

LAKE JACKSON, TEXAS

25 Oak Drive, Lake Jackson, TX 77566

Tax Incentives Guide

City of Lake Jackson Tax Incentives for Economic Development

Lake Jackson offers qualified projects tax incentives on a Case-by-Case Basis.

The City of Lake Jackson is committed to the promotion and retention of high quality development in the city and to an ongoing improvement in the quality of life for its citizens. Lake Jackson will, on a case-by case basis, give consideration to providing Tax Abatement and/or Economic Development Grants as a stimulus for economic development activity including business attraction, relocation and retention.

Incentives

- Tax Abatements can be offered for Real Property. Real Property abatements will apply to the value of improvements made. Business Personal Property is ineligible for abatement.
- Economic Development Grants (Chapter 380 Grants) can be considered for, but are not limited to: grants and/or loans to provide a competitive advantage, foster relocation, encourage employment retention or growth and/or assist in public infrastructure improvements.
- 4B Sales Tax funds can be offered to fund infrastructure improvements for development of new or expanded business enterprises.

How to Apply

Request for incentives are facilitated by the City Manager's office. Applications and meeting information can be obtained by contacting the City Manager Office at (979) 415-25000 or by e-mail at wynne@lakejacksontx.gov.

All proposed incentives are subject to final City Council public review and approval.

Policy for the Use of Special Districts and Special Incentives

City of Lake Jackson, Texas

Policy for the Use of Special Districts and Special Incentives

1. Purpose of Policy

The City of Lake Jackson will consider the use of special districts and other special incentives to promote new development and redevelopment where it can be demonstrated that an increase in tax base can reasonably be expected and/or the overall quality of life for people who live and work in the City can be improved. This policy will be applicable within the City and within its Extra-Territorial Jurisdiction (ETJ). For those proposed developments that meet the goals and criteria of this policy, the City is willing to consider the following types of special districts and incentives: municipal utility districts, tax increment reinvestment zones, municipal management districts, public improvement districts, Chapter 380 grants, and municipal development districts as described in Section 3. (Tax Abatements are provided for by separate criteria.) Subject to meeting all other City requirements, the City may choose to use one or more of these special districts and incentives for existing developments. The City Council may amend this policy at any time without notice to comply with changes in state statutes and/or to respond to changing conditions and circumstances that may arise.

The purpose of this Policy is to establish a common understanding and consistent approach to guide developers, City staff, the City Council and the general public through a standardized evaluation process for development proposals that request City consideration of a special district. The policy is intended to:

- **Provide consistency** – Provide consistent ground rules regarding what is required from developers and a uniform process for City staff in evaluating development proposals where the creation of a special district and the granting of special incentives is being considered, or may be appropriate, and in making recommendations to the City Council.
- **Protect the City's interests** – Clearly articulate the information that the City Council requires in order to make a well-informed decision that is in the best interest of the City.
- **Create mutually beneficial relationships** – Ensure that benefits accrue for both the City and the developer so that the overall quality and sustainability of tax base is ensured. At the same time, create a positive and predictable development atmosphere that will place and keep Lake Jackson in the competitive forefront in attracting high-quality jobs and environmentally friendly business and industry.
- **Promote a thorough understanding regarding when the city will create special districts** – Demonstrate to the development community that the City may consider the use of special districts and other special incentives under circumstances where a proposal

meets the goals set out in this policy and/or where demonstrable extraordinary community and/or economic benefit will accrue to the City.

2. Goals of the Policy

1. Improve the overall quality and performance of the City's infrastructure and facilities.

- Development should make significant positive contributions to public infrastructure and facilities that will have broad reaching benefits, including the older areas of the City.
- Facilities may include proportionate share of fire stations and equipment needed to serve the development and area.

2. Promote growth and balance in the local economy.

- Encourage quality highest and best land uses consistent with the city's Comprehensive Plan.
- Attract high-paying jobs.

3. Ensure high quality well planned developments.

- The City is predominantly interested in promoting only the highest and best use of land consistent with the Comprehensive Plan to foster sustainable tax base.
- Development should be well planned and comprehensive, taking into consideration the impact of the proposed development on potential future development opportunities on nearby lands, incorporating material, energy, technological, and water conservation programs into residential and commercial land use, landscape and construction of projects.
- Provide a broad range of housing options
- Ensure that existing and proposed development meet the city's overall development standards for infrastructure including streets, drainage and utilities, and compliance with the City's comprehensive planning requirements and other long range plans.

4. Protect the City's tax base.

- Development should generate ad valorem value that is higher than the average for comparable properties and generate increased sales tax revenue.
- Development should create and sustain whatever income streams are necessary to support any public projects and services associated with the development.
- Each TIRZ must be sustained by the value it creates.
- Each TIRZ project must directly benefit the area within the TIRZ boundary and have a positive impact for the entire city. Examples of qualified TIRZ projects include those for mobility; construction, expansion and/or over sizing of utilities; regional water, wastewater, detention facilities and municipal facilities including fire stations; and those making special contributions to the quality of life in Lake Jackson.
- The cost of providing city services must be accounted for when considering a TIRZ and a project within a TIRZ. The Cost of Service will be calculated and provided by the City.

- The use of sales tax incentives (TIRZ, Chapter 380 Grants, and/or 4B Sales Tax) from within the special district will generally be used for specific capital improvements projects that have a citywide benefit consistent with the Comprehensive Plan, and that provide a necessary public purpose or for projects that have the effect of filling vacant buildings with sustainable and viable businesses. These type projects will generally be limited to major and minor thoroughfares, rail extensions, major city facilities, regional detention and other projects that may meet the city's needs.

