

CHAPTER 381 ECONOMIC DEVELOPMENT POLICY ERATH COUNTY, TEXAS

WHEREAS, Chapter 381 of the Texas Local Government Code authorizes Erath County to develop and administer projects for local economic development, and to encourage commercial activity in the County, and

WHEREAS, Erath County desires to provide financial incentives to select private businesses that contribute to economic development, and

WHEREAS, Erath County desires to provide such incentives to projects whose properties are subject to Erath County ad valorem taxes, and

WHEREAS, this policy shall not be construed to obligate Erath County to provide an incentive under Chapter 381 to any applicant; and all applications, requests and/or projects shall be considered on a case-by-case basis;

NOW THEREFORE, Erath County Commissioners' Court does adopt this policy to define the Chapter 381 incentives and establish guidelines and criteria by which they will be implemented.

MINIMUM CRITERIA

Erath County may provide Chapter 381 economic development incentives for a commercial development project ("Project") if that project if the Project meets the following **minimum** criteria:

1. Will enhance the economic vitality of Erath County, Texas;
2. Will result in a net increase or retention of jobs in Erath County or add to the tax base or will otherwise improve or enhance the economic welfare of the residents or businesses of the County; or
3. Demonstrates the potential to generate revenues to the County which outweighs costs associated with incentives;
4. Shows a clear demonstration of economic benefit through advancement of the County's economic goals which include expanding the tax base, creating quality jobs, increasing private capital investment in the community, spurring development in targeted county locations; or encouraging development of targeted businesses or clusters desirable to enhance the county's economy;
5. Provides evidence that demonstrates the business' financial stability and capacity to complete the project;
6. Is in compliance with all local, state, and federal laws;
7. Is located within the boundaries of Erath County, Texas;
8. Will create or retain a minimum of ___ jobs;
9. Minimum Project investment of \$1,000,000.00;

The decision to provide any Chapter 381 economic development incentives will be made on a case-by-case basis, in accordance with the minimum criteria set for herein and at the discretion of the Erath County Commissioners' Court. The specific terms of any Chapter 381 economic development agreement are at the sole discretion of the Erath County Commissioners' Court and will be determined and negotiated on a case-by-case basis.

APPLICATION PROCESS


Applicants seeking a Chapter 381 Economic Development Agreement with Erath County may do so by submitting a written proposal to the County Judge of Erath County, Texas. The written proposal shall consist of a developer information, owner information, project description, capital investment and employment projections, project location map, and project time schedule.

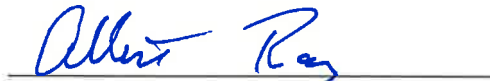
Upon review of the application, the Erath Commissioners' Court may request additional documents that they feel is necessary to evaluate the application. Once all documentation has been received a formal meeting will be scheduled between the applicant and the Commissioners' Court to discuss the specific terms of the proposed incentive agreement.

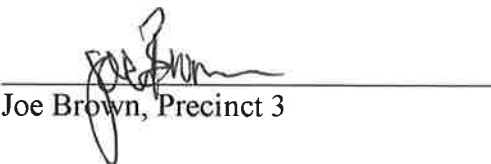
CHAPTER 381 AGREEMENT

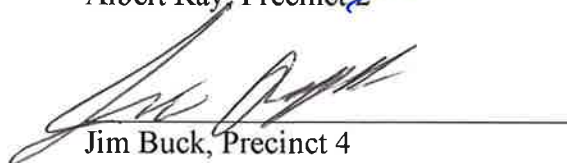
If the Erath County Commissioners' Court reaches an agreement with an applicant to provide Chapter 381 incentives, a formal agreement setting out the specific terms will be prepared and must be signed by applicant and approved in Commissioners' Court before it will take effect.

APPROVED AND ADOPTED on this 8th day of November, 2021.


