

Waller County

Tax Abatement Application Check List

After completing the application, please be prepared to attend commissioners' court for hearing if requested.

1. Ensure that no construction or improvements have been made to the property prior to applying for abatements.	<input type="checkbox"/>
2. Read the Tax Abatement Policy Guidelines & Criteria to ensure that your project qualifies.	<input type="checkbox"/>
3. Completed economic impact analysis.	<input type="checkbox"/>
4. If the economic analysis returned positive results, proceed with application for tax abatements. Although not always requested for established public companies, for privately owned and new companies, be prepared and gather company and financial information. <input type="checkbox"/> Documentation showing when company was established (corporate charter or DBA) <input type="checkbox"/> Business references (name, contact and telephone number of principal bank, accountant and attorney) <input type="checkbox"/> May be required to submit an audited financial statement and business plan (usually required for new companies, but could be required of any applicant)	<input type="checkbox"/>
5. Complete application and include any necessary supporting documentation.	<input type="checkbox"/>
6. Complete the certification of value of proposed site from the Waller County Appraisal District (included with application)	<input type="checkbox"/>
7. Submit application for preliminary review.	<input type="checkbox"/>
8. Make any adjustment resulting from the preliminary review.	<input type="checkbox"/>
9. Submit the final application with your filing fee of 300.00.	<input type="checkbox"/>

**TAX ABATEMENT POLICY
GUIDELINES & CRITERIA
FOR WALLER COUNTY**

Whereas, the creation and retention of job opportunities that bring new wealth into Waller County is a high priority; 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, the communities within Waller County must compete with other localities across the nation currently offering tax inducements to attract new plant and modernization projects; and

Whereas, any tax incentives offered in Waller County would be 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 which bring in revenue from outside a community instead of merely recirculating dollars within a community, has been shown to be an effective method of enhancing and diversifying an area's economy; and

Whereas, effective September 1, 1987, Texas law, pursuant to Chapter 312 of the Texas Tax Code, requires any eligible taxing jurisdiction to establish guidelines and criteria as to eligibility for tax abatement agreements prior to granting of any future tax abatement, said guidelines and criteria to be unchanged for a two year period unless amended by a three-quarters vote of Commissioners' Court; and

Whereas, these guidelines and criteria shall not be construed as implying or suggesting that Waller County is under an obligation to provide tax abatement or other incentive to any applicant; and all applicants shall be considered on a case-by-case basis;

Now, therefore, be it resolved, that Waller County Commissioners' Court does hereby adopt these Guidelines and Criteria for granting tax abatement in reinvestment zones in Waller County, Texas.

DEFINITIONS - Section I

- a. **“Abatement”** means the full or partial exemption from ad valorem taxes of certain real and personal property in a reinvestment zone designated by Waller County for economic development purposes.
- b. **“Affected jurisdiction”** means Waller County and any municipality or school district, the majority of which is located in Waller County that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone

designated by Waller County.

- c. **“Agreement”** means a contractual agreement between a property owner and/or lessee and Waller County 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.
- e. **“Deferred maintenance”** means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- f. **“Distribution Center Facility”** means 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 where a majority of the goods or services are distributed to points outside of any part of Waller County.
- g. **“Expansion”** means the addition of buildings, structures, fixed machinery or equipment for purposes of increasing production capacity.
- h. **“Facility”** means property improvements completed or in the process of construction which together comprise an integral whole.
- i. **“Hospital”** as defined in Texas Health & Safety Code Section 241.003.
- j. **“Manufacturing Facility”** means products, buildings and structures, including 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.
- k. **“Modernization”** means a complete or partial demolition of facilities and the completion of partial reconstruction or installation of a facility or facilities of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment. Modernization shall include improvements for the purpose of increasing productivity or updating the technology of machinery and equipment, or both.
- l. **“New Facility”** means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- m. **“Other Basic Industry”** means buildings and structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services, which serve a market primarily outside of Waller County, resulting in the creation of new permanent jobs bringing in new wealth.