3. Description of Special Districts and other Incentives:

There are a variety of public-private partnerships available to municipalities in Texas. The type of partnership that is most appropriate is determined by the specific financing needs of the proposal as well as the types of public facilities that are being proposed. In some instances it may be desirable to layer multiple partnerships. In other instances it may not be necessary to create a partnership at all.

The use of an economic development tool in one instance shall not be construed as setting a precedent for subsequent developments. Consideration for economic development tools will be given in accordance with the procedures and criteria outlined in this document but nothing should be implied or suggested that the City is under any obligation to provide any economic development tool, public-private partnership, incentive or special district to any applicant. All applications will be considered on a case-by-case basis.

The City reserves the right to limit the term or duration of any special district or incentive it creates or consents to being created. Further the City may limit the timing, term and number of debt issues and refinancing of debt as may be appropriate to coordinate debt repayment with the term or duration of the special district or incentive. A chart summarizing the powers and creation process for all these is included as an exhibit to this document.

This policy will be applicable within the City of Lake Jackson and within its Extra-Territorial Jurisdiction (ETJ). For those proposed developments that meet the goals and criteria of this policy, the City will consider the following types of Economic Development Tools:

- **Municipal Utility District**

A Municipal Utility District (MUD) can be created by provisions of the Constitution, the Water Code, or Legislative Act. They help finance the cost of water, wastewater, drainage and detention required for development, usually (but not necessarily) in unincorporated areas. MUDs have the power to levy an ad valorem tax to repay developers for the provisions of needed infrastructure plus the operation and maintenance of district facilities. MUDs generally reimburse developers from between 70% to 100% for water, sewer, drainage and detention costs, as well as associated financing costs. MUDs have also recently been given broader powers to provide such additional services as security, parks, and roads.

A MUD is a financing vehicle which serves to provide basic infrastructure and acceptable amenities in residential areas. For in city MUDs, it is the intent of the City to immediately operate and own its own water and sewer facilities as well as other infrastructure, with the

exception of detention facilities, within the MUD. For ETJ MUDs, it is the intent of the City to ultimately operate and own its own water and sewer facilities as well as other infrastructure, with the exception of detention facilities, within the MUD.

- **Tax Increment Reinvestment Zone**

A Tax Increment Reinvestment Zone (TIRZ) is a development-financing tool created under the provisions of Chapter 311 Texas Tax Code. A TIRZ provides a method to finance improvements in a specifically designated zone using tax increment funds. The City may designate a specific geographic area as a Reinvestment Zone to promote development or redevelopment of the area if such development would not occur solely through private investment in the reasonably foreseeable future.

At the time the TIRZ is created, the base taxable value is established. The tax revenue generated on the increased value over and above the base year value is known as the “increment” and can be used by the TIRZ to pay for public improvements within the TIRZ. The term tax increment financing (TIF) refers to the amount of tax revenue generated on the increased property values, which result from new development or redevelopment.

Municipalities and counties may create a TIRZ and any jurisdiction that levies a tax within the TIRZ may “participate” by contributing all or a portion of its tax to the TIRZ. However, existing law and property tax formulas make School District participation unlikely.

A TIRZ is primarily for financing of public infrastructure to improve master planned communities, to promote revitalization, and/or promote commercial development. .

- **Municipal Management District/Improvement District**

Municipal Management Districts and Municipal Improvement Districts are created either by a special act of the Legislature or through petition to the Texas Commission on Environmental Quality (TCEQ). Property owners within these districts are authorized to assess, and in some instances tax, themselves to fund specific improvements, including those related to quality of life issues such as beautification, security, mobility, transit, traffic control, and marketing. Also, these districts can operate and maintain infrastructure through services such as landscape maintenance and street and sidewalk sweeping.

Municipal Management Districts/Improvement Districts can also function on a peer level with other public agencies to provide a similar mechanism for interaction between the agencies, property owners, tenants and residents to guide the cooperative processes typically necessary for effective large-scale development and/or redevelopment. Municipal Management/Improvement Districts have the ability to provide long-term maintenance to improvements.

- **Public Improvement Districts**

A Public Improvement District (PID) is a financing tool created under the Public Improvement Chapter 372 of the Texas Local Government Code. This tool allows the City

to initiate or receive a petition from property owners requesting the establishment of a special district to finance improvements. A PID can even be used to actively market an area. A PID is created by the City Council and needs no state agency approval.

A PID enables a neighborhood or commercial area to make improvements benefiting the area and spread the cost equally among all properties. Property owners who benefit from the improvements are assessed based on benefit. It is an overlapping assessment, i.e. it is in addition to City, County and School District taxes.

- **Abatements**

Tax abatements are a popular economic development tool used by municipalities across the state. Under these agreements, all or part of the value of improvements created is removed from the tax rolls for a period of up to 10 years. Abatements are generally viewed by taxing units as “seed money” that temporarily lowers a company’s cost of investment, while eventually adding to the community’s job core and tax base. Abatements may be used alone or in concert with other programs.

(Abatements are governed by separate criteria adopted by the City Council.)

- **380 Grants**

Chapter 380 of the Local Government Code provides significant latitude to Texas municipalities interested in economic development. If a City wants to provide loans, grants of city funds, personnel, facilities, or services in furtherance of economic development activities, it can utilize provisions of this law.

