

RESOLUTION 40-2022

**RESOLUTION OF CALDWELL COUNTY COMMISSIONERS COURT
ELECTING TO PARTICIPATE IN TAX ABATEMENT**

WHEREAS, Caldwell County seeks to grow the local economy in historically underdeveloped portions of the county;

WHEREAS, tax abatement in reinvestment zones provides a mechanism by which Caldwell County may retain or expand local employment, attract major investment, and encourage economic development of the county;

WHEREAS, on September 1, 2022, the Caldwell County Commissioners Court adopted guidelines and criteria governing tax abatement agreements pursuant to Chapter 312 of the Texas Tax Code; and

WHEREAS, in addition to adopting guidelines and criteria governing tax abatement agreements, the County must also elect to participate in tax abatement agreements pursuant to Chapter 312 of the Texas Tax Code.

NOW THEREFORE, BE IT RESOLVED THAT Caldwell County, through its Commissioners Court, elects to participate in tax abatement under Chapter 312 of the Texas Tax Code.

ORDERED this the 1st day of September, 2022.

Hoppy Haden
Caldwell County Judge

B.J. Westmoreland
Commissioner, Precinct 1

Barbara Shelton
Commissioner, Precinct 2

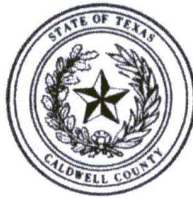
Ed Theriot
Commissioner, Precinct 3

Joe Ivan Roland
Commissioner, Precinct 4

ATTEST:

Teresa Rodriguez
Caldwell County Clerk





CALDWELL COUNTY TAX ABATEMENT AND REINVESTMENT ZONE GUIDELINES AND CRITERIA

WHEREAS, the Caldwell County Commissioners Court finds that the promotion of high-quality development in Caldwell County, Texas and ongoing improvement in the quality of life for the citizens residing within Caldwell County, Texas serves a public purpose; and

WHEREAS, the Caldwell County Commissioners Court finds that these objectives are generally served by enhancement and expansion of the local economy; and

WHEREAS, the Caldwell County Commissioners Court desires to, on a case-by-case basis, give consideration to entering into tax abatement agreements and creating reinvestment zones, as authorized by the Texas Local Government Code and Texas Tax Code, as stimulation for economic development within Caldwell County.

THEREFORE, BE IT RESOLVED that Caldwell County, through its Commissioners Court, elects to become eligible to participate in tax abatement agreements in accordance with the following guidelines and criteria herein set forth and in conformity with Chapter 312 of the Texas Tax Code.

SECTION I. INTRODUCTION

These guidelines were adopted by the Commissioners Court of Caldwell County, Texas and shall be effective September 1, 2022 through August 31, 2024.

The purpose of this document is to establish guidelines and a uniform policy of tax abatement for owners of eligible facilities willing to execute tax abatement agreements designed to provide significant long-term, positive economic impact to Caldwell County by utilizing the area's contractors and workforce to the maximum extent feasible, and by developing, redeveloping, and improving property within Caldwell County.

In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:

1. Must be reasonably expected to have an increase in positive net economic benefit to Caldwell County of at least \$1,000,000.00 over the life of the abatement, computed to include (but not limited to) new sustaining payroll and/or capital improvement. The creation of (number and type) new jobs will also factor into the decision to grant an abatement; and
2. Must not be expected to solely or primarily have the effect of transferring employment from one part of Caldwell County to another.

In addition to the criteria set forth above, the Caldwell County Commissioners Court reserves the right to negotiate a tax abatement agreement in order to compete favorably with other communities.

Only that increase in the fair market value of the property directly resultant from the development, redevelopment, and improvement specified in the agreement will be eligible for abatement, and then only to the extent that such increase exceeds any reduction in the fair market value of any other property of the Applicant located within Caldwell County.

All abatement contracts will be for a term no longer than allowed by law.

It is the goal of Caldwell County to grant tax abatements on the same or similar terms and conditions as the other taxing units having jurisdiction of the property. However, nothing herein shall limit the discretion of the Caldwell County Commissioners Court to consider, adopt, modify or decline any tax abatement request.

The adoption of these guidelines and criteria by the Caldwell County Commissioners Court does not:

1. Limit the discretion of the Caldwell County Commissioners Court to decide whether or not to enter into a specific tax abatement agreement;
2. Limit the discretion of the Caldwell County Commissioners Court 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;
3. Create any property, contract, or other legal right in any person to have the Caldwell County Commissioners Court consider or grant a specific application or request for tax abatement;

SECTION II. DEFINITIONS

1. "Abatement" means the full or partial exemption from ad valorem taxes of certain property in a reinvestment zone designated by Caldwell County for economic development purposes. For the purposes of these guidelines, "abatement" includes property tax rebate payments made under the terms of an agreement pursuant to these guidelines.
2. "Agreement" means a contractual agreement between a property owner and Caldwell County.
3. "Base year value" means the assessed value on the eligible property as of January 1 of the prior tax year.
4. "Deferred maintenance" means improvements necessary for continued operation which do not improve productivity or alter the process technology.
5. "Eligible facilities" means new, expanded, or modernized buildings and structures, including fixed machinery and equipment, which are reasonably likely as a result of granting abatement to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development of Caldwell County.