- n. **“Productive Life”** means the number of years a property improvement is expected to be in service in a facility.
- o. **“Regional Entertainment/Tourism Facility”** means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of users reside outside any part of Waller County.
- p. **“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 processes thereto.
- q. **“Regional Service Facility”** means buildings and structures, including fixed machinery and equipment, used or to be used to service goods where a majority of the goods being serviced originate outside any part of Waller County.
- r. **“Spec Building”** means the new building construction to create an enclosed area of a commercial facility that would normally qualify for abatements built without an occupying tenant at the time the construction is complete.
- s. **“Urgent Care Facility”** a facility dedicated to the delivery of unscheduled, walk-in diagnosis and treatment of acute, but non-life threatening injuries and illnesses, outside of a hospital emergency department or doctor's office.

ABATEMENT AUTHORIZED - Section II

- a. **Authorized Facility.** A facility may be eligible for abatement if it is a Manufacturing Facility, Research Facility, Distribution Center, Regional Service Facility, Regional Entertainment Facility, Spec Building, Hospital, Urgent Care Facility or Other Basic Industry.
- b. **Creation of New Value.** Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between Waller County and the property owner and/or lessee, subject to such limitations as Waller County Commissioners’ Court 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.
- d. **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements 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; tools; furnishings, and other forms of movable personal property; vehicles; vessels; aircraft; housing; hotels accommodations; retail facilities; deferred maintenance investments; property to be rented or leased except as provided in Section II (f); improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion; any improvements, including those to produce, store or distribute natural gas, fluids or gases, which are not integral to the operation of the facility; property which has a productive life of less than 10 years; property owned or used by the State of Texas or its political subdivisions 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 is granted abatement the agreement shall be executed with the lessor and the lessee.

- g. **Value and Term of Abatement.** Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the agreement. The value of new eligible properties shall be abated according to the approved agreement between applicant and the governing body. The governing body, in its sole discretion, shall determine the amount of any abatement. The table in the attached Exhibit “A”, incorporated herein by reference, shall be the maximum abatement available.

The abatement may be extended through an initial agreement and a subsequent agreement as may be required to comply with state law regarding the term of the reinvestment zone.

- h. **Construction in Progress.** If a qualifying facility has not been placed in service as of January 1 following execution of the abatement agreement, the tax payer may apply for a one year extension of the term of abatement. Said extension must be applied for prior to the end of the calendar year in which the abatement agreement is executed.

- i. **Economic Qualification.** In order to be eligible for designation as a reinvestment zone and receive tax abatement the planned improvements:
 - 1. Must be expected to have an increased appraised ad valorem tax value of at least \$500,000 for existing qualifying facilities or \$1,000,000 for new qualifying facilities based upon the Waller County Appraisal District’s assessment of the eligible property.
 - 2. Must be expected to retain or create employment on a permanent basis in Waller County.
 - 3. Must not be expected to solely or primarily have the effect of transferring employment from one part of Waller County to another.
 - 4. Must be necessary because capacity cannot be provided efficiently utilizing

existing improved property when reasonable allowance is made for necessary improvements.

5. Must have no serious adverse effect on jurisdictions.
6. Must be in an area outside of the taxing jurisdiction of an incorporated city or town, unless the city or town has granted a tax abatement for the planned improvements, and ninety (90) days have not passed since the granting of such abatement.
7. Must have a significantly positive result from the economic impact analysis performed as part of the application process.

j. **Standards for Tax Abatement.** The following factors, among others, shall be considered in determining whether to grant Tax Abatement:

1. The value of land and existing improvement, if any.
2. The type and value of the proposed improvements.
3. The expected economic life of the proposed improvements.
4. The number and quality of existing, permanent jobs to be retained by the proposed improvements.
5. The number of new permanent jobs to be created by the proposed improvements.
6. The amount of local payroll to be created or enhanced.
7. Whether the new jobs to be created will be filled by persons residing or projected to reside in the County.
8. The amount of property tax base valuation will be increased during the term of Abatement and after Abatement.
9. The costs to be incurred by the County to provide facilities or services directly resulting from the new improvements.
10. The amount of ad valorem taxes to be paid the County during the Abatement period - considering (a) existing values, (b) the percentage of new value abated, (c) the Abatement period, and (d) the value after expiration of the Abatement period.
11. The population growth of the County that might occur as a direct result of new improvements.
12. The types and values of public improvements, if any, to be made by applicant seeking Abatement.
13. The impact on the business opportunities of existing businesses.
14. The attraction of other new businesses to the area.
15. Whether the project is environmentally compatible with the community.
16. The company profile - when established - including business references, principal bank, audited financial statement and Business Plan.