Under Chapter 380, the City must “establish a program” which can be administered by City personnel or by contract with another entity. And economic development-related expenditures of City funds must be made pursuant to consideration and approval in an open meeting of the City council.

- **“4B” Sales Tax Grants**

The City collects an additional sales tax in accordance with Section 4B, Article 5190.6 Vernon’s Texas Civil Statutes. These funds may be used “...for payment of the costs of land, buildings, equipment, facilities, improvements and maintenance and operation costs for public park purposes, recreational facilities to be used for sports and entertainment, and for infrastructure improvements for development of new or expanded business enterprises.” (Ordinance #95-1330, ballot language).

As such the City may choose to utilize these funds as they relate to the specific purposes set out in the election ballot, to assist in the economic development of the City.

- **Municipal Development Districts (MDD)**

Chapter 377 of the Local Government Code permits municipalities to create a district within its corporate limits, or extraterritorial jurisdiction, to finance projects eligible for 4B economic development assistance. With the approval of voters within the District, the municipality may levy an additional sales tax of up to one half percent. Revenue from that tax must be used to fund eligible projects or pay for bonds secured by the pledge of the District’s sales tax.

4. Evaluation Criteria

All proposals submitted to the City for consideration of creation of a special district or incentives under this policy must be complete according to the following criteria. Non-responsive, incomplete, or proposals lacking sufficient detail may be deferred until all information necessary for a thorough review, including payment of an application fee, have been provided.

Developers are expected to pay all costs to the city associated with the consideration and processing of this application as well as the costs of the creation of any special district and/or negotiations for the approval of other special incentives, including any and all engineering, consulting, and attorneys’ fees.

These represent minimum criteria. Individual requirements may vary depending on circumstances and are subject to negotiation.

a) General Provisions for Special Districts in Lake Jackson

Type of Special District	Minimum Total Size of Development	Residential Component	Commercial Component
Municipal Utility District (General)	100 acres	<p>Not required</p> <p>If a residential component is included, the average sales price must not be less than the current tax roll average house value at the time of creation of the MUD.</p> <p>All applicable city regulations and guidelines for parks, open space, detention, mobility, utilities, public safety, school sites etc. shall apply to MUD developments.</p> <p>The term of the MUD debt and the life of the MUD are limited to no more than 30 years after the first debt issuance. The City may agree to an extension under conditions consistent with this policy.</p> <p>The issuance of debt shall be subject to the approval of the City Council.</p> <p>Annexations by MUDs of additional territory, including those in existence at the time of the adoption of this policy, shall only</p>	If no commercial component, must provide public amenities.

		<p>be considered on a case by case basis. Any annexations shall be contiguous to the existing boundaries of the MUD and must be within the City Limits and/or ETJ of the City of Lake Jackson.</p> <p>Road powers will generally not be considered except when they will be used to construct major and minor thoroughfares that would not otherwise be required in existing development regulations or ordinances.</p> <p>Park improvements and other public use lands will be considered where they have community-wide benefit. Priority will be given but not limited to projects that are included in the Master Parks Plan and/or the Hike and Bike Trail Master Plan.</p> <p>The use of the power of eminent domain (if granted) shall be subject to the approval of the City Council.</p> <p>There will be no city tax rebate to the MUD</p>	
Municipal Utility District (ETJ)	Same as MUD General Criteria	<p>Same as MUD General Criteria with the following additional conditions:</p> <p>For MUDs approved in the ETJ the Strategic Partnership Agreement (SPA) will at a minimum address the following: specific conditions, that when met, will trigger annexation at the city's discretion; allocation of municipal resources including fire, police and solid waste services; drainage, utilities, roads and other infrastructure requirements; limited annexation conditions; and applicable development and land use regulations.</p>	Same as MUD General Criteria
Tax Increment Reinvestment Zones	None	<p>Allowed in mixed-use developments, with residential component to be negotiated.</p> <p>For new development, a minimum of 750 single family equivalent units is required for a primarily residential TIRZ. For redevelopment areas, the number of units required will be determined on a case by case basis.</p> <p>All applicable city regulations and guidelines for parks, open space, detention, mobility, utilities, public safety, school sites etc. shall apply to TIRZ developments.</p> <p>The TIRZ must ensure an annual reimbursement or payment in the amount of the current cost of service to be adjusted annually, based on the total expenses in the General Fund budget.</p>	Required

		<p>A TIRZ will not be used to directly “buy down” a MUD tax rate and there will be no city tax rebates to a MUD in the same area.</p> <p>The preferable vehicle for constructing infrastructure through the TIRZ is direct pay (pay as you go) versus the issuance of debt.</p> <p>Use of city sales tax to reimburse the TIRZ will only be considered where major commercial components are included in the developments thus the development generates sales tax. The reimbursement will only use up to 50% of the total sales tax generated to ensure immediate benefit to the city of the remaining income, and its use is intended as a performance measure to shorten the life of the TIRZ, rather than expand the size of the reimbursement.</p> <p>The use of Lake Jackson Economic Development Corporation sales tax will be negotiated separately.</p> <p>Additional infrastructure approved must be of a community wide benefit, through projects such as major thoroughfares; utilities construction, expansion, and/or over sizing; and the construction of city facilities</p> <p>Each agreement negotiated for a TIRZ is a stand-alone incentive package, and is not an entitlement, nor does it set any precedent for subsequent agreements.</p>	
Municipal Management Districts	None	<p>Allowed in mixed-use developments, with residential component to be negotiated.</p> <p>All applicable city regulations and guidelines for parks, open space, detention, mobility, utilities, public safety, school sites etc. shall apply to MDD developments.</p>	Required
Public Improvement Districts	None	<p>If a residential component is included, the average sales price must exceed the current tax roll average house value by at least ten or twenty percent</p> <p>All applicable city regulations and guidelines for parks, open space, detention, mobility, utilities, public safety, school sites etc. shall apply to PID developments.</p>	If no commercial component, must provide public amenities.
4B Sales Tax	None	Generally will be considered only under special circumstances where the proposed use meets the funding criteria.	Required