Dee Stephens, Precinct 1


Albert Ray, Precinct 2


Joe Brown, Precinct 3


Jim Buck, Precinct 4


Alfonso Campos, Erath County Judge

Erath County, Texas
Economic Development
Criteria and Guidelines

Erath County, Texas
Guidelines and Criteria for
The Economic Development Tax Abatement Program

Section I

Purpose

Erath County, Texas is committed to the promotion and retention of high-quality business development within the County and to improve the quality of life for its citizens. These objectives can often be attained by the enhancement and expansion of the local economy. To meet these objectives, the County will, on a case-by-case basis, consider providing tax abatements to aid in the stimulation of economic development. Erath County will give said consideration in accordance with this Guidelines and Criteria document. Nothing herein shall imply or suggest that the County is under any obligation to provide tax abatements or incentives to any applicant. All applications shall be considered on a case-by-case basis. Tax abatements and other economic incentives will be measured against the same criteria.

Participation in an abatement or incentive agreement does not remove any obligation to satisfy all codes, ordinances, laws and regulations of the state of Texas County or any other affected taxing jurisdictions that might be in effect and applicable at the time of this project is implemented.

Section II

Definitions

1. "Abatement" means the full or partial exemption from ad valorem taxes of certain eligible property in a Reinvestment Zone designated for economic development purposes pursuant to Chapter 312 of the Texas Property Tax Code.
2. "Agreement" means a contractual agreement between a property owner and an eligible jurisdiction for the purposes of tax abatement. Owners of personal property and lessees may also be signatories to an agreement with a real property owner.
3. "Assisted Living Facility" means a facility with five or more living units providing long term care services for frail senior adults who need daily assistance with one or more tasks of daily living, including meals, bathing, and dressing or administering medication.

4. "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.
5. "County" means Erath County, Texas.
6. "Deferred Maintenance" means improvement necessary for continued operations, which do not improve the productivity or alter the process technology.
7. "Distribution Center Facility" means building and structures, including machinery and equipment, used primarily to receive, store, service, or distribute goods or materials owned by the facility operator where a majority of the goods or materials owned by the facility operator where a majority of the goods or services are distributed to points outside of the County.
8. "Eligible Property" means property that may be extended an abatement. Eligible property includes building, structures, fixed machinery and equipment, site improvements plus office space, related fixed improvements necessary to the operation and administration of the facility, and assisted living facilities
9. "Expansion" means the addition or enlargement of buildings, structures, fixed machinery, or equipment for purposes of increasing production capacity.
10. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
11. "Ineligible Property" means property that shall be fully taxable and ineligible for abatement. Ineligible property includes land, inventories, supplies, furnishings, or other forms of movable personal property, vehicles, deferred maintenance investments and residential property.
12. "Manufacturing Facility" means building and structures including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or material or the processing of such goods or materials by physical or chemical change, including the assembly of goods and materials from multiple sources in order to create a finished or semi-finished product.
13. "Modernization" means the replacement and upgrading of existing facilities, which increases the productivity 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, except as may be integral to or in direct connection with an existing expansion. If a modernization project includes facility replacement, the eligible value shall be the value of the new unit(s) less the value of the old unit(s).

14. "New Facility" means a property previously undeveloped, which is placed in to service, by means other than or in conjunction with expansion or modernization.
15. "Other Basic Industry" means building or structures including fixed machinery and equipment not elsewhere described, used, or to be used for the production of products or services which result in the creation of new permanent jobs and create new wealth in the County.
16. "Commissioner's Court" means a quorum of the Erath County Commissioner's Court.
17. "Productive Life" means the number of years a property improvement is expected to be in service.
18. "Residential Property" means land and buildings used as dwellings for occupancy by a family including single-family dwellings, two-four family dwellings, multi-family dwellings (five or more units), townhouse and condominium dwellings, family home for disabled persons, and retirement housing complexes. Residential property does not include Assisted Living Facilities.
19. "Project" means any property improvement including expansions, modernization, and new facilities; but excluding any deferred maintenance or public dedicated improvement.
20. "Reinvestment Zone" means any area of the County, which has been designated a reinvestment zone for tax abatement purposes and which is located within the taxing jurisdiction of the County. It is the intent of the County to designate reinvestment zones on a case-by-case basis in order to maximize the potential incentives for eligible enterprises to locate or expand within the County.
21. "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.
22. "Regional Retail Facility" means buildings and structures including fixed machinery and equipment used or to be used to provide retail services.
23. "Regional Service Facility" means buildings and structures, including machinery and equipment, used or to be used to provide services.