Each application shall be reviewed on its merit, 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.

- k. **Denial of Abatement.** No Abatement Agreement shall be authorized if it is determined that:
1. There would be substantial adverse affect on the tax base or costs associated with the providing of government services.
 2. The applicant has insufficient financial capacity, which reasonably could be expected to jeopardize the success of the undertaking.
 3. The planned or potential use of the property would constitute a hazard to public safety, health or morals.
 4. The area considered for abatement lies within the taxing jurisdiction of an incorporated city or town, unless the city or town has already granted abatement to the concerned entity and ninety (90) days have not passed since the granting of such abatement.
 5. Granting abatement might lead to the violation of other codes or laws.
 6. For any other reason deemed appropriate by Commissioners' Court.
- k. **Taxability.** From the execution of the abatement to the end of the agreement period taxes shall be payable as follows:
1. The value of ineligible property as provided in Section II (e) shall be fully taxable;
 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 II (h).

APPLICATION - Section III

- a. Any present or potential owner of taxable property in Waller County may request the creation of a reinvestment zone and tax abatement by filing a written request, along with application processing fee, with the County Judge of Waller County.
- b. The application shall consist of a completed application form accompanied by:
1. A copy of the executive overview from a completed economic impact analysis.
 2. A general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken.
 3. A descriptive list of the improvements which will be a part of the facility;
 4. A site map and property description;
 5. 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 given for the tax year immediately preceding the application. The application form may require such financial and other information as the County deems appropriate for evaluating the financial capacity and other factors of the applicant.
 6. Disclosure of any environmental permits required or additional environmental

impacts.

- c. Upon receipt of a completed application and prior to acting on the application, the County Judge shall (1) notify in writing the presiding officer of the legislative body of each taxing unit in which the property to be subject to the agreement is located not later than the seventh day before the public hearing and (2) publish in a newspaper of general circulation within such taxing jurisdiction not later than the seventh day before the public hearing. Before acting upon the application, Waller County shall through public hearing afford the applicant and the designated representative of any affected jurisdiction, and any other interested person, opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on Commissioners' Court agenda to be posted at least seven (7) days prior to the hearing.
- d. Waller County, not more than 60 days after receipt of the application, shall by order either approve or disapprove the application for tax abatement at a regularly scheduled meeting by a majority vote. The county judge shall notify the applicant of approval or disapproval. If disapproved, a Commissioner may request a second review, in which case a new application and hearing shall be required.
- e. Waller County shall not establish a reinvestment zone for the purpose of abatement 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 construction of new facility.
- f. **Variance.** Requests for variance from the provisions of Section II may be made in written form to the Commissioners' Court. Such request shall include all the items listed in Section III (b), together with a complete description of the circumstances which prompt the applicant to request a variance. The approval process for a variance request requires a three-fourths (3/4) vote of the governing body and shall be identical to that for a standard application and may be supplemented by such additional requirements as may be deemed necessary by the Commissioners' Court.
- g. **Confidentiality Required.** Information that is provided to the County in connection with an application or request for Tax Abatement and 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 Tax Abatement is sought is **confidential and not subject to public disclosure until the Tax Abatement Agreement is executed.** That information in the custody of a taxing unit after the Agreement is executed is Public Record, and not confidential.

PUBLIC HEARING - Section IV

- a. Should any affected jurisdiction be able to show cause in the public hearing why the granting of abatement will have a substantial adverse affect on its bonds, tax revenue, service capacity or the provision of service, that showing shall be reason for the Commissioners' Court to deny any designation of the reinvestment zone, the granting of abatement, or both.

- b. Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:
 - 1. There would be a substantial adverse affect on the provision of government service or tax base;
 - 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. Planned or potential use of the property violates other codes or laws.
 - 5. Use of the property as planned does not comply with the overall developmental goals of the county.