b) Evaluation Criteria Checklist

<ul style="list-style-type: none"> • Pre-proposal effort: A minimum \$7,500 nonrefundable fee will be paid to the City at the initiation of the process to be applied toward fees and expenses related to the special district and other special incentives review and approval process. This process is estimated to cost approximately \$75,000, and will serve to pay for all the city's costs for processing this application including but not limited to engineers, financial and other consultants, and attorneys, however actual costs may be higher or lower. 	
<ul style="list-style-type: none"> • Packages will include the following: Submit 20 copies of the complete proposal package (paper and digital) <ul style="list-style-type: none"> ○ Detailed description of proposed development and type(s) of Special District being requested including preliminary land plan of the proposed development ○ Business plan, if applicable ○ Market feasibility considerations / justification of need ○ Proposed development schedule ○ Project construction estimates / pro forma projections ○ List of previous projects ○ References ○ Map and/or list of all land in which the proponent has an interest that is contiguous to, and/or in close proximity to the land that is the subject of this submission ○ Detailed description of how each of the evaluation criteria listed below are addressed: 	
<i>Developer/Applicant</i>	
<ul style="list-style-type: none"> • Financial capability to carry-out the proposed development • Proven track record • Project management expertise 	
<i>Evaluation of Development Impact (Costs and Benefits)</i>	
<i>Long Term Strategies</i>	
<ul style="list-style-type: none"> • Employment generation – short and long term (no. & type of jobs, salary levels) • Business and job retention • Infrastructure improvements (existing and proposed) • Extent of high-end housing proposed 	
<i>Environmental Assessment</i>	
<ul style="list-style-type: none"> • Environmentally-friendly, clean business/industry • Assessment of impact of development on surrounding area 	
<i>Impact on Public Infrastructure and Services</i>	
<ul style="list-style-type: none"> • Transportation/mobility, traffic and roads (Transportation Impact Analysis) • Water need requirements • Sanitary sewers • Storm water/drainage/detention • Other utilities (electricity, fiber optics, etc.) • Police, Fire and EMS • Schools • Parks and recreation 	

• Library	
<i>Impact on City Policies, Ordinances & Regulations</i>	
• Comprehensive Master Plan	
• City Codes or Ordinances, including subdivision code and zoning standards	
<i>Fiscal Impact</i>	
• Property tax	
• Sales tax from construction activities	
• Sales tax derived from development itself	
• Franchise and service fees	
• Other City revenue sources	
<i>Analysis of the Degree to Which the Project Exceeds Community Needs as outlined by City Policies, Ordinances, Regulations</i>	
• Comprehensive Master Plan	
• Thoroughfare and Functional Classification Plan	
• Parks Master Plan	
• Capital Improvements Plan	
• Code of Ordinances, including subdivision code and zoning standards	
• Any other City goals or visions as may be appropriate	
<i>Submittal Should Contain a Discussion of any Project Specific Special Considerations Such as:</i>	
• Land use, architectural, landscaping and construction characteristics designed to maintain and/or enhance community character	
• Efforts to identify and address concerns of adjacent and interested parties	
• Efforts to identify, address, conserve and/or enhance traditional, historical, ecological, or scenic components of the site and community	
• New technology not previously considered in existing Policies and Strategies	
• Innovative community or business alliances associated with the project	

Notwithstanding the individual criteria provided above, the City will review the aggregate impact of each proposal in making its decision.

Special consideration will be given to the following when reviewing and recommending the establishment of special use districts and other incentives provided in this policy within the City of Lake Jackson and its ETJ.

- To the extent practical, require and/or facilitate the broad connectivity of regional infrastructure improvements including water and wastewater facilities, detention facilities, park and open space facilities, thoroughfares and other facilities that can be connected and/or combined to assist the overall development of the city’s infrastructure in an economical and well-planned way.
 - This may require utilizing one or more special districts to be the “master” district to provide regional sites and/or facilities to meet the overall regionalization requirements.
 - In reverse, this may require one or more special districts to be “minor” districts and participate in other locations and/or facilities to meet the overall regionalization requirements.

- Agreements with these districts shall include specific exit strategies that ensure the following.
 - At the end of the term of the district, all debt will be paid, and any additional new debt or refunding debt will not be issued that will extend the term beyond that specified ending date.
 - Conditions will be specified that when met will trigger annexation proceedings by the City, at its discretion.
 - The City may require that facilities owned or constructed by any district, allowed to be created by the City, be conveyed to the City as part of the consideration for creation for maintenance and operation by the City.
- The City of Lake Jackson will not rebate any revenues to the special district for any reason other for any incremental tax derived for the purpose of meeting TIRZ requirements.

