

# ECONOMIC DEVELOPMENT

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Fourteenth Annual Riley Fletcher Basic Municipal Law Seminar  
Texas City Attorney's Association  
February 21, 2013

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- Chapter 380 Agreements
- Type A & Type B Economic Development Sales Tax
- Tax Abatement
- Tax Increment Financing
- Public Improvement Districts

Economic Development Tools



# Texas Attorney General Economic Development Handbook for Cities

[www.oag.state.tx.us/AG\\_Publications/pdfs/economicdevelopmenthandbookforcities2013.pdf](http://www.oag.state.tx.us/AG_Publications/pdfs/economicdevelopmenthandbookforcities2013.pdf)

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## Chapter 380 Agreements

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**Broadest economic development tool**

**Authorizes grants or loans of public money, use of city personnel, facilities, and services**

**City must establish program**

## **Chapter 380 Agreements**

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- Creation of a certain number and type of jobs
- Required capital or infrastructure improvements
- Generation of certain levels of sales tax revenue
- Duration or number of years condition applies
- Maximum amount of incentives
- Provide for restrictions:
  - Geographical or Zoning district limitations
  - Restrict to certain types of industry or commercial activity
  - Development or environmental restrictions

## **Incentive Program Considerations**

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## Incentive Limitations

- Program must serve public purpose
- Project funded by current revenue or authorized debt
- Compliance with Charter and other applicable laws

## Economic Development Sales Tax

- Authorized municipalities to establish a nonprofit corporation to administer voter approved local sales and use tax funds for projects promoting the creation of new and expanded industry, manufacturing, and industrial and commercial enterprises.
- Currently codified under Chapters 501-505 of the Texas Local Government Code

## Development Corporation Act of 1979

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Type A sales tax intended primarily for manufacturing and industrial development.

Type B sales tax may fund community development projects in addition to "Type A" projects.

## Development Sales Tax

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## Powers and Duties

- Generally, a Development Corporation has the powers, privileges and functions of a non-profit corporation.
- A Development Corporation may:
  - Expend tax proceeds for economic development purposes
  - Contract
  - Issue Bonds
  - Purchase Property
  - Type B entity may Exercise Eminent Domain with approval of City

- Cannot spend more than 10% of the corporate revenues for promotional purposes.
- Cannot purchase property partly or wholly with bond proceeds unless obtain an independent appraisal of the property's market value.
- Cannot incur debt that cannot be paid from:
  - (1) bond proceeds;
  - (2) revenue realized from the sale or lease of a project;
  - (3) revenue realized from a loan; or
  - (4) money granted from a municipality under a contract.

## Statutory Limitations

# AUTHORIZED PROJECTS

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## Projects for Creation or Retention of Primary Jobs

- Land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements for:
  - Creation or Retention of Primary Jobs
  - Development, Retention or Expansion of Manufacturing and Industrial Facilities
  - Development, Retention or Expansion of Research and Development Facilities
  - Development, Retention or Expansion of Military Facilities
  - Transportation Facilities
  - Sewage or Solid Waste Disposal Facilities
  - Recycling Facilities
  - Air or Water Pollution Control Facilities
  - Facilities for Furnishing Water
  - Small Warehouse Facilities
  - Primary Job Training Facilities
  - Regional or National Corporate Headquarters
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**Projects for Certain Job Training**

- Job training required or suitable for the promotion of development and expansion of business enterprises

**Certain Infrastructure Projects**

- Infrastructure necessary to promote or develop new or expanded business enterprises, limited to:
  - Streets and Roads, Rail Spurs, Water and Sewer Utilities, Electric Utilities, Gas Utilities, Drainage, Site Improvements, and Related Improvements
  - Telecommunications and Internet Improvements

**Type B Sales Tax Projects**

- Recreational or Community Facilities
- Affordable Housing
- Water Supply Facilities and Water Conservation Programs
- Business Enterprises that Create or Retain Primary Jobs
- Airport Facilities
- Business Development in Certain Small Municipalities



### Performance Agreement

- Schedule of additional payroll or jobs to be created or retained
- Capital Investment
- Repayment terms if business enterprise does not meet performance requirements

### Annual Report/Training

- Annual Report due to Comptroller February 1<sup>st</sup> of each year
- State required sales tax training every two years for EDC executive director or other person responsible for day-to-day administration, and one of the following:
  - (1) City Attorney
  - (2) City Administrator
  - (3) City Clerk

## Requirements

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### Type B Corporation

- Public hearing
    - Must hold at least one public hearing before expending money on project
    - If population less than 20,000, EDC is not required to hold public hearing if Type A project
  - 60-day waiting period
    - Public has 60 days to petition for an election to be called on whether to pursue the project
    - City must hold election if more than 10% of the registered voters request election, unless the voters previously approved the project.
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# Tax Abatement

Ch. 312 of the Texas Tax Code

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Tax Abatement Agreement may exempt from taxation all or part of the increase in the value of the real property, leasehold interest, or fixture

10-year maximum term

Conditioned on requirement that property owner make specific improvements or repairs to property

Detailed process for tax abatement agreement:

- City must pass resolution regarding intent to participate in tax abatement, and set guidelines and criteria for program
  - City must designate reinvestment zone
  - City must sent written notification to other taxing units of intent to grant tax abatement
  - City must approve tax abatement at regularly scheduled meeting
  - Other taxing units may elect to enter into tax abatement agreement with property owner
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## Tax Increment Financing

