

**COOKE COUNTY COMMISSIONERS' COURT RESOLUTION SETTING
GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN
REINVESTMENT ZONES CREATED IN THE JURISDICTION OF
COOKE COUNTY, TEXAS.**

WHEREAS, the creation and retention of job opportunities that bring new wealth is one of the highest civic priorities; and,

WHEREAS, new jobs and investments will benefit the area economy, provide needed opportunities, strengthen the real estate market, and generate tax revenue to support local services; and,

WHEREAS, COOKE County must compete with other localities across the nation currently offering tax inducements to attract new and modernization projects; and,

WHEREAS, any tax incentives offered in COOKE County would reduce needed tax revenue unless these tax incentives are strictly limited in application to those new and existing industries that bring new wealth to the community; and,

WHEREAS, the abatement of property taxes, when offered to attract primary jobs in industries that bring in money from outside a community instead of merely recirculation 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 the granting of any future tax abatement, which guidelines and criteria are to remain unchanged for a two-year period unless amended by a three fourths ($\frac{3}{4}$) majority vote of the governing body, as provided by said state law; and,

WHEREAS, these guidelines and criteria shall not be constructed as implying or suggesting that the County of COOKE, or any other taxing jurisdiction, is under any obligation to provide tax abatement or other incentives to any applicant, and all applicants shall be considered on a case-by-case basis; and,

WHEREAS, these guidelines and criteria are approved for circulation to all affected taxing jurisdiction for consideration as a common policy for all jurisdictions that choose to participate in tax abatement agreements;

NOW THEREFORE BE IT RESOLVED THAT, said guidelines and criteria are as follows:

Sec. 1. Definitions

(a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real property, and certain personal property, in a reinvestment zone designated by the County of COOKE for economic development purposes.

(b) "Affected jurisdiction" means the County of COOKE, and any other taxing jurisdiction with any substantial parts of its area located in COOKE County; and that levies ad valorem taxes and provides services to property located in said County; and that chooses to participate in tax abatement agreements by, or pursuant to, these guidelines.

- (c) "Agreement" means a contractual agreement between a property owner or lessee, or both, and an affected jurisdiction for the purposes of tax abatement.
- (d) "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. No portion of the value can be retroactive beyond the year of the agreement
- (e) "Deferred maintenance" means improvements necessary for continued operations that do not improve productivity or alter the process technology.
- (f) "Distribution Center Facility" means permanent buildings 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.
- (g) "Expansion" means the addition of permanent building and structures, fixed machinery and equipment for purposes of increasing production capacity.
- (h) "Facility" means property improvements completed or in the process of construction that together comprise an integral whole.
- (i) "Manufacturing Facility" means permanent buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (j) "Modernization" means a complete or partial demolition or replacement of facilities or equipment 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 permanent buildings and structures, alteration, or installation of permanent buildings and structures, fixed machinery and equipment. Modernization shall include improvements for the purposes of increasing productivity or updating the technology of machinery or equipment or both.
- (k) "New Facility" means a property previously undeveloped that is placed into service by means other than by, or in conjunction with, expansion or modernization.
- (l) "Other basic industry" means permanent buildings and structures, including fixed machinery and equipment not elsewhere described, used or to be used, for the production of products or services that primarily serve a market that result in the creation of new permanent jobs, and that bring in new wealth.
- (m) "Productive life" means the number of years a property improvement is expected to be in service in a facility.
- (n) "Regional entertainment facility" means permanent buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment through the admission of the general public.

(o) "Research facility" means permanent buildings and structures, including fixed machinery and equipment, used or to be used primarily for the research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

(p) "Regional service facility" means permanent buildings and structures, including fixed machinery and equipment, used or to be used, to service goods.

(q) "Renewable Energy Resource" means a resource which produces energy derived from renewable energy technologies, as defined in PUC Substantive Rule 25.5.

Sec. 2. Criteria for Abatement and Designating a Reinvestment Zone.

(a) Authorized facility. A facility may be eligible for abatement if it is a manufacturing facility, research facility, distribution center or regional service facility, regional entertainment facility, renewable energy resource, or other basic industry.

(b) Creation of new value. Abatement may be granted only for the additional value of eligible property improvements made subsequent to, and specified in, an abatement agreement between COOKE County and the property owner or lessee, subject to such limitation as COOKE County may require.

(c) New and existing facilities. Abatement may be for new facilities and improvements to existing facilities purposes of modernization or expansion.

(d) Eligible property. Abatement may be extended to the value of permanent buildings, other fixed capital assets and structures, fixed machinery and equipment, and certain other personal property, site improvements, and office space and related fixed improvements necessary to the operation and administration of the facility.

(e) Ineligible property. The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; hotel accommodations; deferred maintenance investments; property to be rented or leased, except as provided in Section 2 (f); any improvements, including those to produce, store or distribute natural gas, fluids or gases that are not integral to the operation of the facility.

(f) Value and term of abatement. A tax abatement agreement granted by COOKE County shall be up to but not exceeding ten (10) years in duration and up to but not exceeding 100% of the ad valorem property taxes assessed.