In addition to the fees listed in this section, the developer may be required to provide payment to the City for the costs of any special planning or studies to be conducted by the City to ensure the developer's plan is consistent with other plans within the City, and to allow the city to develop and create comprehensive plan(s) for the orderly growth of the City of Lake Jackson. These plans may include but not be limited to the Comprehensive Plan of the City, a Master Thoroughfare Plan, a Master Drainage Plan, and a Master Parks and Open Space Plan.

5. Evaluation Process

Each proposal for the creation of a special district or incentive shall be evaluated against the provisions of this policy, according to the following review procedures. Additionally, submittals must contain sufficient detail to permit a thorough review by the City. The Evaluation Criteria Checklist shall serve as the basis by which a submittal is deemed complete. Non-responsive, incomplete, or proposals lacking sufficient detail may be deferred until all information necessary for a thorough review, including payment of an application fee have been provided.

The City will not enter into an agreement to use any economic development tool(s) if the request is filed after the commencement of construction, alteration, or installation of the improvements contemplated by the agreement.

- Prior to the submission of any proposal for the creation of a special district or the use of any other special incentive listed in this policy, the developer/applicant is required to request a pre-proposal meeting. This meeting will be attended by all or some of the representatives of the Review Team as described below in item 5, at the discretion of the City Manager or his/her designated representative. The purpose of the pre-proposal meeting is to address questions regarding the use of this policy early on and to give preliminary consideration as to whether the Review Team believes there is a reasonable expectation of support for the proposal going forward. This does not, however, prejudice the Review Team's decision as a result of the proposal going through the evaluation process nor does it in any way vest the developer with the project. The pre-proposal meeting will also allow the Review Team to identify for the developer/applicant amendment applications that would also be required to permit the proposal to move forward, if it were successful under this policy.
- Proposals are to be submitted to the City of Lake Jackson, City Manager or his/her designee.

- The City Manager or his/her designee will oversee the initial evaluation for completeness of the application and contact the proponent if additional information is required. Incomplete applications will not be processed until all information, including payment of the application fee, as set out above is provided.
- The City Manager or his/her designee will coordinate an evaluation of the application based on the evaluation criteria and prepare a preliminary report. In the preparation of this report, the City Manager or his/her designee will consult with other City departments, consultants and other agencies, as appropriate, for their input regarding the proposal and its impacts on, and costs and benefits to the City of Lake Jackson.
- The City Manager or his/her designee will keep the City Council and appropriate Commissions and/or Committees informed of applications submitted within this Policy and may coordinate Work Sessions and meetings with them in order to keep them informed and allow them opportunity for input throughout the process.
- The Review Team, consisting of the following, will consider the proposal and the report.
 - City Manager or his/her designee
 - City management consultants as may be required by the staff
 - City Attorney
 - City Engineer
 - City Finance office representative
 - City Director of Public Works
 - City Building Official
 - City Public Safety personnel may include Police Fire, and EMS
- The City will endeavor to meet a 90-day time frame for conducting its evaluation process, following receipt of a properly completed proposal package and application fee.
- Following the review and evaluation process, the Review Team will prepare a final report with recommendations regarding the proposal, and the proposal along with the final report and recommendations shall be forwarded to City Council for consideration.
- The City and the Review Team will respect the confidentiality of the material that is required by this policy to be submitted by the development/applicant, to the extent permitted by law.

Check List and Sequences

The following meetings and documents will be required in the sequence as listed:

- Developer request meeting with City Manager or his/her designee to discuss the development.
- Meet with Development Review Team. Subsequent meetings as necessary.
- Submit Application to City Manager or his/her designee.
- In case of a Municipal Utility District, apply to state for approval.
- Submit feasibility studies and pro forma.
- Submit marketing studies and strategy.
- Submit request for Special District in accordance with Special District Policy.
- Submit critical path and timeline charts.
- Develop the Plan Unit Development conditions.
- Develop the Covenants, Conditions and Restrictions (CC&R).

- Provide financial analysis and executive summary.
- Finalize Special District and financing plan.
- City approves Special District and executes Development Agreement or Strategic partnership Agreement as applicable.

Critical Paths and Timelines

Each project will have Critical Path and Timeline charts, furnished by the Developer, for completing the approval process. The milestones in these instruments should correlate with City Council, Boards and Staff Committees meetings. The City Council, Boards and Staff Committees will cooperate in meeting these milestones but the Developer is responsible for providing the essential information and documentation far enough in advance of the scheduled meetings to allow review and development of recommendations.