24. "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 thereto.
25. "Targeted Enterprise" includes, but is not limited to the following facilities: distribution center, manufacturing facility, regional entertainment facility, research facility, regional service facility, or any other basic industry.

Section III

Minimum Requirements Criteria

A. Minimum Requirements. In order to be eligible to receive a tax abatement the applicant must meet the following minimum requirements:

The project and applicant:

1. must be reasonably expected to increase the appraised value of the property in the amounts as stated in Section III, (A)(5); and
2. must be expected to prevent the loss of full-time jobs as stated in Section III, (A)(5) that is reasonably required in order to operate the facility in an efficient manner; provided that this employment qualification shall take effect one year after the effective date of the abatement and continue through the remaining term of the agreement; and
3. must not be expected to solely or primarily have the effect of transferring employment from one part of Erath County to another; and
4. must be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements; and
5. must propose a project with a cost of \$4,000,000 in capital investment in Erath County, and 25 new full-time jobs.

B. General Criteria. All applications should meet the following general criteria before being considered for a tax abatement for incentive.

1. The project expands the local tax base.
2. The project creates permanent, full-time employment opportunities.
3. The project contributes to enhancing further economic development.
4. The project will not result in any unreasonable aesthetic or environmental concerns.
5. No construction has commenced at the time the application is approved.
6. The project should not have any of the following objections:
 - a. There would be substantial adverse effect on the provision of government service or tax base.
 - b. The applicant has insufficient financial capacity.
 - c. Planned or potential use of the property would constitute a hazard to public safety.
 - d. Any violation of laws of the United States, State of Texas, orders of Erath County Commissioner's Court would occur.

C. Specific Criteria. If the project in the application meets the general criteria, then abatement or incentive may be considered. Factors to be considered in determining the portion of the increased value to be abated and the duration of the abatement agreement or the type of incentive given include, but are not limited to:

1. Employment Impact
 - a. How many jobs will be brought to Erath County?
 - b. What types of jobs will be created?
 - c. What will the total annual payroll be?

2. Fiscal Impact

- a. How much real and personal property value will be added to the tax rolls?
- b. How much direct sales tax will be generated?
- c. How will this project affect existing businesses or facilities?
- d. What infrastructure construction would be required?
- e. What is the total projected annual operating budget for this facility?

3. Community Impact

- a. What impact would the project have on the local housing market?
- b. What environmental impact, if any, will be created by the project?
- c. How compatible is the project with the immediate surrounding area?

D. Value and term. Once a determination has been made that a tax abatement will be offered, the maximum value and term of the abatement will be presented for reference in the following table:

<u>Years</u>	<u>Percentage of Taxable Value Abated</u>
The first and second years	(_____)
The third and fourth years	(_____)
The fifth and sixth years	(_____)
The seventh and eighth years	(_____)

Provided, however, that if the Commissioner's Court determines that the estimated economic life of a facility for which tax abatement is sought is for a period of less than sixteen years, the Commissioner's Court shall adjust the above schedule to a term not exceeding one-half of the economic life of the facility.

Section IV
Procedural Guidelines

Any person, organization, or corporation desiring that Erath County consider providing a tax abatement to encourage location or expansion of operations within the County shall be required to comply with the following procedural guidelines. Nothing within these guidelines shall imply or suggest that Erath County is under any obligation to provide tax abatement or incentive in any amount or value to any applicant. The Commissioner's Court shall review any request for tax abatement, and the Court shall vote on approval of the abatement or incentive.

