



**STATE OF TEXAS  
COUNTY OF RAINS  
COMMISSIONERS COURT  
Resolution #9-2023**

**RESOLUTION OF THE COURT**

**A RESOLUTION OF THE COMMISSIONERS COURT OF RAINS COUNTY, TEXAS ELECTING TO PARTICIPATE IN TAX ABATEMENT AGREEMENTS, AND AMENDING GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENT FOR ECONOMIC DEVELOPMENT PROSPECTS IN THE COUNTY OF RAINS.**

**RESOLUTION WHEREAS**, § 312.002, Texas Tax Code, requires a taxing unit to adopt a resolution establishing guidelines and criteria governing tax abatement agreements and stating that the taxing unit elects to become eligible to participate in tax abatement; and

**WHEREAS**, the Commissioners Court of Rains County has previously expressed its intent to consider tax abatements and adopted Tax Abatement Guidelines and Criteria; and

**WHEREAS**, pursuant to § 312.002, the Tax Abatement Guidelines and Criteria are effective for two years unless amended or repealed by a three-quarters vote of the Commissioners Court; and

**WHEREAS**, the Rains County Commissioners Court desires to adopt amended Tax Abatement Guidelines and Criteria; and,

**WHEREAS**, the Rains County Commissioners Court elects to continue to be eligible to participate in tax abatement.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF RAINS COUNTY, TEXAS:**

PART 1: The County of Rains elects to participate in tax abatement agreements pursuant to Chapter 312 of the Texas Tax Code, that the previous guidelines and criteria for granting tax abatements are hereby amended, and that the amended Guidelines and Criteria attached as Exhibit "A" to this resolution for granting tax abatements in designated Tax Abatement Reinvestment Zones are hereby adopted.

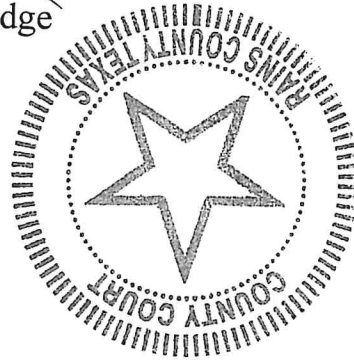
PART 2: That this resolution shall be effective immediately from and after its passage.

**APPROVED AND ADOPTED** by the Rains County Commissioners Court on this the 24th day of August, 2023.

  
Linda Wallace, Rains County Judge

Attest:

  
Mandy Sawyer, County Clerk



**GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS IN  
REINVESTMENT ZONES  
RAINS COUNTY, TEXAS**

**I. PURPOSE**

Rains County, hereinafter referred to as "County" is committed to the promotion of quality development in all parts of the County and to improving the quality of life for its citizens. In order to help meet these goals, the County will consider recommending tax incentives, which may include the designation of reinvestment zones, accepting applications for tax abatement, and entering into tax abatement agreements to stimulate growth and development.

It is the intent of the County that such incentives will be provided in accordance with the procedures and criteria in this document and in Chapter 312 of the Texas Tax Code. However, nothing in these Guidelines and Criteria shall imply or suggest to be construed to imply or suggest that tax entities are under any obligation to provide any incentives to any applicant. All such applicants for tax incentives shall be considered on an individual basis for both the qualification for tax abatement and the amount of any tax abatement. The adoption of these Guidelines and Criteria shall not 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.

Only that increase in the fair market value of the property directly resultant from the development, redevelopment, and improvement specified in the contract will be eligible for abatement. All abatement contracts will be for a term no longer than allowed by law. Additionally, the Rains County Commissioners Court reserves the right to negotiate a tax abatement agreement in order to compete favorably with other communities.

**II. DEFINITIONS**

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

**III. GUIDELINES AND CRITERIA**

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

- (a) Be an authorized Facility. A Facility may be eligible for abatement if it is a(n):

Aquaculture/Agriculture Facility  
Distribution Center Facility  
Manufacturing Facility  
Office Building  
Regional Entertainment/Tourism Facility

