

City of Lawton
Economic Development Assistance - Retail
Policy 1-10



Policy 1-10 ECONOMIC DEVELOPMENT ASSISTANCE POLICY - RETAIL

DISTRIBUTION: Mayor, City Council and All Departments

SUBJECT: Economic Development Assistance Policy - Retail

PURPOSE: To establish and maintain an economic retail development assistance policy to provide retail development incentives.

BACKGROUND: A City Council policy outlining economic development incentives and guidelines for potential retail projects seeking financial support is important given constitutional and statutory limitations established by the State of Oklahoma. In this regard, the attached Economic Development Assistance Program, Council Policy 1-10, recognizes the City's interest in assisting viable retail development projects and the procedural guidelines for securing public investment through the City of Lawton.

This retail development policy will be administered by the Lawton Economic Development Authority (LEDA), acting as an advisory committee to the Lawton City Council. All final decisions regarding the nature and amount of any financial incentives offered to a proposed retail development shall be at the sole discretion of the City Council.

PROCEDURES: See Attachment A

REFERENCES: OK Const. Art. 10, § 17 and Statutory/Case law

EFFECTIVE DATE: This revised policy becomes effective November, 2018.

FRED L. FITCH, MAYOR

CITY OF LAWTON
ECONOMIC DEVELOPMENT ASSISTANCE POLICY -RETAIL

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**CITY OF LAWTON
ECONOMIC DEVELOPMENT ASSISTANCE POLICY
RETAIL**

I. PURPOSE STATEMENT

The City of Lawton is committed to the promotion of high quality retail development in all parts of the City and to ongoing improvement in the quality of life for its citizens.

This policy is established in an effort to develop and expand the local economy by promoting and encouraging retail development and redevelopment projects that enhance the City's economic base through the expansion and diversification of job opportunities and new private investment.

In furtherance of these goals, the City of Lawton will consider, requests for economic development assistance to private retail business entities in order to make possible projects that would not otherwise occur.

Nothing in this policy is intended to imply that the City is under any obligation to provide economic development assistance to any applicant. All applicants shall be considered on a case-by-case basis. The decision to provide economic development assistance shall be at the sole discretion of the City Council. Any applicant granted economic development assistance must enter into an agreement with the City of Lawton, or a public trust whose sole beneficiary is the City of Lawton, which contains all terms required by State Statutes, City Code, this Policy, and other applicable law, in order to ensure sufficient public benefit is received in exchange for incentives thereby satisfying the public purpose requirement of Oklahoma law.

A. Principles: In providing economic development assistance, the following principles shall be followed:

1. The City's credit and financial interest shall never be placed at risk.
2. The project must promote viable retail development in the city by increasing sales tax, adding and/or retaining existing jobs and promoting collateral economic growth and development.
3. The City must have a legal interest in the land upon which any public infrastructure is constructed.

B. Priorities: In considering requests for retail economic development assistance, the following criteria will be considered to enhance an application's priority:

1. Primary consideration may be given to development and redevelopment activities located in areas targeted for development and redevelopment in

the City's general plan, such as blighted areas, urban renewal project areas, established "enterprise zones" or established "tax increment finance districts".

2. Consideration shall also be given to projects that will make a unique or unequaled contribution to development or redevelopment efforts in the City, due to the project's magnitude, significance to the community or aesthetic quality.

C. Tax Increment Financing (TIF): Where appropriate, the City of Lawton may choose to provide economic development assistance under the Oklahoma Local Development Act, 62 O.S. §§ 850 *et seq.*, including through the use of tax increment financing (TIF). The City's method of financing economic development assistance for a particular project is a legal and financial decision of the City, not the applicant. Public policy objectives outlined in the Act for TIF project areas include, but are not limited to, eliminating blight, encouraging economic revitalization, and encouraging investment and development that otherwise would be difficult or impossible. In addition, the following principals will guide the City's use of TIF assistance to economic development projects:

1. To receive an allocation of TIF revenues, an investment must meet the specific public policy objectives set forth in the project plan for the particular TIF district where the project is located.
2. The TIF revenues may be used to pay project costs as defined by the Local Development Act (62 O.S. § 853(14)). The City's preferred method for providing TIF assistance to a project is for the TIF revenues to be paid over time as the developer or redeveloper performs on covenants meeting the public policy objectives, with the performance providing the required public benefits to the City and the public.

II. RETAIL DEVELOPMENT PROGRAM

A. Special Considerations for Retail Developments. The City Council recognizes that assistance to retail developments raises special considerations and requires extra assurances of fairness, impartiality, and adequacy of public benefit. For that reason, the principles, outlined in paragraphs "B" thru "H" of this section, shall be followed in providing development assistance to developments that are primarily retail in nature.

