

ORDINANCE NO. 03-7252016

AN ORDINANCE ESTABLISHING GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN REINVESTMENT ZONES CREATED IN THE COUNTY OF BOSQUE, TEXAS.

WHEREAS, the Commissioner's Court of the County of Bosque (the "County") deems it necessary and proper and in the best interests of the citizens of the County to consider entering into agreements for the abatement of property taxes as an incentive for businesses to locate or expand their operations within the County;

WHEREAS, Texas law requires the County to establish guidelines and criteria as to eligibility for any such tax abatement agreements;

WHEREAS, such guidelines and criteria pursuant to law must not be changed or repealed for a two-year period from the date of adoption of this ordinance unless changed or repealed by a three-fourths vote of Commissioner's Court; and

WHEREAS, such guidelines or criteria will not obligate the County in any way to provide tax abatement to any applicant, but shall signify the County's willingness to consider such abatements;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY OF BOSQUE, TEXAS, as follows:

Section 1. That the Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones Created in the County of Bosque, Texas, attached hereto as **Exhibit A** (the "Guidelines and Criteria") are hereby approved and established as the County's Guidelines and Criteria as to eligibility for tax abatement agreements, pursuant to Texas law.

Section 2. That the Guidelines and Criteria shall not be changed or repealed from the date of adoption of this ordinance unless changed or repealed by a three-fourths vote of Commissioner's Court, unless otherwise provided by Texas law.

Section 3. Pursuant to Texas law, the County hereby elects to become eligible to participate in tax abatement.

**GUIDELINES AND CRITERIA
FOR GRANTING TAX ABATEMENT IN REINVESTMENT ZONES
CREATED IN BOSQUE, TEXAS**

WHEREAS, the creation and retention of job opportunities is a priority of the Commissioner's Court of the County of Bosque; and

WHEREAS, the County of Bosque 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 Bosque County, Texas would reduce needed tax revenue unless limited in application to those new and existing industries that bring new wealth to the community; and

WHEREAS, any tax incentives should not adversely affect the competitive position of existing companies operating in Bosque County, Texas; and

WHEREAS, the abatement of property taxes, when offered to attract jobs in industries which bring in money from outside 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 granting of any future tax abatement, said Guidelines and Criteria to be unchanged for a two year period unless amended by a three-quarters votes; and

WHEREAS, these Guidelines and Criteria shall not be construed as implying or suggesting that the County of Bosque is under 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, in consideration of the premises, the County of Bosque, Texas, Guidelines, and Criteria for granting tax abatement in reinvestment zones in Bosque County, Texas are hereby established.

DEFINITIONS -- Section 1

- (a) "Abatement" means full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated by the County of Bosque for economic development purposes.
- (b) "Agreement" means a contractual agreement between a property owner and/or lessee and the County of Bosque, Texas.
- (c) "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.

- (d) "Deferred Maintenance" means improvements necessary for continued operation, which do not improve productivity or alter the process technology.
- (e) "Eligible Facilities" means new, expanded or modernized buildings and structures, including fixed machinery and equipment, which is 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 within the County of Bosque.
- (f) "Expansion" means the addition of buildings, structures, machinery, equipment, or payroll for purposes of increasing production capacity.
- (g) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (h) "Hotel" means a commercial structure which provides overnight accommodations to travelers and which contains 150 rooms or more.
- (i) "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.
- (j) "New Facility" means a property previously undeveloped, which is placed into service, by means other than or in conjunction with Expansion or Modernization.
- (k) "Office Building" means a new office building to be occupied at least 50% by one owner or one tenant.
- (l) "Productive Life" means the number of years a property improvement is expected to be in service in a facility.

ABATEMENT AUTHORIZED -- Section 2

- (a) Eligible Facilities. Upon application, Eligible Facilities shall be considered for Tax Abatement as hereinafter provided.
- (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 the County of Bosque and the property owner or lessee, subject to such limitations as the County of Bosque 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 Tax Abatement: raw land, supplies, tools, furnishings, and other forms of moveable personal property, housing, Deferred Maintenance, property to be rented or leased except as provided in Section 2(f), property which has a Productive Life of less than ten (10) years.
- (f) Owned/Leased Facilities. If a Leased Facility is granted abatement, the agreement shall be executed with the lessor and the lessee.
- (g) Economic Qualification. In order to be eligible for designation as a reinvestment zone and receive tax abatement:
 - (1) a) The planned improvement must be expected to have an increased appraised ad valorem tax value of at least \$500,000 based upon the Bosque County Appraisal District's assessment of the Eligible Property; or
 - b) The Owner must construct new improvements (even if less than \$500,000) and hire and maintain twenty (20) new full time employees as a result of such improvements.
 - (2) Must be expected to prevent the loss of payroll or retain, increase or create payroll on a permanent basis in Bosque County, Texas.
 - (3) The maximum tax abatement available for new, expanded or modernized real property improvements is 100% for a period of ten (10) years. The maximum tax abatement term available for business personal property is one hundred percent (100%) for a period of five (5) years.

