real and personal property improvement including expansions, modernization, and new facilities; but excluding any deferred maintenance.
- P. *"Reinvestment Zone"* means any area of the County which has been designated a reinvestment zone for tax abatement purposes and which is located within the taxing jurisdiction of the County. It is the intent of the County to designate reinvestment zones on a case-by-case basis in order to maximize the potential incentives for eligible enterprises to locate or expand within the County.
- Q. *"Regional Entertainment Facility"* means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of the users reside at least fifty (50) miles from its location in the County.
- R. *"Regional Service Facility"* means buildings and structures, including machinery and equipment, used or to be used to provide services to the general public.
- S. *"Research Facility"* 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 processes thereto.
- T. *"Targeted Enterprise"* means the following facilities; distribution center facility, manufacturing facility, power generation facility, regional agriculture facility, water treatment and distribution facility, regional entertainment facility, research facility, regional service facility, regional transportation facility, or any other basic industry.

## II. CRITERIA FOR TAX ABATEMENT

- A. General Criteria. All applications must meet the following general criteria before being considered for tax abatement:
  - 1. The tax abatement will comply with Property Redevelopment and Tax Abatement Act (the "Act") Chapter 312 of the Texas Tax Code.

2. The project must be reasonably likely to contribute to the retention or expansion of primary employment or attract major investment that will benefit the County's economic development.
  3. Tax abatement agreements will be considered for both new facilities and structures and for the expansion or modernization of existing facilities and structures.
  4. The project expands the local tax base.
  5. The project creates or helps maintain permanent full time employment opportunities.
  6. The project would not otherwise be developed.
  7. The project makes a contribution to enhancing further economic development.
  8. The project must remain in good standing with all governmental and environmental regulations.
  9. The project has not been started and no construction by applicant has commenced at the time the application is approved.
  10. The project must not have any of the following objections:
    - a. Substantial adverse effect on the provision of government service on tax base;
    - b. The applicant has insufficient financial capacity;
    - c. Planned or potential use of the property would constitute a hazard to public safety;
    - d. Planned or potential use of the property would create adverse impact to adjacent properties;
    - e. Any violation of laws of the United States or State of Texas or ordinances of Nacogdoches County, Texas would occur; or
    - f. If it is an improvement project financed with tax increment bonds.
- B. Specific Criteria. If the project in the application meets the general criteria, is a facility of a Targeted Enterprise and has a capital cost that exceeds One Million and No/100 Dollars (\$1,000,000.00) then abatement of any or all of the increased value will be considered. The Commissioner's Court will approve or deny a tax abatement request based upon its subjective evaluation of these guidelines and criteria. The Commissioner's Court may in its discretion agree to abate taxes on real property, real property improvements and/or personal property, including equipment, furniture,

inventory and supplies. No tax abatement shall exceed the maximum allowed by state law, presently 100% for ten (10) years. Factors to be considered in determining the portion of the increased value to be abated and the duration of the abatement agreement include, but are not limited to:

1. Total amount of the estimated investment;
2. Total number of estimated jobs created or retained;
3. Type of estimated jobs created or retained;
4. Dollar value of estimated payroll created or retained;
5. Other direct and indirect costs and revenues, such as construction jobs, associated with the application.

### **III. APPLICATIONS FOR REINVESTMENT ZONES AND TAX ABATEMENTS**

A. All requests for reinvestment zones and tax abatement in the jurisdiction of Nacogdoches County, Texas shall be made by filing a written application with the County Commissioners Court addressing all criteria questions contained in this document. An application for designation of a reinvestment zone and for tax abatement may be combined and submitted jointly. All applications shall include the following unless the County has waived a requirement that it has deemed unnecessary to properly evaluate the request:

1. A general description of the project including purpose and explanation of the kind, number and location of all proposed improvements as well as how the project will meet the criteria established by this document.
2. A plat showing the precise location of the property and all improvements thereon. All roadways within 500 feet of the site and all existing zoning and land uses within 500 feet of the site, (a complete legal description shall be provided if the property is described by metes and bounds).
3. A complete estimated cost of the project by land, building, equipment, inventory, and other personal property categories.
4. A description of the methods of financing all estimated costs and the time when related costs or monetary obligations are to be incurred.
5. Estimated number of employment opportunities the project creates or retains over the period of the abatement, including gross annual payroll of permanent full time and part time employees remaining after construction is complete.
6. A detailed time schedule for undertaking and completing the project.