	MUD	TIRZ	MMD	NEZ	PID
Enabling Statute	Chapter 54 Water Code	Chapter 311 Tax Code	Chapter 376 Local Govt. Code	Chapter 378 Local Govt. code	Chapter 372 Local Govt. Code
Regulatory Oversight	TCEQ	City	City/TCEQ	City	City
Method of Request to Create	Petition (majority of value)	City Initiated or Petition (majority of value)	Special Legislation or TCEQ process by petition	City Initiated	Petition (majority of value)
Notice to Create	Public Hearing 14-day Published Notice and City Consent	Public Hearing 7-day Published Notice 60-day Notice of Hearing	Legislative hearings or TCEQ hearings	None	Public Hearing 15-day Published Notice
Statutory Purpose	Provide w/s/d, irrigation, navigation, parks, solid waste management, deed restriction enforcement	Implement adopted plan of public improvements including w/s/d/paving, sidewalks, landscape, streetscape, parks	Implement adopted Service and Assessment Plan for public improvements including w/s/d/paving, landscape, streetscape, parks, sidewalks, maintenance, security, marketing	Create and/or rehabilitate affordable housing; increase economic development; increase quality of social services, education, or public safety to residents in the zone	Implement adopted Service and Assessment Plan for public improvements including w/s/d/paving, landscape, streetscape, parks, sidewalks, maintenance, security, marketing
Board	Mandatory 5 director board elected by residents of MUD	Mandatory 7-9 director board appointed by City	Board appointed in legislation establishing district	None	Discretionary Advisory Board appointed by City, must be landowners
Board Term	4 years	2 years	4 years		No term
Levy Authority	Unlimited Ad Valorem Tax for cost of improvements, operations and maintenance, TCEQ only approves bond sales with projections of rate at \$1.50/\$100 or below.	None	Assessment for cost of public improvements and supplemental operation and maintenance, established annually with public hearing or set once without increase	May abate municipal sales taxes and property taxes	Assessment for cost of public improvements and supplemental operation and maintenance, established annually with public hearing or set once without increase
Bonded Debt Issuance	As authorized by voters in MUD	As allowed by City	As allowed by City	None	As allowed by City
Overlapping Tax	Tax Rate	None	Assessment Rate	None	Assessment Rate
Duration	Until dissolved by vote of board of directors; or annexed and dissolved by City	Limited by statute to less than 40 years	Until dissolved by Board of Directors or City	Until dissolved by the City Council; sales tax agreements are limited to ten years	Until dissolved by City upon petition of majority of value;

Tax Abatement in Reinvestment Zones

TAX ABATEMENT IN REINVESTMENT ZONES

Sec. 94-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abatement means the full or partial exemption from ad valorem taxes on certain real property in a reinvestment zone designated by the city for economic development purposes.

Affected jurisdiction means the county and any municipality or school district, the majority of which is located in the county, that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone designated by the county.

Agreement means a contractual agreement between a property owner and/or lessee and the city for the purpose of tax abatement.

Base year value means the assessed value of eligible property on January first preceding the execution of the agreement, plus the agreed upon value of eligible property improvements made after January first but before the execution of the agreement.

Deferred maintenance means improvements necessary for continued operations which do not improve productivity or alter the process technology.

Distribution center facility means buildings and structures, including 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 at least fifty (50) miles from its location in the county.

Expansion means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.

Facility means property improvements completed or in the process of construction which together compromise an integral whole.

Manufacturing facility means 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.

Modernization means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.

New facility means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

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 the Brazoria Primary Metropolitan Statistical Area (PMSA) and result in the creation of new permanent jobs and create new wealth in the PMSA.

Productive life means the number of years a property improvement is expected to be in service.

Regional entertainment facility means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public, where the majority of users reside at least fifty (50) miles from its location in the county.

Regional service facility means buildings and structures, including machinery and equipment, used or to be used to service goods, where a majority of the goods being serviced originate at least fifty (50) miles from the facility's location in the county.

Research facility means buildings and structures, including 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 relative thereto.

Sec. 94-67. - Abatement authorized.

- (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 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 the city and the property owner or lessee, subject to such limitations as the city may require.
- (c) *New and existing facilities.* Abatement may be granted for new facilities and improvements to existing facilities for the purposes of modernization or expansion.
- (d) *Eligible property.* Abatement may be extended to the value of the buildings, structures, fixed machinery and equipment, site improvements, plus that 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; tools; furnishings and other forms of movable personal property; vehicles; vessels; aircraft; housing; hotel accommodations; retail facilities; deferred maintenance investments; property to be rented or leased, except as provided in subsection (f) of this section; property owned or used by the state or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the state.
- (f) *Owned/leased facilities.* If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee. Publicly owned land leased to private entities shall be eligible if otherwise qualified.
- (g) *Value and term abatement.* Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the agreement. One hundred (100) percent of the value of new eligible properties shall be abated for up to two (2) years during the period of construction and for five (5) years thereafter or one-half ($\frac{1}{2}$) the productive life of the improvement, whichever is less. 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 a reinvestment zone. If the period of construction exceeds two (2) years, the facility shall be considered completed for purposes of abatement, and in no case shall the period of abatement

inclusive of construction and completion exceed seven (7) years. If a modernization project includes facility replacement, the abated value shall be the value of the new unit less the value of the old unit.

- (h) *Economic qualification.* In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:
 - (1) Must be reasonably expected to increase the value of the property in the amount of one million dollars (\$1,000,000.00) or more.
 - (2) Must be expected to prevent the loss of employment, retain or create employment for at least ten (10) people on a permanent basis in the county.
 - (3) Must not be expected solely or primarily to have the effect of transferring employment from one part of the county to another.
 - (4) Must be necessary because capacity cannot be provided efficiently utilizing existing improved property.
- (i) *Taxability.* From the execution of the abatement contract to the end of the agreement period, taxes shall be payable as follows:
 - (1) The value of ineligible property as provided in subsection (e) of this section 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 subsection (g) of this section.
- (j) *Zoning.* An improvement, repair, development or redevelopment taking place under an agreement under V.T.C.A., Tax Code § 312.204 or this section must conform to the comprehensive zoning ordinance and building codes of the city.

Sec. 94-68. - Application.