6. "Employee" means a person whose employment is both permanent and fulltime, who works a minimum of 1,820 hours per year exclusively within Caldwell County, who receives industry-standard benefits, and whose employment is reflected in the employer's quarterly report filed with the Texas Workforce Commission; but excluding any direct contract (seasonal, part-time, and full-time equivalent).
7. "Expansion" means the addition of building structures, machinery, equipment, or payroll for purposes of increasing production capacity.
8. "Facility" means property improvement completed or in process of construction which together comprise an integral whole.
9. "Improvements" means 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.
10. "Job" means 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.
11. "Modernization" means a complete or partial demolition of facilities and the complete or partial reconstruction or installation of a facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery, or equipment, or both.
12. "New facility" means property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
13. "Productive life" means the number of years a property improvement is expected to be in service in a facility.
14. "Real Property" means land on which Improvements are to be made or fixtures placed.
15. "Reinvestment Zone" means Real Property designated as a Reinvestment Zone under the provisions of section 312.202 of the Tax Code.
16. "Tangible Personal Property" means any personal property, not otherwise defined herein and which is necessary for the proper operation of any type of Facility

SECTION III. ABATEMENT AUTHORIZED

1. Eligible facilities. Upon application, eligible facilities shall be considered for tax abatement as hereinafter provided.

2. Creation of New Values. Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between Caldwell County and the property owner or Lessee, subject to such limitations as Caldwell County may require.
3. New and existing facilities. Abatement may be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between Caldwell County and the property owner or lessee, subject to such limitations as Caldwell County may require.
4. Eligible property. Abatement may be extended to the value of land, buildings, structures, fixed machinery and equipment, site improvements and related fixed improvements necessary to the operation and administration of the facility. Abatement may also be extended to new Tangible Personal Property necessary to the operation and administration of the facility.
5. Ineligible Property. The following types of property shall be fully taxable and ineligible for tax abatement: housing, deferred maintenance, property to be rented or leased, and property which has a productive life of less than ten years. Ineligible property also includes tangible personal property that was located on the real property at any time before the period covered by an agreement with the County, including inventory and supplies.
6. Economic Qualifications. In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:
 - a. Must be reasonably expected to have an increase in positive net benefit to Caldwell County of at least \$1,000,000.00 over the life of the abatement, computed to include (but not limited to) new sustaining payroll and/or capital improvement. The creation of (number and type) new jobs will also factor into the decision to grant an abatement; and
 - b. Must not be expected to solely or primarily have the effect of transferring employment from Caldwell County to another.
7. Standards for Tax Abatement. The following factors, among others, shall be considered in determining whether to grant tax abatement:
 - a. Value of existing improvements, if any;
 - b. Type and value of eligible property for which abatement is sought;
 - c. Type and value of proposed improvements;
 - d. Productive life of proposed improvements;
 - e. Number of existing jobs to be retained by proposed improvements;
 - f. Number and type of new jobs to be created by proposed improvements;
 - g. Amount of local payroll to be created;
 - h. Whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdiction;
 - i. Amount which property tax base valuation will be increased during term of abatement and after abatement, which shall include a definitive commitment that such valuation shall not, in any case, be less than \$1,000,000.00;
 - j. The costs to be incurred by Caldwell County to provide facilities directly resulting from the new improvements;

- k. The amount of ad valorem taxes to be paid to Caldwell County during the abatement period considering:
 - i. the existing values;
 - ii. the percentage of new value abated;
 - iii. the abatement period; and
 - iv. the value after expiration of the abatement period;
- l. The population growth of Caldwell County that occurs directly as a result of new improvements;
- m. The types and values of public improvements, if any, to be made by the applicant seeking abatement;
- n. Whether the proposed improvements compete with existing businesses to the detriment of the local economy;
- o. The impact on the business opportunities of existing businesses;
- p. The attraction of other new businesses to the area;
- q. The overall compatibility with the zoning ordinances and comprehensive plan for the area;
- r. The environmental impact of the proposed improvements; and
- s. Whether the project obtains all necessary permits from the applicable environmental agencies.

Each eligible facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

- 8. Denial of Abatement. Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:
 - a. There would be substantial adverse effect on the provision of government services or the tax base;
 - b. The applicant has insufficient financial capacity;
 - c. Planned or potential use of the property would constitute a hazard to public health, safety or morals;
 - d. Violation of other codes or laws; or
 - e. Any other reason deemed appropriate by Caldwell County.
- 9. Taxability. From the execution of the abatement to the end of the agreement period, taxes shall be payable as follows:
 - a. The value of ineligible property as provided in Subsection III.5. above shall be fully taxable; and
 - b. The base year value of existing unabated eligible property as determined each year shall be fully taxable.

The additional value of new eligible property shall be fully taxable at the end of the abatement period.