(g) Economic qualification. In order to be eligible to receive tax abatement the planned improvement:

(1) must be reasonably expected to increase the value of the property in the amount of at least \$1,000,000 for new businesses and \$500,000 for existing businesses;

(2) must be expected to prevent the loss of employment, retain employment, or create employment on a permanent basis.

(3) must not be expected to solely or primarily have the effect of transferring employment from one

part of the County of COOKE to another; and,

(h) Existing business. Recognizing the importance of cosmetic improvements to the community of those existing businesses that modernize or expand over and above normal repair and upkeep, they may be granted a two-year tax abatement of the amount of value the facility is increased. (If a business has a building appraised at \$500,000.00 and modernization or expansion changes the appraised value to \$1,000,000.00, \$500,000.00 of the new value could be abated for two years beginning January 1 after the year completed.)

(i) Taxability. From the execution of the abatement agreement to the end of the agreement period taxes shall be assessed as follows:

(1) the value of ineligible property as provided in Section 2 (e) shall be fully taxable; and,

(2) the base year value of existing eligible property as determined each year shall be fully taxable; and,

(3) The additional value of new eligible property shall be taxable in the manner described in Section 2.

Sec. 3. Application and Hearing

(a) Any present or potential owner of taxable property or project in development in the jurisdiction of the Taxing Entities of the County of COOKE, Texas may request tax abatement by filing a written request with the COOKE County Commissioners Court.

(b) The application shall consist of a completed application form accompanied by: a nonrefundable application fee of \$1,000, a general description of the proposed use and the general nature and extent of the modernization, expansion, or new improvements to be undertaken; a descriptive list of the improvements that will be a part of the facility; a map and property description; and a time schedule for undertaking and completing the planned improvements.

In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be give for the tax year immediately preceding the application. The application form may require any financial and other information that may be appropriate for evaluating the financial capacity of the applicant and any other factors.

(c) After receipt or notice of intent to present of an application, the Commissioners Court shall determine within forty-five (45) days how to proceed with the application. Within this time frame, the Commissioners Court shall choose either to deny the application, consider the application, or consider the application on an expedited basis.

(d) Consideration of Application. If the County determines that the application should be further considered, then the County Judge shall schedule a hearing or accept written comments to obtain public input on the application. At least seven (7) days prior to the hearing, the County must send written notice to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought and must publish notice of the hearing time, place and subject in the local newspaper. At the hearing or by the written comments of the commissioners, the commissioners Court evaluates the application against the criteria in Section 2 and decides whether to designate the property for which an abatement is sought as a

reinvestment zone. If the reinvestment zone is not designated, the application fails, although it may be amended and resubmitted. If the reinvestment zone is designated, the Commissioners Court shall pass an order to that effect and may then arrange to consider for approval the tax abatement agreement between the applicant and the County at its next regularly scheduled meeting. At least seven (7) days prior to entering into a tax abatement agreement, the County must give written notice of its intent to do so to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought, along with a copy of the proposed tax abatement agreement. At the regularly scheduled meeting, the Commissioners Court may finally vote by simple majority to enter into the tax abatement agreement or to decline. An approved tax abatement agreement may be executed in the same manner as other contracts made by the County.

(e) **Expedited Consideration of Application.** If the County determines that the application should receive expedited consideration, then the County Judge shall schedule an opportunity to obtain public input on the application at the Commissioners Court's next meeting. At least seven (7) days prior to the meeting, the County must send written notice to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought and must publish notice of the hearing time, place and subject in the local newspaper. Also at this time, the County must give written notice of its intent to enter into a tax abatement agreement to the presiding officers of all taxing units with jurisdiction over the property for which the abatement is sought, along with a copy of the proposed tax abatement agreement. During the Commissioners Court meeting, the Commissioners Court shall evaluate the application against the criteria in Sections 2 and shall decide whether to designate the property for which the abatement is sought as a reinvestment zone. If the reinvestment zone is designated, the Commissioners Court shall pass an order to that effect and may then immediately consider for approval the tax abatement agreement between the applicant and the County. After consideration, the Commissioners Court may finally vote by simple majority to enter into the tax abatement agreement, or the decline. An approved tax abatement agreement may be executed in the same manner as other contracts made by the County.

(f) **Confidentiality.** As required by Section 312.003 of the Texas Tax Code, information that is provided to the County in connection with an application or a request for a tax abatement under this chapter that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which the abatement is sought is confidential and not subject to public disclosure until the tax abatement is executed.

(g) **Tax abatement may not be approved if the County finds that the application was filed after the commencement, which is completion of 10% or more of the total taxable value of the project, including but not limited to the construction, alteration, or installation of improvements related to a proposed modernization, expansion, or new facility.**

(h) **Request for variance from the provisions of Section 2 may be made in written form to the Commissioners Court of COOKE County. Such request shall include all the items listed in Section 3 (b) above, together with a complete description of the circumstances that prompt the applicant to request variance. The approval process for a variance shall be identical to that for a standard application and may be supplemented by such additional requirements as may be deemed necessary by the County.**

Sec. 4. Standards for denying Approval of Abatement.