- (b) Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subsequent to the filing of an application for tax abatement and specified in the abatement agreement between the County and the owner or lessee (and lessor if required pursuant to IV(f)) of the facility or improvements receiving the abatement, all subject to such limitations as the Guidelines and Criteria may require.
- (c) New and Existing Facilities. Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion. If the modernization project includes facility replacement, the abated value shall be the value of the new unit(s) less the value of the old unit(s).
- (d) Eligible Property. Abatement may be extended to the value of the following: new, expanded, replaced or modernized buildings and structures; fixed machinery and equipment; site improvements; office space and related fixed improvements necessary to the operation and administration of the facility; and all other real and tangible personal property as permitted by Chapter 312 of the Texas Tax Code.
- (e) Ineligible Property. The following types of property shall be fully taxable and ineligible for abatement:
  - i. Land
  - ii. Animals
  - iii. Inventories
  - iv. Supplies
  - v. Tools
  - vi. Furnishings and other forms of movable personal property other than machinery and equipment that are in essential part of the facility or improvements receiving abatement
  - vii. Vehicles
  - viii. Vessels
  - ix. Aircraft
  - x. Housing or residential property
  - xi. Fauna
  - xii. Flora
  - xiii. Deferred Maintenance investments
  - xiv. Property to be rented or leased (except as provided in Part IV(f),
  - xv. Any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility, and
  - xvi. Property owned or used by the State of Texas or its political subdivision or by any organization owned, operated or directed by a political subdivision of the State of Texas.
- (f) Owned/Leased Facilities. If a leased facility or leased improvements are granted an abatement, the agreement shall be executed with the lessor and lessee of the facility or

(c) The proposed number of employees to be employed at the abatement facility as stated in the abatement application for the property that is the subject of the tax abatement agreement (including the projected creation or retention of employment) must be maintained for the duration of the abatement period at the abated facility site. For purposes of this subsection, in order for a planned improvement to be considered as preventing the loss of employment or retaining employment, the abated facility/project must be necessary in order to retain or keep employment at levels as indicated in the application and in order to retain the proposed number of employees at the abated facility as indicated in the application. The owner/Applicant seeking to qualify on the basis of retention or preventing loss of employment must provide a detailed statement as an attachment to its application affirmatively representing compliance with this sub-subsection and explaining the necessity of this project to prevent loss of employment. Any variance from the requirements of this sub-section is subject to approval of Commissioners Court in accordance with the variance section of these Guidelines & Criteria.

(d) Full-time employee creation requirements for Renewable Energy and/or Energy Storage Facilities shall be determined on a case by case basis by the Commissioners Court.

- (2) Must be not expected to solely or primarily have the effect of transferring employment from one part of the county to another part of the county. A variance may be requested relative to this provision which approval shall be at the sole discretion of the County.
- (3) Must be necessary because capacity cannot be provided efficiently utilizing existing improved property.

Additionally, the owner of the project:

- (4) Will be wholly responsible for all County roads and right-of-way (including bridges, culverts, ditches, etc.) and damage caused thereto as a result of the construction of or of an on-going maintenance and operations of the Abated Facility Site as well as associated facilities to the Abated Facility Site, including but not limited to, the following:
  - a. Cost to maintain the roads, if needed, utilized for construction of the Abated Facility Site in an effort to keep the road safe for the traveling public will be tracked by Rains County and invoiced on a regular basis to the Abatee.
  - b. Cost to reconstruct the roadway, if needed, will be actual costs to repair the County roads and right-of-way incurred by the County and invoiced to the Abatee. These costs will include all construction costs as well as all related professional services for the repair work.
  - c. Cost associated with the issuance of a County driveway permit, which shall be required in the event the project is accessed directly by a County Road. Owner agrees to promptly submit a completed County driveway permit application

- (e) A request for reinvestment zone for the purpose of abatement shall not be granted by the County if the County finds that the request for the abatement was filed after the commencement of construction, alteration, or installation of taxable improvements related to a proposed modernization expansion or new facility. Before the Rains County Commissioners Court holds a public hearing to designate a reinvestment zone it shall do the following:
  - (1) Not later than the seventh day before the date of the hearing, publish notice of the hearing in a newspaper having general circulation in the County; and
  - (2) Not later than the seventh day before the date of the hearing, deliver written notice of the hearing to the presiding officer of the governing body of each taxing unit that includes in its boundaries any real property that is to be included in the proposed reinvestment zone.
- (f) Requested Variances. Requests for variance from any provision of these Guidelines and Criteria may be made in written form to the Rains county Commissioners' Court. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) vote of the Rains County Commissioners Court.
- (g) Deemed Variances. The Rains County Commissioners' Court may approve a tax abatement agreement that varies from any requirement in these Guidelines and Criteria so long as such variance is permitted by Chapter 312 of the Texas Tax Code. Any aspect of a tax abatement agreement duly authorized and approved by the Rains County Commissioners' Court that varies in any respect from any requirement in these Guidelines and Criteria shall be deemed to have been granted a variance from the Guidelines and Criteria by the Court. It is the express intention of the Rains County Commissioners Court that no tax abatement agreement that has been duly authorized and approved by the Court shall be challenged or held to be invalid because such authorized and approved tax abatement agreement varies from any requirement contained in these Guidelines and Criteria.

