

**COMMERCIAL GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENT  
FOR PROJECTS IN DESIGNATED ENTERPRISE & REINVESTMENT ZONES  
WITHIN LUBBOCK COUNTY, TEXAS**

**SECTION I. General Purpose:**

Lubbock County is committed to the promotion of high quality commercial development in designated Enterprise Zones within the City of Lubbock, in designated Reinvestment Zones in other incorporated areas of Lubbock County and in Reinvestment Zones in the unincorporated areas of Lubbock County; and to an ongoing improvement in the quality of life for citizens residing in designated Enterprise or Reinvestment Zones. Lubbock County recognizes that these objectives are generally served by enhancement and expansion of the local economy. Lubbock County 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 designated Enterprise Zones in the City of Lubbock, in designated Reinvestment Zones in other incorporated areas of Lubbock County, and in Reinvestment Zones in the unincorporated areas of Lubbock County. It is the policy of Lubbock County 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 Lubbock County is under any obligation to provide tax abatement to any specific applicant (V.T.C.A. Tax Code, Section 312.002(d)). With the above rights reserved, all applicants for tax abatement will be considered on a case-by-case basis.

**SECTION II. Definitions:**

As used within these guidelines and criteria, the following words or phrases shall have the following meaning:

1. **Abatement of Taxes:** To exempt from ad valorem taxation all or part of the value of certain improvements placed on land located in a designated Enterprise Zone or Reinvestment Zones for commercial development purposes for a period of time not to exceed five (5) years.
2. **Affected Jurisdiction:** Lubbock County.
3. **Abatement Agreement:** A contract between a property owner and Lubbock County for the abatement of taxes on qualified property located within a designated Enterprise Zone or Reinvestment Zone as authorized by V.T.C.A., Tax Code, Sections 312.204(a) and 312.402(a).
4. **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.
5. **Commercial:** Retail, service, or office
6. **Designated Enterprise Zones:** Enterprise zones in which Lubbock County will, on a case-by-case basis, give consideration to providing commercial tax abatement, as authorized by V.T.C.A., Tax Code, Chapter 312, as stimulation for economic development.
7. **Expansion of Existing Facilities or Structures:** The addition of buildings, structures, machinery or equipment to a Facility.

8. **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.
9. **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.
10. **Improvements to Real Property or Improvements:** 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.
11. **Modernization/Renovation of Existing facilities:** The replacement or upgrading of existing facilities.
12. **New Facility:** The construction of a Facility that has not previously existed within Lubbock County on previously undeveloped real property eligible for tax abatement.
13. **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 is intended to be an employment position that exists during the life of the abatement.
14. **Owner/Lessee:** The record title owner or Lessee of Real Property or the legal owner of Tangible Personal Property. In the case of land leased from Lubbock County 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.
15. **Productive Life:** The number of years a Facility is expected to be in service.
16. **Real Property:** Land on which Improvements are to be made or fixtures placed.
17. **Tangible Personal Property:** Any Personal Property, not otherwise defined herein, and which is necessary for the proper operation of any type of Facility.

### **SECTION III. Intent of Criteria and Guidelines:**

The intent of the criteria and guidelines, as herein set forth, is to establish the minimum standards which an applicant for tax abatement must meet in order to be considered for such status by Lubbock County.

### **SECTION IV. Criteria and Guidelines for Tax Abatement:**

Any type of Facility will be eligible for tax abatement consideration provided such Facility meets the following guidelines and criteria:

1. A business must clearly add to the Lubbock County economic base. Compliance with this criterion must show that if the company is qualifying on the jobs requirement that the jobs being proposed will not simply displace other similar jobs in the community.

2. Creation of new value: Abatement may only be granted for the additional value resulting from any of the following:
  - (a) modernization/renovation of existing facilities of any type as herein defined;
  - (b) construction of a new facility of any type as herein defined;
  - (c) expansion of existing facilities of any type as herein defined.
3. New or existing facilities, of any type herein defined, located in a designated Enterprise Zone, (Designated Enterprise Zones are automatic reinvestment zones), or Reinvestment Zone or upon Real Property eligible for such status will be eligible for consideration for tax abatement status provided all other criteria or guidelines are satisfied.
4. Improvements to Real Property are eligible for tax abatement status.
5. The following types of property shall be ineligible for tax abatement status and shall be fully taxed:
  - (a) Real Property;
  - (b) inventories or supplies;
  - (c) tools;
  - (d) furnishings and other forms of movable personal property;
  - (e) vehicles;
  - (f) aircraft;
  - (g) housing;
  - (h) boats;
  - (i) property owned by the State of Texas or any state agency;
  - (j) property owned or leased by an employee or official of Lubbock County that did not have an active tax abatement in place before they became an employee or official of Lubbock County; and
  - (k) property owned at the time of execution of the Tax Abatement Agreement.
6. In order for a Facility to qualify for abatement, the following conditions must apply:
  - (a) The owner or leaseholder of real property must make eligible improvements to the real property; and,