Ch. 311 of the Texas Tax Code

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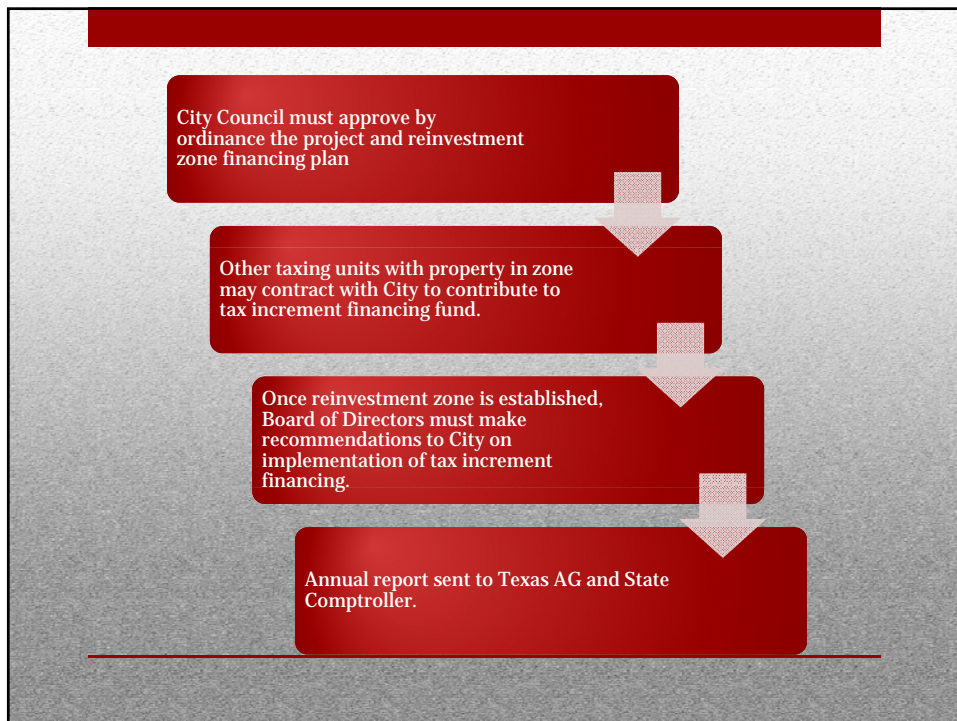
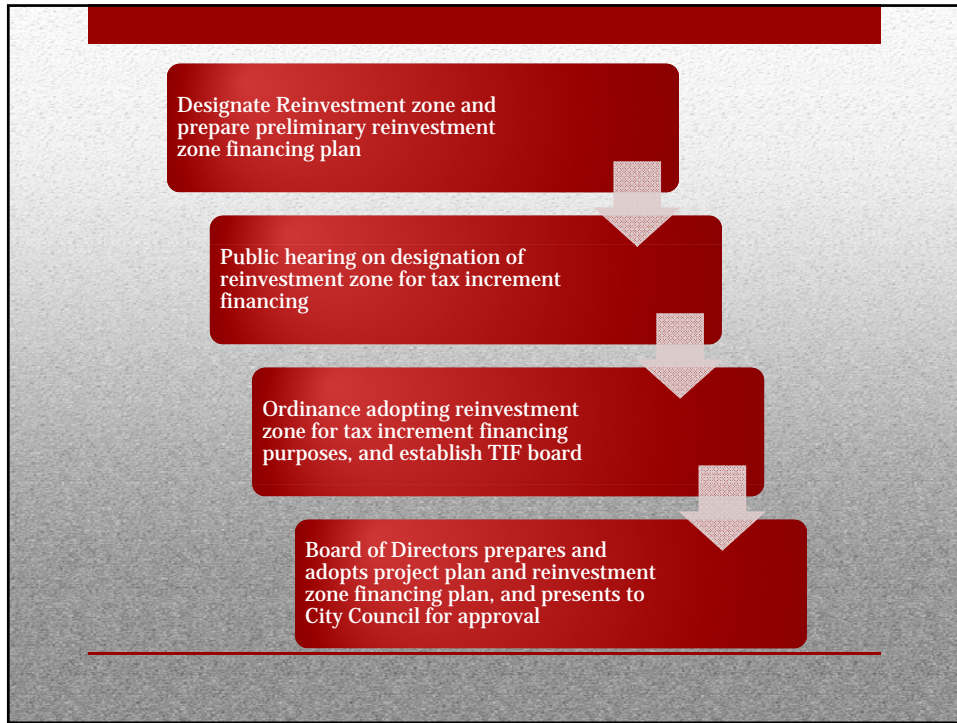
Provides for public financing of needed structural improvements and enhanced infrastructure within a reinvestment zone

Earmarks all or a portion of the increase in tax revenue within the reinvestment zone for the improvements

Other taxing entities may elect to participate in tax increment fund

- Substantially arrest or impair the sound growth of the city designating the zone, retard the provision for housing accommodations, or constitute an economic or social liability to the public health, safety, morale, or welfare
- Open or undeveloped and, because of obsolete plating, deterioration of site structures or improvements, or other factors, substantially impairs or arrests the sound growth of the city
- Federally assisted new community or adjacent thereto
- Area described in petition requesting designation as reinvestment zone by property owners constituting at least 50% of appraised value of property in the area

### Reinvestment Zone Requirements





## Public Improvement District

Ch. 372 of the Texas Local Government Code

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Allows City to levy and collect special assessment on property within the City or its ETJ

City makes improvements in infrastructure to facilitate growth in area

City must consider feasibility of improvements

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