

**CITY OF KENYON**  
**&**  
**KENYON ECONOMIC DEVELOPMENT AUTHORITY**  
**TAX INCREMENT FINANCING POLICY**

**I. PURPOSE:**

The purpose of this policy is to establish the City/EDA's position as it relates to the use of tax increment financing for private development. This policy shall be used as a guideline in processing and reviewing applications requesting tax increment assistance.

**II. GENERAL POLICY:**

While tax increment financing is an important and useful tool in attracting and retaining businesses, it is essential that it is used appropriately to accomplish the City/EDA's economic development goals and objectives. The fundamental principle which makes tax increment financing viable is that it is designed to encourage development which would not otherwise occur. The City/EDA is responsible to assure that the project would not occur "but for" the assistance provided through tax increment financing.

The City/EDA shall consider tax increment financing in cases that serve to accomplish the City/EDA's targeted goals for economic development as they may change over time. These goals include projects that would result in the creation of jobs that pay wages to support households, increase the tax base, remove blight, retain the viability of the central business district and the retention and expansion of businesses.

**III. DESCRIPTION OF TAX INCREMENT FINANCING:**

With tax increment financing, the increase in assessed valuation and tax revenues attributed to the new development pay for eligible new development costs. The tax increment is the difference in assessed valuation and tax revenues generated by the property in the district after construction compared with the assessed valuation and tax revenues generated by the property before construction at the time of "certification". This difference in assessed valuation and tax revenues is used to pay the current eligible development costs.

Any project utilizing tax increment financing requires the usage of at least two Minnesota State Statutes. These statutes are: A) the statute creating the project area and specifying its public purpose and B) the statute establishing the means to finance the project by creating a tax increment financing district.

**IV. STATUTORY LIMITATIONS:**

In accordance with the tax increment policy, tax increment financing requests must comply with applicable state statutes. The City/EDA is governed by the limitations established in the Minnesota Tax Increment Financing Act (M.S. 469.174-469.1791, as amended.) for all districts created after August 1, 1979.

**V. ELIGIBLE USES FOR TAX INCREMENT FINANCING**

As a matter of adopted policy, the City/EDA will consider using tax increment financing to assist private developments only in those circumstances in which the proposed private projects meet one or more of the following uses:

- A. To redevelop blighted or under-utilized areas of the community
- B. To meet the following housing-related uses:
  - 1. To provide a diversity of housing adjacent to the downtown area;
  - 2. To provide a variety of housing ownership alternatives and housing choices;
  - 3. To promote affordable housing for low- or moderate-income individuals; or
  - 4. To promote neighborhood stabilization and revitalization by the removal of blight and the upgrading of existing housing stock in residential areas.
- C. To remove blight and encourage redevelopment in the commercial and industrial areas of the community in order to encourage high levels of property maintenance and private reinvestment in those areas;
- D. To increase the tax base of the City in order to ensure the city's long-term ability to provide adequate services for its residents while lessening the reliance on residential property tax;
- E. To retain local jobs, increase the local job base, and provide diversity in that job base;
- F. To increase the local business and industrial market potential of the City.
- G. To provide adequate short-term business and shopper parking, and resident parking;
- H. To encourage additional unsubsidized private development in the area, either directly or through secondary "spin-off" development;
- I. To offset increased costs of redevelopment, over and above those costs that a developer would incur in normal urban and suburban development;
- J. To accelerate the development process and to achieve development on sites which would not be developed without this assistance; or
- K. To meet other uses of public policy, as adopted by the City/EDA from time to time, including promotion of quality urban design, quality architectural design, energy conservation, decreasing the capital and operating costs of local government, etc.

## **VI. TAX INCREMENT PROJECT APPROVAL CRITERIA:**

All new projects approved by the City/EDA should meet the following mandatory minimum approval criteria. However, it should not be presumed that a project meeting these criteria will automatically be approved. Meeting these criteria creates no contractual rights on the part of any potential developer.

- A. The tax increment financing assistance shall be provided within applicable state legislative restrictions, debt limit guidelines, and other appropriate financial requirements and policies.
- B. The project should meet one or more of the above adopted tax increment financing goals of the City/EDA.
- C. The project must be in accord with the Comprehensive Plan and Zoning Ordinances, or required changes to the plan and ordinances must be under active consideration by the City at the time of approval.
- D. Tax increment financing assistance will not be provided solely to broaden a developer's profit margins on a project. Prior to consideration of a tax increment financing assistance request, the City/EDA may undertake an independent underwriting of the project to help ensure that the request for assistance is valid.
- E. The City/EDA will need to make a finding that the proposed development would not be reasonably expected to occur solely through private investment within the

reasonably foreseeable future and therefore the use of tax increment financing is deemed necessary.

- F. The City/EDA will need to make a finding that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the plan.
- G. Prior to approval of a tax increment financing plan, the developer shall provide any required market and financial feasibility studies, appraisals, soil boring information provided to private lenders for the project, and other information or data that the City/EDA or its' financial consultants may require in order to proceed with an independent underwriting.
- H. To ensure cash flows are adequate, projects receiving tax increment financing assistance "up front" will be analyzed on a debt service coverage ratio.
- I. The developer should provide adequate financial guarantees to ensure repayment of the "up front" tax increment financing assistance. These may include, but are not limited to, assessment agreements, letters of credit, etc.
- J. Any developer requesting tax increment financing assistance should be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed.
- K. The developer should retain ownership of the project at least long enough to complete it, to stabilize its' occupancy, to establish the project management, and to initiate repayment of the tax increment financing, if any is required.
- L. The level of tax increment financing funding should be reduced to the lowest possible level by maximizing the use of private debt and equity financing first, and then using other funding sources or income-producing vehicles that can be structured into the project financing, prior to using additional tax increment financing funding.