Rational review of the proposed length and percentages of tax abatement shall be applied. The proposed term/percentages shall be a function of the level of improvements/additions and job creation/retention. Proposals which include job creation/retention shall generally have priority over those which involve only improvements/additions to property. Greater consideration may be given to an applicant that commits to use contractors, vendors and suppliers located in the County of Bosque for a substantial portion of its construction expenditure or annual supply or service needs, and which presents to the County a plan to make use of local contractors, vendors or suppliers as a part of its application.
- (h) Standards for Tax Abatement. The following factors, among others, shall be considered in determining whether to grant Tax Abatement and, if so, the percentage of value to be abated and the duration of the Tax Abatement:

- (1) value of land and existing improvements, if any;
- (2) type and value of proposed improvements;
- (3) Productive Life of proposed improvements;
- (4) number of existing jobs to be retained by proposed improvements;
- (5) number of type of new jobs to be created by proposed improvements;
- (6) amount of local payroll to be created;
- (7) whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdictions; and
- (8) amount of local sales taxes to be generated directly;
- (9) amount 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 be less than \$500,000 or, if less than \$500,000, add twenty (20) new full-time employees;
- (10) the costs to be incurred by the County of Bosque to provide new facilities or services directly resulting from the new improvements;
- (11) the amount of ad valorem taxes to be paid the County of Bosque during the Abatement period considering (a) the existing values, (b) the percentage of new value abated, (c) the Abatement period, and (d) the value after expiration of the Abatement period;
- (12) the population growth of the County of Bosque that occurs directly as a result of new improvements;
- (13) the types and values of public improvements, if any, to be made by applicant seeking Abatement;
- (14) whether the proposed improvements compete with existing businesses to the detriment of the local economy;
- (15) the impact on the business opportunities of existing businesses;
- (16) the attraction of other new businesses to the area;
- (17) the overall compatibility with the zoning ordinances and comprehensive plan for the area;

- (18) whether the project is environmentally compatible with no negative impact on quality of life perceptions.

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.

- (i) Denial of Abatement. 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;
 - (4) violation of other codes or laws; or
 - (5) any other reason deemed appropriate by the Commissioner's Court of the County of Bosque.
- (j) Taxability. From the execution of the Abatement to the end of the Abatement period taxes shall be payable 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;

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

APPLICATION -- Section 3

- (a) Any present or potential owner of taxable property in Bosque County, Texas may request the creation of a reinvestment zone and tax abatement by filing a written request with the County of Bosque. The application shall then be forwarded to the County Judge and County Attorney for review and recommendation to the Commissioner's Court of the County of Bosque for final disposition.
- (b) The application shall consist of a completed application form which shall provide detailed information on the items described in Section 2(h) hereof; 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 given for the tax year immediately preceding the application. The application form may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.

- (c) The County of Bosque shall give notice as provided by the Texas Property Tax Code, i.e., (1) written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located no later than the seventh day before the public hearing, and (2) publication in a newspaper of general circulation within such taxing jurisdiction no later than the seventh day before the public hearing. Before acting upon the application, the County of Bosque shall, through public hearing, afford the applicant and the designated representative of any governing body referenced hereinabove to show cause why the Abatement should or should not be granted.
- (d) The County of Bosque, no more than sixty (60) days after receipt of the application, shall by resolution either approve or disapprove the application for Tax Abatement. The County of Bosque shall notify the applicant of approval or disapproval.
- (e) The County of Bosque 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, Modernization, Expansion or New Facility.

AGREEMENT - Section 4

- (a) After approval, the County of Bosque shall formally pass a resolution 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 2(g);
 - (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 improvement 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(a), 2(f), 2(g), 6, 7, and 8; and
 - (6) value that the owner commits to add to the tax rolls of the County and average number of jobs involved.

Such agreement shall normally be executed within sixty (60) days after the applicant has forwarded all necessary information and documentation to the County of Bosque. To further promote local economic development, any person receiving a tax abatement from

the County of Bosque is encouraged to make use of contractors, suppliers, and vendors whose principal place of business is located within the County of Bosque if reasonably feasible.

RECAPTURE -- Section 5

- (a) In the event that the company or individual (1) allows its ad valorem taxes owed the County of Bosque 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 in and after described, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within thirty (30) days of the termination.
- (b) Should the County of Bosque determine that the company or individual is in default according to the terms and conditions of its Agreement, the County of Bosque shall notify the company or individual of such default in writing at the address stated in the Agreement, and if such is not cured within thirty (30) days from the date of such notice ("Cure Period"), then the Agreement may be terminated.

ADMINISTRATION -- Section 6

- (a) The Chief Appraiser of the Bosque County Appraisal District will 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. Once value has been established, the Chief Appraiser will notify the County of Bosque of the amount of the assessment.
- (b) The Abatement Agreement shall stipulate that employees and/or designated representatives of the County of Bosque 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 prior notice and will only be conducted in such 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, the designated representative of the County of Bosque shall annually evaluate each Facility receiving Abatement to insure compliance with the agreement, and a formal report shall be made to the Commissioner's Court of the County of Bosque regarding the findings of each valuation.

ASSIGNMENT -- Section 7

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 County of Bosque Commissioner's 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 of Bosque. 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.

SUNSET PROVISION -- Section 8

These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two years, unless amended by three-quarters vote of the Commissioner's Court of the County of Bosque, at which time all reinvestment zones and Tax Abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria may be modified, renewed or eliminated.

PASSED AND APPROVED at a regular meeting of the Commissioner's Court of the County of Bosque, at which a quorum was present, on the 25 day of June 2018.

COUNTY OF BOSQUE, TEXAS

By: Don L. Pool
Don L. Pool
Bosque County Judge

For:

Against:

Deeanna Koonsma

[Signature]

Lay Philip

R. L.

ATTEST:

Tab Ferguson

Tab Ferguson
Bosque County Clerk