- (b) In the case of lessees, the leaseholder must have a lease commitment of at least five (5) years.
  - (c) Property must be properly zoned for the use stated by the owner in the application.
- 7. The amount and term of abatement shall be determined on a case-by-case basis, however, in no event shall taxes be abated for a term in excess of five (5) years. The amount of the taxable value of Improvements to be abated and the term of the abatement shall be determined by Lubbock County in all cases. The authority of all other taxing units shall be as set forth in V.T.C.A., Tax Code, Sections 312.206 and 312.402.
- 8. No commercial property shall be eligible for tax abatement under these guidelines and criteria unless such property is located in a designated Enterprise Zone or in a designated Reinvestment Zone in accordance with Government Code, Chapter 2303.101, and as identified in Section II (6), and the tax abatement application is filed with the taxing jurisdiction before construction begins.
- 9. The minimum economic qualification for tax abatement shall be as follows:
  - (a) \$100,000 investment, or
  - (b) Ten (10) new permanent jobs and at least 30% of the business' new employees in the zone are residents of any zone within Lubbock County.
- 10. Any business that moves from one area of Lubbock County to another may be eligible for an abatement based on the margin of increase of the business' investment as described in the application for tax abatement.
- 11. Notwithstanding any of the requirements set forth in Subsection 9 above, the Lubbock County Commissioners' Court upon the affirmative vote of a majority of its members may vary any of the above requirements when it is demonstrated by the applicant for Tax Abatement that variation is in the best interest of Lubbock County, and will enhance the economic development of Lubbock County. By way of example only, and not by limitation, the governing body of Lubbock County may consider the following or similar terms in determining whether a variance shall be granted:
  - (a) That the increase in productivity of the Facility will be substantial and hence directly benefit the economy.
  - (b) That the increase of goods or services produced by the Facility will be substantial, and directly benefit the economy.
  - (c) That the employment maintained at the Facility will be increased.
  - (d) That the waiver of the requirement will contribute, and provide for the retention of existing jobs within Lubbock County.
  - (e) Any other evidence tending to show a direct economic benefit to Lubbock County.

12. Taxability:

- (a) The portion of the value of Improvements to be abated shall be abated in accordance with the terms and provisions of a Tax Abatement Agreement executed between Lubbock County and the owner or lessee of the Real Property and/or Tangible Personal Property, which agreement shall be in accord with the provisions of V.T.C.A., Tax Code, Sections 312.205 and 312.402.
- (b) All ineligible property, if otherwise taxable as herein described, shall be fully taxed.

13. The governing body of Lubbock County shall have total discretion as to whether tax abatement is granted. Such discretion, as herein retained, shall be exercised on a case-by-case basis. The adoption of these guidelines and criteria by the governing body of Lubbock County does not:

- (a) Limit the discretion of the governing body to decide whether to enter into a specific Tax Abatement Agreement;
- (b) Limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or,
- (c) Create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.

14. The burden to demonstrate that an application for tax abatement should be granted shall be upon the applicant. Lubbock County shall have full authority to request any additional information from the applicant that the Lubbock County Commissioners' Court deems necessary to assist it in considering such application.

**SECTION V. Tax Abatement Agreement:**

- 1. The Tax Abatement Agreement may be executed between the owner or owner's representative and the County. A Tax Abatement Agreement shall:
  - (a) Establish and set forth the Base Year assessed value of the property for which tax abatement is sought.
  - (b) Provide that the taxes paid on the Base Year assessed value shall not be abated as a result of the execution of said Tax Abatement Agreement.
  - (c) Provide that ineligible property as subscribed in Section IV, Subsection 5, hereinabove shall be fully taxed.
  - (d) Provide for the exemption of Improvements in each year covered by the Agreement, only to the extent the value of such Improvements for each such year exceeds the value for the year in which the Agreement is executed.