## **VII. TAX INCREMENT PROJECT EVALUATION CRITERIA:**

All projects will be evaluated on the following criteria for comparison with other proposed tax increment financing projects reviewed by the City/EDA and for comparison with other subsidy standards (where appropriate). Changes in local markets, costs of construction, and interest rates may cause changes in the amounts of tax increment subsidies that a given project may require at any given time.

Some criteria, by their very nature, must remain subjective. However, wherever possible, "benchmark" criteria have been established for review purposes. The fact that a given proposal meets one or more "benchmark" criteria does not mean that it is entitled to funding under this policy, but rather that the City/EDA is in a position to proceed with evaluations of (and comparisons between) various tax increment financing proposals, using uniform standards whenever possible.

Following are the evaluation criteria that will be used by the City/EDA:

- A. All tax increment financing proposals should optimize the private development potential of a site.
- B. All tax increment financing proposals should obtain the highest possible private to public financial investment ratio.
- C. All tax increment financing proposals should create the highest number of new jobs on the site. There shall be an analysis of newly created or retained full-time equivalent jobs as compared to the amount of financing assistance provided for industrial projects. Housing and retail/commercial projects shall be reviewed on an individual project basis.

## **VIII. COSTS ELIGIBLE FOR TAX INCREMENT FINANCING ASSISTANCE:**

Project costs qualifying for tax increment financing assistance, as defined under the TIF Act, include: utilities design, landscape design, architectural and engineering fees directly attributable to site work, site related permits, earthwork/excavation, soils corrections, landscaping, utility construction (sanitary sewer, storm sewer and water), streets and roads, street/parking lot paving, street/parking lot lights, curb and gutter, sidewalks, land acquisition, building demolition, relocation of occupants, special assessments, legal (acquisition, financing and closing fees), soils tests and environmental studies, surveys, title insurance and TIF application deposit.

## **IX. TYPES OF ASSISTANCE:**

Tax increment financing can be provided in two different forms. One form is "pay as you go" wherein the City compensates the applicant for a predetermined amount for a predetermined number of years. Annual payments are based on increment generated from the project and issued to the applicant after payment of property taxes by the applicant. The City/EDA will give special consideration to applicants applying for "pay as you go" assistance.

Another form of assistance is "up front" payment to the applicant wherein the City must issue revenue or general obligation bonds. The increment generated from the applicant's project is then used for repayment of bonds. This form of assistance is not looked upon favorably by the City/EDA because of the additional risk incurred in case of default.

## **X. DEPOSIT MAY BE REQUIRED WITH TAX INCREMENT FINANCING APPLICATION:**

The City/EDA may require a deposit in the amount from the applicant for the City/EDA's consultants to investigate the feasibility of providing tax increment financing assistance to the applicant's project whether it be by the creation of a new tax increment financing district or the modification of a current district. If the City/EDA incurs additional expense beyond the initial deposit, prior to the execution of the Developer's Agreement, the City/EDA shall notify the applicant in writing and the applicant will be required to deposit additional funds.

If the project is approved and the applicant proceeds with the project, the City/EDA shall reimburse the applicant's deposit to the extent permissible under the TIF Act utilizing available tax increment dollars. If the applicant does not proceed with the project, the City/EDA shall reimburse the applicant for the unused portion of the deposit.

## **XI. OTHER POLICY ISSUES:**

Loss of Government Aid: changes to Minnesota Statutes mandate a reduction in the LGA/HACA payments from the State to the City when new tax increment financing districts are formed. In the event a new tax increment financing district is formed or a new project in an existing district created after 1991 is approved, the City will suffer an LGA/HACA reduction from the State and/or may have other considerations mandated by current State Statute. This will be a major consideration in determining the feasibility of the creation of a new or modification of an existing tax increment financing district.

## **XII. SUBMITTAL OF FORMS:**

Applicants requesting tax increment financing assistance within an existing district or in the creation of a new district shall be required to complete and submit the following:

- A. Request for tax increment financing application
- B. Deposit (if required)
- C. Copies of plans and specifications

**XIII. PROCEDURE:**

- A. Applicant meets with the City Administrator, discusses the project and receives an application.
- B. Applicant submits the completed application, deposit and plans and specifications to the City Administrator.
- C. City Administrator discusses project with the City/EDA's tax increment consultants and receives a not to exceed quote for completing the work should the EDA Board accept the project as feasible for tax increment financing.
- D. Project is placed on the EDA Agenda for the next regularly scheduled meeting.
- E. The City Administrator and applicant present the project to the EDA Board.
- F. The EDA will determine to accept or reject the application. If rejected, nothing further happens and deposit is returned.
- G. If the EDA Board accepts the application and deposit, staff will be directed to work with the consultants and City Staff to put together a tax increment financing plan and district plan and enter into negotiations with the applicant to secure agreeable terms for the development agreement. The development agreement will not be drafted until after City Council approval.
- H. Upon completion of a draft of the tax increment financing plan, district plan and development agreement terms that are agreeable to the applicant, the EDA Board may hold a special meeting to discuss these drafts.
- I. If approved, the EDA Board will make a recommendation to the City Council to proceed with allowing this project to move forward.
- J. The City Administrator, applicant and consultants will make a presentation to the City Council and request public hearings and other statutory items be scheduled and other board reviewal scheduled, if appropriate.
- K. The public hearings will be conducted and after hearing the public input and receiving other board recommendations, the City Council may: 1) accept the plans and recommendations and direct staff to complete these plans, 2) reject the plans and project or 3) modify the plans accordingly and reenter negotiations.
- L. If/once approved and both parties sign the documents, construction may commence.