- (a) Any present or potential owner of taxable property in the city may request the creation of a reinvestment zone and tax abatement by filing a written request with the city.
- (b) The application shall consist of a completed application form accompanied by 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 which will be a part of the facility; a map and property description; a time schedule for undertaking and completing the planned improvements. In the case of modernizing, 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 city deems appropriate for evaluating the financial capacity and other factors of the applicant.
- (c) Upon receipt of a completed application, the mayor of the city shall notify in writing the presiding officer of the legislative body of each affected jurisdiction. Before acting upon the application, the city shall through public hearing afford the applicant and the designated representative of any affected jurisdiction opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on a city council agenda, to be posted at least thirty (30) days prior to the hearing.
- (d) After receipt of an application for creation of a reinvestment zone and application for abatement, the city shall prepare a feasibility study setting out the impact of the proposed reinvestment zone and tax abatement. The feasibility study shall include, but not be limited to, an estimate of the

economic effect of the creation of the zone and the abatement of taxes and the benefit to the eligible jurisdiction and the property to be included in the zone.

- (e) The city 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 of new facility.
- (f) Requests for variance from the provisions of subsections 94-67(a), (e) and (g) may be made in written form to a designated member of the city, provided, however, the total duration of an abatement shall in no instance exceed seven (7) years. 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 ($\frac{3}{4}$) vote of the council.

Sec. 94-69. - Public hearing.

- (a) Should any affected jurisdiction be able to show cause in the public hearing why the granting of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity or the provision of service, that showing shall be reason for the city to deny any designation of the reinvestment zone, the granting of the 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 effect 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) Such planned or potential use would constitute violation of other codes or laws.

Sec. 94-70. - Agreement.

- (a) After approval, the city 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 94-67(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 section 94-68(b).
 - (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in sections 94 -67(a), (f) and (g), 94-71, 94-72 and 94-73
 - (6) Size of investment and average number of jobs involved for the period of the abatement.
- (b) Such agreement shall be executed within sixty (60) days after the applicant has forwarded all necessary information and documentation to the city.

Sec. 94-71. - Recapture.

- (a) If the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting a fire, explosion or other casualty or accident or natural disaster for a period of one (1) 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 city within sixty (60) days from the date of termination.

- (b) Should the city determine that the company or individual is in default according to the terms and conditions of its agreement, the city shall notify the company or individual in writing at the address 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) If 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.

Sec. 94-72. - Administration.

- (a) The chief appraiser of the 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 assessor with such information as may be necessary for the abatement. Once value has been established, the chief appraiser shall notify the affected jurisdiction which levies taxes on the amount of the assessment.
- (b) The agreement shall stipulate that employees and/or designated representatives of the city 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 (1) or more representatives of the company or individual and in accordance with its safety standards.
- (c) Upon completion of construction, the city shall annually evaluate each facility and report possible violations of the contract and agreement to the city and its attorney.

Sec. 94-73. - Assignment.

Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility, upon approval by resolution of the city, 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 city. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to the county or any affected jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

Sec. 94-74. - Sunset provision for guidelines and criteria.

- (a) These guidelines and criteria under this article are effective upon the date of their adoption and will remain in force for two (2) years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the city to determine whether the goals have been achieved. Based on that review, the guidelines and criteria will be modified, renewed or eliminated, providing that such actions shall not affect existing contracts.
- (b) This policy is mutually exclusive of existing industrial district contracts and owners of real property in areas deserving of special attention as agreed by the affected jurisdiction.

Editor's note—

The provisions of this article were renewed in their entirety by Ord. No. 92-1204, adopted on June 15, 1992 and Ord. No. 96-1374, adopted May 6, 1996.

Chapter 380 Program Policies & Procedures

CITY OF LAKE JACKSON

CHAPTER 380 PROGRAM POLICIES & PROCEDURES

I. General Statement of Purpose and Policy

The City of Lake Jackson is committed to the promotion of high quality retail development within the City. High quality retail development has been a key contributor to the quality of life for the citizens of Lake Jackson. The City now seeks to enhance its economic development efforts to attract and retain high quality retail development and jobs by establishing these Chapter 380 Economic Development Program Policies and Procedures.

These Policies and Procedures are established in an effort to develop and expand the local economy by promoting and encouraging development and redevelopment projects that enhance the City's economic base, and diversify and expand job opportunities. The ultimate goal and public purpose of programs established hereunder is to protect and enhance the City's fiscal ability to provide high quality municipal services for the safety, comfort and enjoyment of Lake Jackson residents.

In furtherance of these objectives, the City of Lake Jackson will, on a case-by-case basis, give consideration to providing economic incentives to applicants in accordance with these Policies and Procedures as authorized by Chapter 380 of the Texas Local Government Code, as amended from time to time. The City reserves the right to deny incentives to an applicant as it deems appropriate.

II. Criteria

A. To be considered for incentives as a Chapter 380 Economic Development Program under these Policies and Procedures, a project must at least meet the following minimum requirements:

1. Either the project
 - a. will result in a minimum increased taxable value for the City of \$5,000,000 in real and business personal property (excluding inventory and supplies); **or**
 - b. will result in a minimum increase of sales revenue of \$2,000,000 per year for the City; **or**
 - c. is specifically determined by resolution of the Lake Jackson City Council to bring extraordinary benefit to the City consistent with the General Statement of Purpose and Policy as stated in Paragraph I above; **and**
2. In addition, the project
 - a. will make a unique or unequaled contribution to development or redevelopment efforts in the City of Lake Jackson, due to its magnitude, significance to the community or aesthetic quality.

- B. A project shall not be eligible for incentives under these Policies and Procedures if a building permit has been issued for the project prior to making application in accordance with these Policies and Procedures.
- C. Incentives established under this Program will be provided only to the extent that the revenue realized by the City and attributable to a project exceed a minimum amount established by the Agreement. The public benefit or amount of revenue realized by the City and attributable to the project must be commensurate with value of any incentives granted under this Program.