- (e) Fully describe and list the kind, number and location of all of the Improvements to be made in or on the Real Property.
- (f) Set forth the estimated value of all Improvements to be made in or on the Real Property.
- (g) Clearly provide that tax abatement shall be granted only to the extent:
  - (1) That Improvements began after the execution of the Tax Abatement Agreement.
  - (2) The Improvements to Real Property increase the value of the Real Property for the year in which the Tax Abatement Agreement is executed;
  - (3) That the Tangible Personal Property Improvements to Real Property were not located on the Real Property prior to the execution of the Tax Abatement Agreement; and,
  - (4) That the Tangible Personal Property was not owned prior to the execution of the Tax Abatement Agreement.
- (h) Provide for the portion of the value of the Improvements to Real Property or Improvements to be abated. This determination is to be made consistent with the provisions of Section IV, Subsection 5, of these guidelines and criteria as hereinabove set forth.
- (i) Provide for the commencement date and the termination date. In no event shall said dates exceed a period of five (5) years.
- (j) Describe the type and proposed use of the Improvements to Real Property or Improvements including:
  - (1) The type of facility.
  - (2) Whether the Improvements are for a new facility or renovation of a facility.
  - (3) The nature of the construction, proposed time table of completion, a map or drawings of the Improvements above mentioned.
  - (4) The amount of investment and the commitment for the creation of new jobs.
  - (5) A list containing the kind, number and location of all proposed Improvements.
  - (6) Any other information required by Lubbock County.
- (k) Provide a legal description of the Real Property upon which Improvements are to be made.
- (l) Provide access to and authorize inspection of the Real Property or Improvements by employees of Lubbock County, ensure Improvements are made according to the specifications and conditions of the Tax Abatement Agreement.

- (m) Provide for the limitation of the uses of the Real Property or Improvements consistent with the general purpose of encouraging development or re-development of the zone during the period covered by the Tax Abatement Agreement.
  - (n) Provide for contractual obligations in the event of default by owner, violation of the terms or conditions by owner, recapturing property tax revenue in the event the owner defaults or otherwise fails to make Improvements as provided in said Tax Abatement Agreement, and any other provision as may be required or authorized by State law.
  - (o) Contain each term agreed to by the owner of the property;
  - (p) Require the owner of the property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement;
  - (q) Provide that the governing body of the county may cancel or modify the Agreement if the property owner fails to comply with the Agreement; and
  - (r) Provide that it is the responsibility of the owner or owner's representative to notify Lubbock County within ten (10) days of any significant changes in the Real Property or Improvements, including any relocation.
2. Not later than the seventh day before Lubbock County (as required by V.T.C.A., Tax Code, Section 312.402) enters into an agreement for tax abatement under V.T.C.A., Tax Code, Sections 312.204 and 312.402, the Lubbock County Commissioners Court or a designated officer or employee thereof shall deliver to the presiding officer of the governing body of each of the taxing units in which the property to be subject to the Agreement is located, a written notice that Lubbock County intends to enter into the Agreement. The notice must include a copy of the proposed Tax Abatement Agreement.
  3. A notice, as above described in Subparagraph 2, is presumed delivered when placed in the mail, postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.
  4. Failure to deliver the notice does not affect the validity of the Agreement.

**SECTION VI. Application:**

1. Any present owner of taxable commercial property located within a designated Enterprise Zone of the City of Lubbock, in a Reinvestment Zone in other incorporated areas of Lubbock County or in a Reinvestment Zone in unincorporated areas of Lubbock County may apply for tax abatement by filing an application with the County of Lubbock.
2. The application shall consist of a completed application form accompanied by:
  - (a) A general description of the Improvements to be undertaken.
  - (b) A descriptive list of the Improvements for which tax abatement is requested.

- (c) A list of the kind, number and location of all proposed Improvements of the Real Property Facility or Existing Facility.
- (d) A map indicating the approximate location of Improvements on the Real Property Facility or Existing Facility together with the location of any or all Existing Facilities located on the Real Property or Facility.
- (e) A list of any and all Tangible Personal Property presently existing on the Real Property or located in an Existing Facility.
- (f) A legal description of property.
- (g) Address of property.
- (h) A proposed time schedule for undertaking and completing the proposed Improvements.
- (i) A general description stating whether the proposed Improvements are in connection with:
  - (1) the renovation of a facility; or,
  - (2) construction of a new facility.
  - (3) expansion of a facility; or
  - (4) any combination of the above
- (j) A statement of the additional value to the Real Property or Facility as a result of the proposed Improvements.
- (k) A statement of the assessed value of the Real Property, Facility or Existing Facility for the Base Year.
- (l) Information concerning the number of new jobs that will be created or information concerning the number of existing jobs to be retained as result of the Improvements undertaken.
- (m) A statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker.
- (n) Any other information which Lubbock County deems appropriate for evaluating the financial capacity of the applicant and compatibility of the proposed improvements with these guidelines and criteria.
- (o) Information that is provided to Lubbock County in connection with an application or request for tax abatement, and which describes the specific processes or business activity to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the Tax Abatement Agreement is executed. Information in the custody of Lubbock County

after the Agreement is executed is not confidential. (V.T.C.A., Tax Code, Section 312.003).