The Lawton Economic Development Authority (LEDA) shall be responsible for initial review of all retail development proposals submitted to the City of Lawton. LEDA will act as a recommending body to the City Council and will prepare a evaluation report based on the information contained in the application.

For the purposes of this policy, a development is considered "retail" if the majority of its usable space is leased or owned by a business which falls within one of the Standard Industrial Codes (SIC) categories shown on "Attachment A".

B. Types of Retail Projects.

1. Public financial support of retail redevelopment projects located in areas that have already been identified as areas needing assistance for development, i.e. an urban renewal project area, an enterprise zone, or a tax increment finance district, will be a priority under this policy.
2. Public financial support may be given to development and redevelopment projects and activities located in other areas specifically targeted for commercial development and redevelopment in the City's general plan, including: (re)development on a Brownfield site, (re)development of vacant or derelict buildings, redevelopment of underperforming and older commercial/retail centers, and (re)development of neighborhood with little or no shopping or retail development to serve the local population.
3. Public financial support may also be considered to retail development in other areas of the City.

C. Development Assistance. Assistance may be provided to a retail project if it is one of the following types:

1. **Regional Retail Projects:** A Regional Retail Project is a development that contains a retailer or group of retailers who will offer products and or goods (subject to sales tax). A regional retailer is expected to attract new sales tax dollars or retain sales tax dollars that may otherwise go to a nearby cities or metropolitan areas. In addition, a Regional Retail Project is defined as a development that contains at least 50,000 square feet of net usable retail space and contains a minimum of five (5) acres of developmental land area.
2. **Neighborhood Retail Projects:** A Neighborhood Retail Project is defined as a project that provides retail service to a redevelopment neighborhood, approved by the City or established by the formation of a T.I.F. District A neighborhood retail development must have at least 10,000 net usable square feet of retail space.

D. Analysis. In determining whether, and to what extent, development assistance to a proposed retail project is appropriate, the City Council will consider the following in order to establish that the public benefits to the City will (adequate consideration) to “constitute” a public purpose:

1. Projected increase in sales taxes
2. Number of additional jobs
3. Retention of existing jobs
4. Promotion of collateral economic growth and development
5. Estimated "transfer losses" from existing merchants
6. Willingness of the retailer to enter into an enforceable agreement that provides strict accountability ensuring the public benefit is realized and not lost if the project is

abandoned, fails, or underperforms

E. Forms of Incentives. To the extent permitted by law, the City or a City beneficiary Trust may assist a retailer or retail developer by providing the following:

1. Public infrastructure improvements including but not limited to the following:

- Public roadways
- Traffic signals
- City utility extensions
- Drainage improvements
- Streetscape improvements in or around the development that encourages pedestrian traffic
- Extended public transportation network
- Parking garage
- Installation of fire hydrants and related infrastructure

Note: Unless the retail development is located in an urban renewal area, public infrastructure improvements that meet the following definition for "public use" are the only infrastructure item for which assistance that may be provided. "Public use requires that the work shall be essentially public and for the good of all inhabitants of the taxing body (city)... a public purpose affects the inhabitants of the... taxing district as a community not merely as individuals." An example of an infrastructure item that would be public but not qualify is a sewer or water main that can only serve the proposed development.

The City, a public trust with the City as its beneficiary, or the Lawton Urban Renewal Authority (LURA) may construct public improvements on publicly owned land or easements. These improvements will be constructed using any legally applicable competitive bidding process.

2. Assistance with public processes including permitting, zoning or other codes, site plan approval and site inspections
3. Site acquisition
4. Site preparation for contaminated Brownfield or downtown infill projects
5. Cash incentives in exchange for adequate consideration/accountability outlined in paragraph "D". See *Brown v. City of Warr Acres*, 1997 OK 117, 946 P.2d 1140.

F. Performance Based Incentives. Incentives to retail shall be primarily based on the estimated amount of new City sales taxes generated that can be reasonably defined and determined to result from the new development and shall be limited to fifty percent (50%) of the City General Sales Tax collected from the approved development. The package of incentives will be determined once all of the review and analysis of the retail development proposal is completed under paragraph "D". Reimbursement of actual expenses will be a preferred method of implementing the incentives. The City shall determine the appropriate form of incentives-

G. Application. Prospective retail developers and retailers will make a formal request for retail incentives to:

City of Lawton
212 SW 9th Street
Lawton, OK 73501
Attn: City Manager

A one time non-refundable application fee of \$750.00 shall accompany all applications. The attached form "Attachment B" shall be used. Applications will be reviewed to determine if the development meets the guidelines of this policy. The Lawton Economic Development Authority will perform the initial review of all retail development applications and the Lawton Industrial Development Authority will perform the initial review for all industrial development applications. If the development meets the requirements of this policy and is approved to receive incentives, the City Attorney's office will prepare an Economic Development Agreement (EDA). All proposed EDAs will be reviewed by the City's bond counsel to insure that the proposed agreement does not adversely affect the City's ability to issue nontaxable municipal bonds now or in the future. The agreement will be forwarded to the City Council for approval.