III. Additional Considerations

Additional factors to be considered by the City Council in determining whether to authorize an Agreement for incentives as a Chapter 380 Economic Development Program are:

- A. the number and types of jobs to be created or retained;
- B. the financial capacity of the applicant to undertake and complete the proposed project;
- C. other incentive programs for which the applicant has applied or is qualified;
- D. the market conditions and growth potential for the business activity, and
- E. any other factors the City Council finds helpful and relevant to accomplishing the City's economic development objectives.

IV. Value of Incentives

Chapter 380 grants may be offered to applicants that pursue quality retail development. The grants will be in the form of retail sales tax rebates derived from the increased sales taxes generated from the new development.

V. Application Process

- A. An application for consideration as a Program shall be made on forms supplied by the City. An applicant may be required to provide additional information to show compliance with minimum Program requirements. If City staff determines minimum program requirements have been met, City staff shall prepare and present a proposed Agreement with the applicant to the City Council.
- B. The City Council may consider the proposed Agreement and may take action on the proposal as it deems appropriate. Nothing in these Policies and Procedures and nothing in the application form and process shall create any property, contract, or other legal right in any person to have the City Council consider or grant incentives.

VI. An Agreement established for a Program must include:

- A. a timetable and list of the kind of improvements or development that the Program will include, and conditions to assure that the Program meets or exceeds the City's requirements pertaining to property values and revenues, which in no event shall be less than the minimum Program requirements established in Paragraph II above;
- B. a complete description of the location of the proposed Program;
- C. a timetable and list of the kind and amount of property values, revenues, incomes or other public benefits that the proposed Program will provide;
- D. a provision establishing the duration of the Agreement;
- E. a provision identifying the method for calculating and source of funding for any grant, loan or other incentives provided in the Agreement;
- F. a provision providing a tangible means for measuring whether the applicant and other responsible parties have met their obligations under the Agreement;
- G. a provision providing for access to and authorize inspection of the property and applicant's pertinent business records by municipal employees in order to determine compliance with the Agreement;
- H. a provision for cancellation of the Agreement and/or nonpayment of incentives if the Program is determined to not be in compliance with the Agreement;
- I. a provision that allows assignment of the Agreement with prior written approval of the City Council, or without the prior written approval of the City Council provided that:
 - 1. all rights, duties, obligations and liabilities under the Agreement are assigned from the assignor to the assignee; and
 - 2. the assignment is made subject and subordinate to the Agreement and the Chapter 380 Economic Development Program Policies and Procedures; and
 - 3. the assignment document is in a form and contains content acceptable to the City Attorney's Office;
- J. provisions relating to administration, delinquent taxes, reporting requirements and indemnification;
- K. a provision that the Agreement may be amended by the parties to the Agreement by using the same procedure for approval as is required for entering into the Agreement; and
- L. such other provisions as the City Council shall deem appropriate.

Adopted by Council Resolution _____ on _____, 2005.

Application for Tax Incentives



APPLICATION FOR TAX INCENTIVES

Applicant Information

1. Beneficiary of Incentives _____
Property Owner Business Owner Leaseholder (check all that apply)
Mailing address _____
Telephone _____ Fax _____
Cell Phone _____ Email _____

2. Contact Information _____
Title _____
Mailing address _____
Telephone _____ Fax _____
Cell phone _____ Email _____
Relationship to Beneficiary: Same as above Authorized Representative

3. Property address _____

4. Property legal description (metes & bounds) _____

5. Attach a **complete** description of the project including:
 - A. Method of financing
 - B. Primary business activity at this site
 - C. Complete description of all land uses
 - D. Time schedule for completion of improvements
 - E. NAICS Industry Code
 - F. Descriptive list of improvements
 1. Size _____ square feet
 2. Cost of construction \$ _____
 3. Value of Personal Property
 - a. Inventory \$ _____
 - b. Equipment, machinery, furnishings, etc. \$ _____
 - G. What taxable sales will be generated at this location \$ _____ per year

6. These documents **must** be submitted prior to the City staff's review of the application:
 - Property tax statement from the County Tax Office
 - Plat/map of project location



7. Level of abatements requested _____ % _____ Years

8. Describe all other incentives sought from the City-other economic incentives, fee waivers, fast-track plans review, etc.

9. Estimated taxable value of property improvements Real _____ Personal _____
Estimated taxable value is the value of the improvements on January 1 of the year after the improvements are made.

10. Job Creation & Retention:

Number of Full Time Equivalent Jobs	Avg. Annual, Monthly or Hourly Wage	Benefits Provided	Positions Created / Positions Retained
Executive	_____	_____	_____
Mid-Level	_____	_____	_____
Entry	_____	_____	_____
Total	_____	_____	_____

11. Infrastructure improvements/modifications sought:

12. On an attachment, describe why tax incentives are necessary for the success of this project and, how the improvements will benefit the property at the conclusion of the incentives. Include any documentation necessary to substantiate your request and if any other locations are under consideration.

I certify that the information contained herein is true and correct.

Name

Title

Date

This application must be completed and returned for consideration prior to the submission of an application for a building permit or the issuance of a certificate of occupancy, whichever comes first. Upon receipt of this application, the City of Lake Jackson shall require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.

An electronic copy of this application is available. Please submit the completed request to:

City Manager's Office
25 Oak Drive
Lake Jackson, TX 77566
For more information call (979) 415-2500