- (p) Lubbock County shall determine if the property described in said application is within a designated Enterprise Zone or Reinvestment Zone. If Lubbock County determines that the property described is not within a current Enterprise Zone or Reinvestment Zone, then they shall so notify the applicant and said application shall then be returned to the applicant.

#### **SECTION VII. Default Options**

1. In the event that the applicant, owner or lessee has entered into a Tax Abatement Agreement to make Improvements as defined in Section IV.2 above, but fails to undertake or complete such improvements; fails to create all or a portion of the new jobs provided by the Tax Abatement Agreement; or is in default of any of the terms or conditions contained in the Tax Abatement Agreement; then in such event Lubbock County shall give the applicant, owner or lessee sixty (60) days notice of such failure. The applicant, owner or lessee shall demonstrate to the satisfaction of Lubbock County that the applicant, owner or lessee has commenced to cure such failure within the sixty (60) days above mentioned. In the event the applicant, owner or lessee fails to demonstrate that he is taking affirmative action to cure his failure, Lubbock County shall have three options:
  - (a) Lubbock County may renegotiate the Agreement with the applicant, owner or lessee, in which case the then current Guidelines and Criteria Governing Tax Abatement for Commercial Projects in Designated Enterprise Zones or Designated Reinvestment Zones in the County of Lubbock shall apply to the new Agreement; or
  - (b) Lubbock County may determine that good cause exists to cancel the Agreement and all abatement of taxes shall terminate immediately; or
  - (c) Lubbock County may terminate the Agreement and recapture taxes abated under Section VIII. Recapture.
2. In any of the three options in subparagraph 1 above, Lubbock County shall determine whether default has occurred by the applicant, owner or lessee in the terms and conditions of the Tax Abatement Agreement and shall so notify any other jurisdictions known to Lubbock County to have entered into a Tax Abatement Agreement with the applicant, owner or lessee.

#### **SECTION VIII. Recapture**

1. In the event that any type of facility, (as defined in Section II, Subparagraphs 5, 7, 8, 9, 10) is completed and begins producing goods or services, but subsequently discontinues producing goods or services for any reason, excepting fire, explosion or other casualty or accident or natural disaster or other event beyond the reasonable control of applicant, owner or lessee for a period of 180 days during the term of a Tax Abatement Agreement, then in such event the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to Lubbock County on or before January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to Lubbock County within sixty (60) days of the

date of termination. The burden shall be upon the applicant, owner or lessee to prove to the satisfaction of Lubbock County that the discontinuance of producing goods or services was as a result of fire, explosion, or other casualty or accident or natural disaster or other event beyond the control of applicant, owner or lessee. In the event the applicant, owner or lessee meets this burden, and Lubbock County is satisfied that the discontinuance of the production of goods or services was the result of events beyond the control of the applicant, owner or lessee, then such applicant, owner or lessee shall have a period of one year in which to resume the production of goods and services. In the event that the applicant, owner or lessee fails to resume the production of goods or services within one year, then the Tax Abatement Agreement shall terminate and the Abatement of all taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to Lubbock County on or before January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to Lubbock County within sixty (60) days of the date of termination. The one year time period, hereinabove mentioned, shall commence upon written notification from Lubbock County to the applicant, owner or lessee.