H. Other Information. In addition to completing the application, applicants may be required to provide a trade area analysis; a market analysis; a feasibility study; traffic study and other information deemed relevant by the City. In addition, such retailers and retail developers may be required to submit financial information regarding the project. To the extent permitted by the Oklahoma Open Records Act, Title 51 Oklahoma Statutes Section 24A.1 et seq, the City will keep personal financial information confidential.

Attachment A

Listing of Retail Standard Industrial Codes (SIC)

Source: U.S. Security and Exchange Commission - <http://www.sec.gov/info/edgar/siccodes.htm>

SIC	DESCRIPTION
5200	RETAIL-BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY
5211	RETAIL-LUMBER & OTHER BUILDING MATERIALS DEALERS
5271	RETAIL-MOBILE HOME DEALERS
5311	RETAIL-DEPARTMENT STORES
5331	RETAIL-VARIETY STORES
5399	RETAIL-MISC GENERAL MERCHANDISE STORES
5400	RETAIL-FOOD STORES
5411	RETAIL-GROCERY STORES
5412	RETAIL-CONVENIENCE STORES
5500	RETAIL-AUTO DEALERS AND GASOLINE STATIONS
5531	RETAIL-AUTO & HOME SUPPLY STORES
5600	RETAIL-APPAREL & ACCESSORY STORES
5621	RETAIL-WOMEN' S CLOTHING STORES
5651	RETAIL-FAMILY CLOTHING STORES
5661	RETAIL-SHOE STORES
5700	RETAIL-HOME FURNITURE, FURNISHINGS & EQUIPMENT STORES
5712	RETAIL-FURNITURE STORES
5731	RETAIL-RADIO, TV & CONSUMER ELECTRONICS STORES
5734	RETAIL-COMPUTER & COMPUTER SOFTWARE STORES
5735	RETAIL-RECORD & PRERECORDED TAPE STORES
5810	RETAIL-EATING & DRINKING PLACES
5812	RETAIL-EATING PLACES
5900	RETAIL-MISCELLANEOUS RETAIL
5912	RETAIL-DRUG STORES AND PROPRIETARY STORES
5940	RETAIL-MISCELLANEOUS SHOPPING GOODS STORES
5944	RETAIL-JEWELRY STORES
5945	RETAIL-HOBBY, TOY & GAME SHOPS
5960	RETAIL-NONSTORE RETAILERS
5961	RETAIL-CATALOG & MAIL-ORDER HOUSES
5990	RETAIL-RETAIL STORES, NEC

Attachment B
The City of Lawton
Retail Incentive Application

Project Name: _____

1. Property Owner:

Contact Person:

Address:

City:

Zip:

Phone:

(Day)

(Cell)

Email:

2. Developer:

Contact Person:

Address:

City:

Zip:

Phone:

(Day)

(Cell)

Email:

4. Leasing Agent (If Applicable):

Contact Person:

Address:

City:

Zip:

Phone:

(Day)

(Cell)

Email:

5. Location of Development:

6. Project Engineer:

7. Architect:

8. Provide Brief Description of Development:

9. Total Square Footage In Building/Development:

Name of Tenants	Type of Business Product Line	Square Footage	Projected Annual Sales	Projected Annual Sales Taxes	Percent New To Economy

10. Tenant Mix

11. Estimated Capital Investment

Land:

Construction:

FF&E (including land cost):

Other:

Total:

12. Financing - Have you obtained a commitment from a lending institution? () Yes () No

Name of Institution

Contact Information

Note: Please attach necessary documentation with respect to commitments from tenants (lease, letter of confirmation , etc.) as well as projected annual sales (market survey, etc)

13. Proposed Improvements (Please attach drawings)

14. **Describe Proposed Public Improvements:**
(Such as Road , Water, Sewer, Traffic, Improvements, etc.)

Estimated Cost:

15. **Describe Potential Private Improvements:**

Estimated Cost:

16. **Describe Anticipated Project Timeline (days)(e.g. site prep, design, permitting, construction etc)**

17. **Projected Construction Start Date**

Applicant Certification

I hereby certify that the aforementioned information, under penalty of law, is true and correct to the best of my knowledge.

X_ _ _ _ _

Certified this the _____ day of _____ 200

X_ _ _ _ _

Name and Title

**Submit To: City Manager's Office
212 SW 9th Street
Lawton, OK 73501
580-581-3301**

An application fee of \$750.00 must accompany the certified application. The application fee includes all costs associated with processing the application and is not refundable if the application is rejected.