(a) **If any affected jurisdiction is able to conclusively show cause in the public hearing why the granting of the abatement will have a substantial adverse effect on its bonds, tax revenue, service**

capacity, or the providing of services, COOKE County shall deny the approval of abatement.

- (b) An abatement agreement may not be granted if it is determined that:
 - (1) there would be substantial adverse effect on the providing of government services or tax bases;
 - (2) the applicant has insufficient financial capacity;
 - (3) planned or potential use of the property would constitute a hazard to public safety, health, or morals; or,
 - (4) codes or laws would be violated.
 - (5) The application is presented after the commencement of the project as described in 3 (g) above.
- (c) If it does not receive a majority vote from eligible voting members present at Commissioners Court.

Sec. 5. Effect of Approval of Application

COOKE County Commissioners Court acts only for the taxing entity of COOKE County and for no other taxing entity within COOKE County. The County's approval or disapproval of an application has no effect on any other taxing entity within the jurisdiction or their right to approve or disapprove an application. Only the governing bodies of the effected jurisdictions may grant tax abatements, and enter into tax abatement agreements with applicants.

Sec. 6. Tax Abatement Agreements

The COOKE County Commissioners Court after approval of an application shall enter into an agreement with the applicant. Such agreements shall be executed with the owner of the facility, and with the lessee when required. Such agreements shall include:

- (1) the estimated value to be abated and the base year value;
- (2) the percentage of value to be abated each year as provided in Sec. 2;
- (3) the commencement date and the termination date of abatement;
- (4) the proposed use of the facility, nature of construction, time schedule, map, property description, and improvements list as provided in application, Section 3 (b);
- (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes recapture, administration, and assignment as provided in Sections 2, 7, 8, and 9.
- (6) size of investment and average number of jobs involved. Such agreement shall normally be executed within 30 days after the applicant has forwarded all necessary information and

documentation to the County; and

(7) the agreement shall stipulate that employees, or designated representatives, or both, of COOKE County will have access to the reinvestment zone during the terms of the abatement 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 24 hours prior notice and will be conducted in such a manner that they will not unreasonably interfere with the construction or operation or both of the facility. All inspections will be made in the presence of one or more representatives of the company or individual and in accordance with the safety standards of the company or individual.

Sec. 7 Recapture

(a) If the facility is completed and begins producing products or services, but subsequently discontinues producing products or services for any reason excepting fire, explosion, or other casualty or accident or natural disaster, for a period of one year during the abatement period, then the agreement shall terminate and so shall the abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year shall be paid to the affected jurisdiction within 60 days from the date of termination.

(b) If the COOKE County Commissioners Court determines that the company or individual is in default according to the terms and conditions of its agreement, the Commissioners Court shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within 60 days from the date of such notice ("cure period"), then the agreement may be terminated.

(c) If the company or individual (1) allows its ad valorem taxes owed to the County of COOKE, or any other taxing entity in COOKE County, to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest or both; or (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the cure-period, the agreement may then be terminated, and all taxes previously abated by virtue of the agreement will be recaptured and paid within 60 days of the termination.

Sec. 8. Administration

(a) The Chief Appraiser of the COOKE County Appraisal District shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, any company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the chief appraiser shall notify the affected jurisdictions that levy taxes of the amount of the assessment.

(b) Upon completion of construction, a designated representative of COOKE County shall annually value each facility receiving abatement to insure compliance with the agreement and shall make a report to the Commissioners Court regarding the findings of each evaluation.

Sec. 9. Assignment

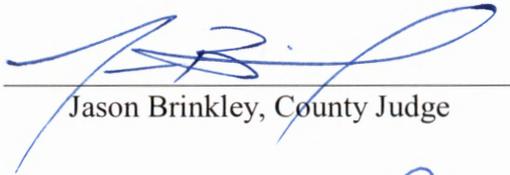
Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the affected jurisdiction, subject to the financial capacity

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

Sec. 10. Sunset Provision

The guidelines and criteria are effective upon the date of their adoption and will remain in force for two years unless amended by a three-quarters vote of the COOKE County Commissioners Court, at which time the tax abatement contracts created according to these provisions will be reviewed to determine whether or not the goals have been achieved. Based on that review, the guidelines and criteria may be further modified, renewed or eliminated.

Moved, Seconded, and Passed, This the 25 day of March 2019.



Jason Brinkley, County Judge



Gary Hollowell, Commissioner Precinct 1



Jason Snuggs, Commissioner Precinct 2

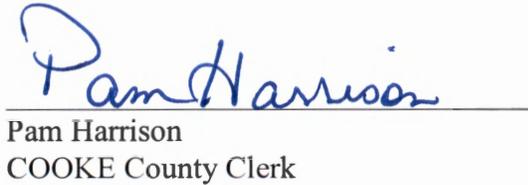
Not Present

John Klement, Commissioner Precinct 3



Leon Klement, Commissioner Precinct 4

ATTEST:



Pam Harrison
COOKE County Clerk