- B. After reviewing the application, if the Commissioners Court finds the application to be complete and accurate and meets the criteria established by this document, the Commissioners Court may do or cause to be done an economic impact study, which the applicant may be required to pay or participate in paying for, setting forth the economic impact of the proposed reinvestment zone and tax abatement agreement. This study, if any, shall, at a minimum, include, but may be limited to, a cost benefit analysis of the creation of the reinvestment zone and the abatement of taxes.
- C. Having completed all the required steps in the process, and having been assured by the applicant that it wishes to proceed, the County may then follow procedures in accordance with Texas Tax Code Chapter 312 (Vernon 2000), as amended, and establish a reinvestment zone and tax abatement agreement.

#### **IV. DESIGNATION OF A REINVESTMENT ZONE AND TAX ABATEMENT**

- A. In order to engage in Tax Abatement, Nacogdoches County by Order must designate an area as a reinvestment zone. The reinvestment zone cannot include an area in the taxing jurisdiction of any municipality. Prior to adopting such an Order the County Commissioners Court must conduct a public hearing on the designation that entitles all interested person to speak and present evidence for or against the designation. The County must find that the designation would contribute to the retention or expansion of primary employment or would attract major investment in the zone that would be a benefit to the property to be included in the zone and would contribute to the economic development of the County. Not later than the seventh day before the date of the hearing, notice of the hearing must be:
  - 1. Published in a newspaper having general circulation in the County;
  - 2. Delivered in writing to the presiding officer of the governing body of each unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.
- B. The County by resolution may enter in to a tax abatement agreement. At least seven (7) days before entering into an agreement, the County will deliver written notice of its intent to each taxing unit that included in the reinvestment zone. Any agreement will include, but not be limited to, the following specific terms:
  - 1. All appropriate stipulations included in the application, as outlined by this document, for a reinvestment zone and tax abatement agreement.
  - 2. The amount and duration of the tax abatement.
  - 3. The kind, number, and location of all proposed improvements of property.
  - 4. A method for determining the qualification of meeting any agreed upon criteria and a warranty and guarantee to meet and maintain these qualifications over the term of the agreement; the County will be allowed, upon written request and reasonable notice, to inspect and audit such records of the applicant as are

necessary to substantiate that the applicant is meeting criteria agreed upon during the term of the abatement.

5. A provision that the County may cancel or modify the tax abatement agreement if the owner of the project fails to comply with the agreement.
  6. A provision providing for recapture of the property tax revenue lost as a result of the tax abatement agreement if the owner of the project fails to make the improvements or repairs as required by the agreement.
  7. A provision requiring access to and authorized inspection of the property by County employees to ensure that the improvements or construction are made according to specifications and conditions of the agreement.
  8. A provision requiring the project owner to certify annually to the Commissioner's Court and other taxing units that the owner is in compliance with each applicable term of the agreement.
  9. A provision limiting the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.
  10. Any other provision required or allowed by the Act or agreed to by the parties.
- C. An agreement may be modified or terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed; provided, however, the agreement may not be altered to extend more than ten (10) years from the date of the original agreement.

## V. OTHER INCENTIVES

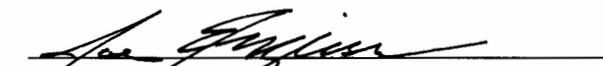
The County Commissioners Court may consider other economic development incentives as necessary to promote or secure a Targeted Enterprise. Such incentives may include, but not be limited to:

- A. Waiving of fees – Permit application and fees as of a similar nature may be waived upon approval of the Court.
- B. Infrastructure – Extension, construction or reconstruction of infrastructure necessary for the development of a Targeted Enterprise may be made upon approval of the County Commissioners Court.
- C. Other Benefits – The granting of any benefit or waiver of any requirement within the County's authority to so grant or waive as may be determined by the County Commissioners Court to be of benefit to the applicant and to promote development as herein stated.

PASSED and APPROVED on this the 4<sup>th</sup> day of March 2014, AD

The COUNTY OF NACOGDOCHES, TEXAS

ATTESTED BY:

  
\_\_\_\_\_  
Joe English, County Judge

  
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Carol Wilson, County Clerk