## **VI. PUBLIC HEARING**

- (a) Should any Affected Jurisdiction be able to show cause in the public hearing why the granting of abatement by the County will have a substantial adverse effect on its bonds, tax revenue, service incapacity or the provision of service, that showing shall be considered by the Rains County Commissioners' Court when deciding to approve or disapprove of the application for tax abatement.
- (b) Neither a reinvestment zone nor an abatement shall be authorized if it is determined that:
  - (1) There would be a substantial adverse effect on the provision of a government service or the tax base of an Affected Jurisdiction;
  - (2) The applicant has insufficient financial capacity to construct and operate the proposed facility or improvements;

## **VIII. RECAPTURE**

- (a) In the event that the facility or improvements are completed and begin operating but subsequently discontinue operating for any reason excepting a force majeure event (as such event may be more specifically defined in the tax abatement) for a period of more than one (1) year during the abatement period, then the abatement agreement shall terminate along with the abatement of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to the County within sixty (60) days from the date of termination. The County is permitted to enter into a tax abatement agreement that varies from the provisions of this paragraph without being deemed to be in violation of the Guidelines and Criteria so long as the agreement provides for the recapture of property taxes in the event that the approved facility or improvements discontinue operations during the period of tax abatement.
- (b) If the County determines that a party to a tax abatement agreement is in default according to the terms and conditions of its agreement, the County shall notify the party in writing at the address stated in the agreement, and if such is not cured within (60) days from the date of such notice, then the agreement shall be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination. Further, it will be a default under a tax abatement granted pursuant to these Guidelines and Criteria if the owner of the eligible property subject to the abatement is delinquent in paying any undisputed taxes to any taxing authority in Rains County, Texas. The County is permitted to enter into a tax abatement agreement that varies from the provision of this paragraph without being deemed to be in violation of these Guidelines and Criteria so long as the agreement provides for the recapture of property tax in the event that the applicant named in the tax abatement agreement defaults in its obligations under the agreement.

## **IX. ADMINISTRATION**

- (a) The Chief Appraiser of the Rains County Appraisal District shall annually determine an assessment of any real and/or personal property that is the subject of a tax abatement agreement. Each party to a tax abatement agree shall be required to furnish the assessor with such information as may be necessary to determine an assessment. Once a value has been established, the Chief Appraiser shall notify the Affected Jurisdictions of the appraised value.
- (b) The abatement agreement shall stipulate that employees and/or designated representatives of the County will have access to the facility or improvements that are the subject of the agreement during the term of the abatement to inspect the facility or improvements to determine if the terms and conditions of the agreement are being met. The terms, guidelines, and requirements concerning inspections shall be set forth in the abatement agreement.

- (b) These Guidelines and Criteria do not amend any existing Industrial District Contracts or agreements with the owners of real property in areas deserving of specific attention as agreed by the Affected Jurisdiction.

## **XII. SEVERABILITY AND LIMITATIONS**

- (a) In the event that any section, clause, sentence, paragraph or any part of these Guidelines and Criteria shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of these Guidelines and Criteria.
- (b) Property that is located in a reinvestment zone and that is owned or leased by a person who is a member of the Commissioners Court may not be subject to a tax abatement agreement entered into with the County.
- (c) If these Guidelines and Criteria have omitted any mandatory requirements of the applicable tax abatement laws of the State of Texas, then such requirements are hereby incorporated as a part of these Guidelines and Criteria.

## **XIII. TAX ABATEMENT DETERMINATION**

- (a) Nothing herein shall imply or suggest Rains County is under any obligation or duty to provide tax abatement to any applicant, and reserves the right to make exceptions, approve, and deny based on concerns including, however not limited to environmental and quality of life issues and/or compatibility with the economic goals and objectives of Rains County.

### **GLOSSARY:**

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real or tangible personal property in a reinvestment zone designated by the County or a municipality for economic development purposes.
- (b) "Aquaculture/Agriculture Facility" means building, structures and major earth structure improvements, including fixed machinery and equipment, the primary purposes of which is of food and/or fiber products in commercially marketable quantities.
- (c) "Affected Jurisdiction" means Rains County and any municipality, or school district, the majority of which is located in Rains County that levies ad valorem taxes upon and/or provides services to property located within the proposed or existing reinvestment zone designated by Rains County or any municipality.
- (d) "Agreement" means a contractual agreement between a property owner and/or lessee and the County for the purpose of tax abatement.



- (p) "Regional Entertainment/Tourism Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment and/or tourism related services, from which a majority of revenues generated by activity at the facility are derived from outside Rains County.
- (q) "Research Facility" means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production process thereto.
- (r) "Regional Service Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide a service from which a majority of revenues generated by activity at the facility are derived from outside Rains County.
- (s) "Renewable Energy Facility" means buildings and structures, including but not limited to electricity generating equipment (such as wind turbines or photovoltaic solar panels), electric transmission lines, electric power substations, electrical gathering equipment, communications systems and roads, fixed machinery and equipment, used or to be used to provide electrical energy, and which meet the definition of "Renewable Energy Electric Generation" in Chapter 313 of the Texas Tax Code.