- c. Following the public hearing, the Commissioners' Court must make affirmative findings in the minutes of the Court that:
 - 1. Designation of the reinvestment zone would contribute to the retention or expansion of primary employment.
 - 2. Designation of the zone would attract major investment in the zone that would benefit the property within the zone.
 - 3. Designation of the zone would contribute to the economic development of the county.

AGREEMENT - Section V

- a. **Notice to Jurisdictions.** Not later than the seventh day before the date on which Waller County enters into the Abatement Agreement, the County shall deliver to the presiding officer of the governing body of each other taxing unit in which the property is located a written notice that the County intends to enter into the Agreement, along with a copy of the proposed agreement.

- b. After approval, Waller County shall formally pass an order and execute an agreement with the owner of the facility and lessee as required which shall include:
 - 1. Estimated value to be abated and the base year value;
 - 2. Percent of value to be abated each year as provided in Section II (h);
 - 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 the abatement application.
5. Contractual obligations in the event of default, violations of terms or conditions, delinquent taxes, recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by State law and;
 6. Size of investment and average number of jobs involved for the period of Abatement.
- c. Such agreement shall be executed within sixty (60) days after the later of the date applicant has forwarded all necessary information and documentation to Waller County or the date of the approval of the application.
- d. **Mandatory contract provisions.** Any tax abatement entered into by the County must:
1. Include a list of the kind, number, and 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 use of the property consistent with the taxing unit's development goals.
 4. Provide for recapturing property tax revenues that are lost if the owner fails to make the improvements or create the jobs as provided by the application/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.

RECAPTURE - Section VI

- a. In the event that 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 County within sixty (60) days from the date of termination.
- b. Should the County determine that the company or individual is in default according to the terms and conditions of its agreement, the County shall notify the company or individual in writing at the address stated in the agreement, and if such is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the agreement may be terminated.

- c. In the event that the company or individual (1) allows its ad valorem taxes owed the County or affected jurisdiction to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the Cure Period, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.

ADMINISTRATION - Section VII

- a. The Chief Appraiser of Waller County shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the Appraiser with such information as may be necessary for the abatement, including the number of new or retained employees associated with the facility. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions which levy taxes of the amount of the assessment.
- b. The agreement shall stipulate that employees and/or designated representatives of Waller County will have access to the reinvestment zone during the term 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 twenty-four (24) hours notice and will only be conducted in 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.
- c. Upon completion of construction Waller County shall annually evaluate each facility receiving abatement to insure compliance with the agreement and report possible violations of the contract and agreement to the Commissioner's Court.
- d. **Timely Filing.** The County shall timely file with the State Comptroller's Office all information required by the Tax Code.

ASSIGNMENT - Section VIII

- a. 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 Waller 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 the County.
- b. The contractual agreement with the new owner or lessee shall not exceed the termination date of the abatement agreement with the original owner and/or lessee.

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

SUNSET PROVISION - Section IX

- a. These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two (2) years, unless amended by three-quarters (3/4) vote of the Commissioners' Court of Waller County as so provided for in the Tax Code, at which time all Reinvestment Zones and Tax Abatement Agreements, created pursuant to these provisions will be reviewed by the County to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be modified, renewed or eliminated.
- b. This policy is mutually exclusive of existing Industrial District Contract and owners of real property in areas deserving of special attention as agreed by the affected jurisdictions.
- c. This policy is effective this 12th Day of February, 2008, and supersedes any previous policy on Tax Abatement. It will remain in effect until changed by court order.

DISCRETION OF THE COUNTY - Section X

The adoption of these guidelines and criteria by Waller County does not:

- 1. Limit the discretion of the Commissioners' Court to decide whether to enter into a specific Tax Abatement Agreement.
- 2. Limit the discretion of the Commissioners' Court to delegate to its employees the authority to determine whether or not the Commissioners' Court should consider a particular application or request for Tax Abatement.
- 3. Create any property, contract, or other legal right in any person, partnership, corporation or other entity to have the Commissioners' Court consider or grant a specific application or request for Tax Abatement.