

IN THE ARMSTRONG COUNTY COMMISSIONERS COURT
ARMSTRONG COUNTY, TEXAS
AUGUST 26, 2024

A RESOLUTION EXPRESSING THE INTENT OF THE COUNTY TO PARTICIPATE IN
TAX ABATEMENT AGREEMENTS AND ESTABLISHING GUIDELINES AND CRITERIA
FOR SUCH AGREEMENTS

Pursuant to Chapter 312 of the Texas Tax Code, Armstrong County may consider an application for a tax abatement, designate a reinvestment zone and enter into a tax abatement agreement in accordance with these Guidelines and Criteria. It is the express intent of the Armstrong County Commissioners Court to promote economic development, but not at the expense of the County's natural resources or services provided to the general public. The Guidelines and Criteria for Tax Abatements contained herein replace and supercede the previous Guidelines and Criteria adopted by the Armstrong County Commissioners Court on October 11, 2022. No application submitted under the following schedule deemed to have a substantially adverse effect on natural resources in the County or on County infrastructure (including roads and bridges) will be approved, unless the applicant can demonstrate just cause for such an exception.

I. Abatement Application Procedure

- A. Who May Apply. Any present or potential owner of taxable real property, interest in real property or improvements to real property in Armstrong County may submit an application for tax abatement conforming to the requirements herein.

- B. Eligible Improvements. Improvements eligible for abatement are limited to the following:
 - 1. Alternative and/or renewable energy power generation facilities, and battery storage of electrical energy. Alternative or renewable energy power facilities

include the buildings, structures, fixed machinery and equipment used to produce electric power from a renewable or non-depletable power source or facilities for the storage of alternative or renewable power, and then production of electrical power from battery storage.

2. Facilities that consume the electrical power generated and/or stored in B.1 above for electrical power loads and do not typically, but may, sell the generated and/or stored electrical power into a public electrical power grid. This use of electrical power in such a manner is considered “behind the meter” and is typically intended to lower electrical power cost and/or reduce reliance on electricity from the public electrical grid by utilizing renewable energy near where it is generated. Behind the meter uses may include electrical power for hydrogen production, methanol production, “cryptocurrency mining” or “crypto mining”, and “data centers”. “Cryptocurrency mining” or “crypto mining” is the process by which new units of cryptocurrency are created and transactions are verified and added to a blockchain, the public ledger of cryptocurrency. A “data center” is a facility that houses a large number of computer servers, storage systems, and network infrastructure designed to process, store, and manage vast amounts of data. It would typically include power supplies, cooling systems, backup generators, security systems, and physical infrastructure to ensure continuous operation and protection of the hardware and data.
3. For projects that meet the criteria of B.1 and B.2 above abatement may be granted for the improvements in B.1 and B.2 as well as for new, expanded or modernized buildings and structures, fixed machinery and equipment; site improvements; other tangible items necessary to the operation and administration of the project or facility; and all other real and tangible personal property permitted by Chapter 312 of the Texas Tax Code. Taxes on real property may be abated only to the extent the property value for a given year exceeds its value for the year in which the agreement is executed. Tangible personal property located on the real property at any time before the period covered by the agreement is not eligible for abatement. Tangible personal property eligible for abatement shall not include

inventory, supplies, or rolling stock.

4. Property in a reinvestment zone that is owned or leased by a member of the County Commissioners Court is excluded from property tax abatement.

D. Application Provisions. The application shall consist of a completed Armstrong County Tax Abatement Application Form, which shall contain the following:

- (1) information showing how the project meets the requirements of the criteria outlined in Section II below;
- (2) a map and legal description of the property;
- (3) a time schedule for completing the planned improvements;
- (4) the estimated taxable value or range of values of the project or facility;
- (5) basic financial information about the applicant sufficient to enable evaluation of the application and its financial capacity and stability; and
- (6) a fee of \$1,500.00 submitted with a completed application.

E. Procedure for Consideration of Application. The procedure for consideration by the County of a Tax Abatement Application is as follows:

- (1) An applicant may request a Tax Abatement Application form from the County Judge or County Attorney.
- (2) After an applicant completes the Tax Abatement Application, the applicant must provide a copy to the County Judge and the County Attorney.
- (3) The Commissioners Court shall issue a determination at any time before the expiration of sixty (60) days from the date of receipt of the application regarding how to proceed with the application. The Commissioners Court shall choose either to deny the application, consider the application, or consider the application on an expedited basis.
 - a. *Denial of Application.* If the Commissioners Court chooses to deny the application, it shall make a finding by majority vote at a regularly scheduled meeting that, after balancing the criteria described below in Section II, it is the judgment of the Commissioners Court that the

application should be denied.

- b. *Consideration of Application.* If the County determines that the application should be further considered, the Commissioners Court must hold a public hearing to obtain public input on the application. Not later than the seventh (7th) day before the date of the hearing, notice of the hearing must be (1) delivered in writing to the presiding officer of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone, and (2) published in a newspaper of general circulation in the County. At the hearing, the Commissioners Court evaluates the application against the criteria in Section II and decides by majority vote whether to designate the property for which the 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. An order designating an area as a reinvestment zone is valid for five (5) years from the date of designation. Once the area is designated as a reinvestment zone, the Commissioners Court may then arrange to consider for approval of the tax abatement agreement between the applicant and the County at its next regularly scheduled meeting. At least seven days prior to entering into a tax abatement agreement, the County must give written notice of its intent to do so to the presiding officer of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone, 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. A tax abatement agreement that is declined by the County may be amended and

resubmitted to the County.