A. Preliminary Steps

1. Complete the attached "Application for Tax Abatement".
2. Address, in narrative form, all criteria questions outlined in Section III.
3. A plat showing the precise location of the property, all roadways within 1000 feet of the site and land uses within 1000 feet of the site, (a complete legal description shall be provided if the property is described by metes and bounds).
4. A complete estimated cost of the project by "line item" approach.
5. A description of the methods of financing all estimated costs and the time when related costs or monetary obligations are to be incurred.
6. A detailed time schedule of undertaking and completing the project.
7. Complete all forms and information detailed in items one through six above and submit them to:

Office of the Erath County Judge
Erath County Courthouse
100 W Washington St
Stephenville TX 76401

B. Application Review Steps

All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be requested as needed.

C. Consideration of the Application

1. The Commissioner's Court must designate by order an area as a reinvestment zone to be eligible for tax abatement. Prior to adopting such court order:
 - a. the Commissioner's Court must conduct a public hearing on the designation that entitles all interested persons to speak and present evidence for or against the designation.
 - b. The Commissioner's Court will also call for a public hearing before granting an economic development incentive.
 - c. Any and all additional information requested must be furnished prior to any consideration of the application.

2. Information provided to the Commissioner's Court, which describes the specific processes or business activities, to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed.

D. Tax Abatement Agreement. The County, by resolution, may enter into a tax abatement agreement. At least seven days before entering into the agreement, the County will deliver written notice of its intent to each taxing unit that is included in the reinvestment zone.

1. Any agreement will include, but not be limited to, the following specific items:
 - a. All appropriate stipulations included in the application, as outlined by the document, for a reinvestment zone and tax abatement agreement.
 - b. The amount and duration of the tax abatement.
 - c. A method for determining the qualifications of meeting the criteria and applicant's promise to meet and maintain these qualifications over the term of the agreement. This may require the submission of an annual report to the Commissioner's Court demonstrating that the terms and conditions required to receive a tax abatement have been met, and the County will be allowed, upon written request and reasonable notice, to inspect and audit such records of the applicant as are necessary to substantiate that the applicant is meeting criteria agreed upon during the term of the abatement.

- d. A provision that provides for the recapture of taxes that is substantially worded as follows:
 - 1) In the event that the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster for a period of one year during the abatement period, then the agreement shall terminate automatically as of the 365th day of discontinuation and so shall the abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year shall be paid to the County within sixty days from the date of termination.
 - 2) Should the County determine that the company or individual is in default according to the terms and conditions of its agreement, the County shall notify the company or individual in writing at the address stated in the agreement, and if said default is not cured within sixty (60) days from the date said notice is placed in the US mail ("Cure Period"), then the agreement may be terminated.
 - 3) In the event that the company or individual:
 - (1) allows its ad valorem taxes owed the County to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest; or
 - (2) violates any of the terms and conditions of the abatement agreement and fails to cure within 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.
 - e. The tax abatement agreement shall not commence until the facility has received a formal notice of approval from Erath County Commissioner's Court.
 - f. A provision that the owner of the property certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement.
2. An agreement may be terminated by the mutual consent of the parties in the same manner that the Agreement was approved and executed.

APPLICATION FOR TAX ABATEMENT

Section I

1. Property Owner: _____

Mailing Address: _____

Telephone Number: _____

2. Property Owner's Representative: _____

Mailing Address: _____

Telephone Number: _____

3. Property Address (Physical): _____

Property Legal Description (Include as attachment with metes and bounds):

4. Please confirm the following locations :

Erath County Yes No

City of _____

School District _____

5. Description of Project: _____

6. Date of projected occupation of project/initiation of operations: _____

Section II

Please attach a narrative response to the "Application for Tax Abatement" for the following questions:

Employment Impact

How many jobs will be brought to Erath County?

What types of jobs will be created?

What will the total annual payroll be?

Fiscal Impact

How much real and personal property value will be added to the tax rolls?

How much direct sales tax will be generated?

How will this project affect existing businesses or facilities?

What infrastructure construction would be required?

What is the total projected annual operating budget of this facility?

Community Impact

What impact would the project have on the local housing market?

What environmental impact, if any, will be created by the project?

How compatible is the project with the surrounding property?