2. In the event that the applicant, owner or lessee has entered into a Tax Abatement Agreement to make Improvements to a facility of any type described in Section 1 above, but fails to undertake or complete such Improvements or fails to create all or a portion of the number of new jobs required by the Tax Abatement Agreement, then in such event Lubbock County shall give the applicant, owner or lessee sixty (60) days notice of such failure. The applicant, owner or lessee shall demonstrate to the satisfaction of Lubbock County, that the applicant, owner or lessee has commenced to cure such failure within the sixty (60) days above mentioned. In the event that the applicant, owner or lessee fails to demonstrate affirmative action to cure the failure, then in such event the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to Lubbock County on or before January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to Lubbock County within sixty (60) days of the date of termination.
3. In the event that Lubbock County determines that the applicant, owner or lessee is in default of any of the terms or conditions contained in the Tax Abatement Agreement, then in such event Lubbock County shall give the applicant, owner or lessee sixty (60) days written notice to cure such default. In the event such default is not cured to the satisfaction of Lubbock County within the sixty (60) days notice period, then the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to Lubbock County on or before January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to Lubbock County within sixty (60) days of the date of termination.
4. In the event that the applicant, owner or lessee allows ad valorem taxes on property ineligible for tax abatement owed to Lubbock County, to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, then in such event the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination, under this subparagraph, takes place shall be payable to Lubbock County on or before January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to Lubbock County within sixty (60) days of the date of termination.

5. In the event that the applicant, owner or lessee who has executed a Tax Abatement Agreement with Lubbock County, relocates the business, for which tax abatement has been granted, to a location outside of the designated reinvestment zone, then in such event, the Tax Abatement Agreement shall terminate after sixty (60) days written notice by Lubbock County to the applicant, owner or lessee. Taxes abated during the calendar year in which termination, under this subparagraph takes place shall be payable to Lubbock County on or before January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to Lubbock County within sixty (60) days of the date of termination.
6. The date of termination as that term is used in this Subsection VIII shall, in every instance, be the 60th day after the day Lubbock County sends notice of default, in the mail to the address shown in the Tax Abatement Agreement to the applicant, owner or lessee. If the applicant, owner or lessee cures the default within the sixty (60) day notice period, the applicant, owner or lessee must notify Lubbock County and obtain a written release from the notice of default. Failure to follow these requirements results in the abatement remaining terminated and all abated taxes must be paid.
7. In every case of termination set forth in Subparagraphs 1, 2, 3, 4 and 5 above, Lubbock County shall determine whether default has occurred by applicant, owner or lessee in the terms and conditions of the Tax Abatement Agreement and shall so notify any other jurisdictions known to Lubbock County to have entered into a Tax Abatement Agreement with the applicant, owner or lessee.
8. In the event that a Tax Abatement Agreement is terminated for any reason whatsoever, and taxes are not paid within the time period herein specified, then in such event, the provisions of V.T.C.A., Tax Code, Section 33.01 will apply.

**SECTION IX. Miscellaneous:**

1. Any notice required to be given by these criteria or guidelines shall be given in the following manner:
  - (a) To the applicant, owner or lessee: written notice shall be sent to the address appearing on the Tax Abatement Agreement.
  - (b) To Lubbock County: written notice shall be sent to the address appearing on the Tax Abatement Agreement.
2. The Chief Appraiser of the Lubbock Central Appraisal District shall annually assess the Real and Personal Property comprising the reinvestment zone. Each year, the applicant, owner or lessee receiving tax abatement shall furnish the Chief Appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify Lubbock County.
3. Upon the completion of Improvements made to Facility as set forth in Section V.(1), Subparagraph 1 of these criteria and guidelines, a designated employee or employees of Lubbock County having executed a Tax Abatement Agreement with applicant, owner or lessee shall have access to the Facility to ensure compliance with the Tax Abatement Agreement.

4. A Tax Abatement Agreement may be assigned to a new owner, but only after written consent has been obtained from Lubbock County.
5. These guidelines and criteria are effective upon the date of their adoption by Lubbock County and shall remain in force for two years. At the end of the two-year period, these guidelines and criteria may be re-adopted, modified, amended or re-written as the conditions may warrant.
6. In the event of a conflict between these guidelines and criteria and V.T.C.A., Tax Code, Chapter 312, then in such event, the Tax Code shall prevail, and these guidelines and criteria interpreted accordingly.
7. The guidelines and criteria, once adopted by Lubbock County, may be amended or repealed by a majority vote of the members of the Lubbock County Commissioners' Court during the two-year term in which these guidelines and criteria are effective.

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
Curtis Parrish  
Lubbock County Judge

\_\_\_\_\_  
Bill McCay, Commissioner, Pct. 1

\_\_\_\_\_  
Gilbert A. Flores, Commissioner, Pct. 3

\_\_\_\_\_  
Jason Corley, Commissioner, Pct. 2

\_\_\_\_\_  
Chad Seay, Commissioner, Pct. 4

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Kelly Pinion  
Lubbock County Clerk

\_\_\_\_\_  
Lubbock County CDA-Civil Division Chief