- c. *Expedited Consideration of Application.* If the County determines that the application should receive an expedited consideration, the Commissioners Court may combine the steps described in the preceding paragraph into a single, regularly scheduled meeting of the Commissioners Court, provided the County meets the procedural prerequisites for each step.

- F. Confidentiality. As required by Chapter 312.003 of the Texas Tax Code, information that is provided to Armstrong County in connection with an application or request for tax abatement under this chapter and that described 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.

- G. Effect of Error or Variance with Application Procedure. Except where not allowed by state law, the County may waive application procedures or grant procedural variances as they deem appropriate.

II. Criteria for Designating a Reinvestment Zone and Evaluating Tax Abatement Agreement

- A. Minimum Requirements. To be designated a reinvestment zone, County Commissioners must find by majority vote that the designation would contribute to the retention or expansion of primary employment or would attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the County, in addition to the other provisions of Texas Tax Code Chapter 312.

B. Criteria. In determining whether to designate a reinvestment zone and whether to enter into a tax abatement agreement, the Commissioners Court shall consider the following factors, among others determined appropriate by the Court:

- (1) the current value of land and existing improvements, if any;
- (2) the type, value and purpose of proposed improvements, if any;
- (3) the productive life of proposed improvements;
- (4) the impact of proposed improvements and any other proposed expenditures on existing jobs;
- (5) the number and type of new jobs, of any, to be created by proposed improvements and expenditures;
- (6) any costs to be incurred by Armstrong County, if any, to provide facilities or services directly resulting from the new improvements;
- (7) the types and values of public improvements, if any, to be made by applicant seeking abatement;
- (8) an estimate of the amount of ad valorem property taxes to be paid to Armstrong County after expiration of the abatement agreement;
- (9) the impact on the business opportunities of existing businesses and the attraction of new businesses to the area; if any;
- (10) the overall compatibility with the zoning ordinances and comprehensive plan, if any, for the area;
- (11) whether the applicant's proposed facility or improvement or modernization is an industry which is new to Armstrong County;
- (12) the impact upon County infrastructure including roads, bridges and the use of County services;
- (13) the impact upon depletion of natural resources of the County; and
- (14) the potential impact upon neighboring landowners of the proposed facility and improvements.

III. Format for Tax Abatement Agreement

A. Required Provisions. If the Armstrong County Commissioners Court designates a reinvestment zone, it may consider and execute a tax abatement agreement with the owner of the designated property, real or tangible personal property, as outlined above or with owner of the leasehold interest in real property. Any tax abatement agreement shall include at least the following provisions:

- (1) the kind, number and location of all proposed improvements of the property;
- (2) provisions allowing for reasonable access to the property for initial and intermittent inspection purposes by County employees or designated representatives to ensure improvements are made in compliance with the agreement;
- (3) provisions limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the area during the period of the abatement;
- (4) provisions for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided in the agreement;
- (5) each term agreed to by the recipient of the abatement;
- (6) a requirement that the abatement recipient certify its compliance with the agreement annually to each taxing unit that is a party to the agreement;
- (7) provisions allowing the County to cancel or modify the agreement if the recipient fails to comply with the agreement;
- (8) an estimate of the amount of ad valorem property taxes to be paid to Armstrong County after expiration of the abatement agreement;
- (9) provisions for the recapture of all or a portion of property tax revenue lost as a result of the agreement if the owner of the property fails to create all or a portion of the number of new jobs provided by the agreement, or if the owner fails to meet any other performance criteria provided by the agreement, and payment of penalty or interest, or both, on any recaptured property tax.

B. Optional Provisions. The tax abatement agreement may also contain any or all of the following items, in addition to any others deemed appropriate by the contracting parties:

- (1) the estimated taxable value or range of values for which taxes are to be abated;
- (2) the percent of value to be abated each year;
- (3) the commencement and termination dates of the abatement;
- (4) the proposed use of the property;
- (5) a time schedule, map and property designation;
- (6) contractual obligations in the event of default or violation of terms or conditions;
- (7) the size of investment and number of temporary and permanent jobs involved, if any;
- (8) provisions for dispute resolution.

C. Duration and Portion of Abatement. A tax abatement agreement granted by Armstrong County shall be up to but not exceeding ten (10) years in duration and up to but not exceeding 100 percent (100%) in portion of ad valorem property taxes abated. At any time before the expiration of the agreement, the parties may agree to modify the agreement or to delete provisions that were not necessary to the original agreement. The same procedural prerequisites for approval of the original agreement apply to modification of the agreement.

D. Time Limit. Such agreement shall be executed with thirty (30) days after the passage of the resolution approving the agreement, unless the County and the applicant mutually agree otherwise.

IV. General Provisions

These guidelines and criteria in no way require the County to enter into any specific

tax abatement agreement. The County maintains the discretion to reject any application for tax abatement as it deems appropriate.

V. Sunset and Amendment of Guidelines and Criteria

These guidelines and criteria are effective upon the date of their adoption and will remain in force for two (2) years, unless amended by a three-fourths (3/4) vote of the Armstrong County Commissioners Court.

ADOPTED in the County Commissioners Court the 26th day of August, 2024.

County Judge

ATTEST:

County Clerk

by: _____
Deputy