SECTION IV. APPLICATION

- 1. Any present or potential owner of taxable property in Caldwell County may request the creation of a reinvestment zone or tax abatement agreement by contacting the Caldwell County commissioner for the precinct that contains the land where the property is located. A Caldwell County commissioner, on their own initiative, may also request the creation of a reinvestment zone containing land within their precinct, subject to the remaining applicable procedures within this Section.

2. As part of their request for a reinvestment zone or tax abatement agreement, an owner of taxable property will provide to their Caldwell County commissioner an application containing the following information, as applicable:
 - a. A general description of the new improvements to be undertaken;
 - b. A descriptive list of the improvements for which an abatement is requested;
 - c. A list of the kind, number and location of all proposed improvements of the property;
 - d. A map and property description;
 - e. A time schedule for undertaking and completing the proposed improvements;
 - f. In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, for the tax year immediately preceding the application; and
 - g. Any financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the applicant.

In the event an application is deficient, the receiving Caldwell County commissioner will communicate the deficiencies to the owner for correction and resubmittal of the application.

3. Caldwell County may require a non-refundable \$1,000 application fee for administrative costs associated with the processing of the tax abatement request, and may require the payment of reasonable consulting fees for expenses incurred by Caldwell County in the examination of the application as well as the preparation and negotiation of any tax abatement agreement.
4. Upon receipt of all required information, Caldwell County shall provide written notice of the application and request to the presiding officer of the governing body of each taxing unit in which the property to be subject of the proposed reinvestment zone or tax abatement agreement is located.
5. After receipt of all required information, the Caldwell County Commissioners Court, after consultation with staff and other county departments as deemed appropriate, will determine whether the application qualifies for designation as a reinvestment zone or for a tax abatement agreement under the terms of these guidelines and criteria. Approval must take place at a meeting of the Caldwell County Commissioners Court held in compliance with the Texas Open Meetings Act at which interested persons are entitled to speak and present evidence for or against the application.
6. Caldwell County will 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 Caldwell County.

SECTION IV. AGREEMENT

If a request for a tax abatement agreement is approved, the Caldwell County Commissioners Court will formally approve and execute an agreement with the owner of the facility which shall:

1. Include a list of the kind, number, location of all proposed improvements to the property;

2. Provide access to and authorize inspection of the property by the taxing unit to ensure compliance with the agreement;
3. Limit 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;
4. Provide for recapturing property tax revenues that are lost if the owner fails to make improvements as provided by the agreement;
5. Include each term that was agreed upon with the property owner and require the owner to annually certify compliance with the terms of the agreement to each taxing unit;
6. Allow the taxing unit to cancel or modify the agreement at any time if the property owner fails to comply with the terms of the agreement;
7. Provide remedies for noncompliance and default; and
8. Include any other provision deemed necessary or in the public interest by the Caldwell County Commissioners Court.

SECTION VI. ADMINISTRATION

1. The entity or individual entering the agreement shall furnish to the Chief Appraiser of the Caldwell County Appraisal District such information as the Appraiser deems necessary to determine an assessment of the real and personal property comprising the property at issue.
2. Caldwell County may execute a contract with any other jurisdiction to inspect the facility to determine if the terms and conditions of the abatement agreement are being met. Furthermore, designated representatives of Caldwell County will have access to the reinvestment zone during the term of the agreement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.
3. Upon completion of construction, the designated representative of Caldwell County shall annually evaluate each facility receiving abatement to insure compliance with the agreement. A formal report shall be made to the Caldwell County Commissioners Court.

SECTION VII. ASSIGNMENT

Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the Caldwell County Commissioners Court subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement with

Caldwell County. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

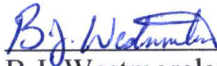
SECTION VIII. SUNSET PROVISION

Pursuant to state law, these guidelines and criteria are effective upon the date of their adoption and will remain in force for two years unless amended by the Caldwell County Commissioners Court, at which time all agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on the review, the guidelines and criteria will be modified, renewed, or eliminated.

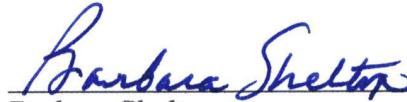
ADOPTED on this the 1st day of September, 2022.



Hoppy Haden
Caldwell County Judge



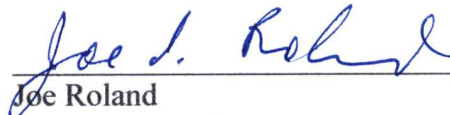
B.J. Westmoreland
Commissioner Pct. 1



Barbara Shelton
Commissioner Pct. 2

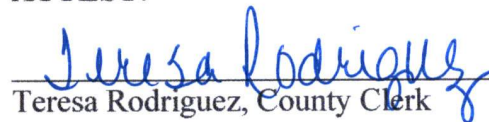


Ed Theriot
Commissioner Pct. 3



Joe Roland
Commissioner Pct. 4

ATTEST:



Teresa Rodriguez, County Clerk

