



Tax Increment Financing and Tax Abatement Policy

EDA Adopted: October 2013
City Council Adopted: November 2013

Each application submitted for assistance will be evaluated by the City on a case-by-case basis to analyze the viability of a proposed project. Depending on the exact nature and complexity of a project, the estimated timeframe from application to designation of a TIF District or Tax Abatement is at least three (3) months.

**CITY OF ST. CLOUD
ECONOMIC DEVELOPMENT AUTHORITY**

TAX INCREMENT AND TAX ABATEMENT POLICY

A. PURPOSE

The term "City" as used in this policy shall include both the City of St. Cloud and the Economic Development Authority for the City of St. Cloud (EDA), which administers various economic development programs and activities within the City of St. Cloud.

The purpose of this policy is to establish the City's position relating to the use of Tax Increment Financing (TIF) or Tax Abatement (Abatement) for private development. This policy shall be used as a guide in the processing and review of applications requesting TIF or Abatement assistance. The City, in adopting this policy, retains the sole and absolute discretion to grant or deny any request for any reason. The City shall have the option of amending or waiving sections of this policy when determined necessary or appropriate when the EDA has determined that the total economic benefit exceeds this policy's intent.

Administration of this policy shall be the responsibility of the EDA. In the case of Tax Abatement the EDA serves as a recommending body for the City Council's approval. In the case of Tax Increment Financing the EDA must first obtain approval of its proposed TIF Plans from the City Council, in addition to the sale of all bonds and other obligations issued by the EDA.

B. STATUTORY LIMITATIONS

The City is granted the power to utilize TIF and Tax Abatement by Minnesota statutes. Requests must comply with Minnesota Statutes 469.174-469.1791, the Minnesota Tax Increment Financing Act. Tax Abatement requests must comply with Minnesota Statutes 469.1812-469.1815. All requests shall comply with Minnesota Statutes 116J.993 and 116J.994, the Business Subsidies Act. The statutes authorizing TIF and Tax Abatement are frequently amended. This policy is subject to change to conform to amendments to such statutes.

C. DIFFERENCE BETWEEN TAX INCREMENT FINANCING AND TAX ABATEMENT

The primary difference between Tax Increment Financing and Tax Abatement is the way in which the dollars are awarded to the project. When the City awards TIF to a project, the other political subdivisions (the school district and the county) are required to contribute their portion of the increased taxes to the project. Conversely, when Tax Abatement is requested, each political subdivision has the option of granting its portion of the increased taxes to the project. Subsequently, the dollars generated for the project with Tax Abatement are generally less than the dollars generated with TIF.

D. TIF DISTRICT REQUIREMENTS

The following may be eligible for consideration for the use of TIF as authorized by statutes, as amended:

Redevelopment District [Minn. State Statutes 469.174, Subd. 10; 469.176, Subd. 4j]

- Buildings, streets, other improvements occupy 70% of the area, and, more than 50% of the main buildings are substandard (substantial renovation or clearance justified; cost of attaining State building code exceeds 15% of the cost of a new structure).
- At least 90% of the tax increment revenues must be used to correct the conditions that allow redevelopment district designation. Such costs include: land acquisition, demolition, land clearance, utility installation, roads, sidewalks, and parking facilities.
- **Maximum term 25 years after receipt of the first increment.**

Renewal & Renovation District [Minn. State Statutes 469.174, Subd. 10a; 469.176, Subd. 4j]

- Buildings, street, other improvements occupy 70% of area; and at least 20% of the buildings are substandard (*as defined under Redevelopment District*); and, 30% of the other buildings require substantial renovation or clearance to remove conditions such as inadequate street layout, incompatible uses, overcrowding, obsolete buildings, or other identified hazards to community health, safety, and general welfare. These conditions must be reasonably distributed throughout the geographic area of the district.
- At least 90% of the tax increment revenues must be used to finance the cost of correcting the conditions (i.e. land acquisition, demolition, land clearance, utility installation, roads, sidewalks, and parking facilities).
- **Maximum term 15 years after receipt of the first increment.**

Economic Development District [Minn. State Statutes 469.174, Subd. 12, 469.176, Subd. 4c]

- A project found to be in the public interest because:
 - (1) It will discourage a business from moving operations to another state or municipality; or,
 - (2) It will result in increased local employment; or,
 - (3) It will preserve and enhance the tax base.
- At least 85% of the facilities must be used for:
 - (1) Manufacturing or production operations; or,
 - (2) Warehousing, storage, and distribution, excluding retail sales; or,
 - (3) Research & development related to activities listed above in items (1) or (2); or,
 - (4) Telemarketing if it is the exclusive use of the property; or,
 - (5) Space necessary for and related to activities listed in items (1) through (4).
- **Maximum term 8 years after receipt of the first increment.**

Housing District [Minn. State Statutes 469.174, Subd. 11, 469.176, Subd. 4d, 469.1761]

- A project for low & moderate income housing occupancy. A project does not qualify if more than 20% of the square footage of improvements are for commercial, retail or other non-housing uses.
- Tax increment revenue must solely finance housing project costs, which may include public infrastructure.
- For owner-occupied housing, 95% of the units must be initially purchased and occupied by individuals qualifying as low and moderate income under current Federal schedules. For rental housing, 50% of the units must be occupied by persons whose income is 80% or less of area median gross income.
- **Maximum term 25 years after receipt of the first increment.**

Soils Condition District [Minn. State Statutes 469.174, Subd. 19, 469.176, Subd. 4b]

- A project where presence of hazardous substances, pollution, or contaminants requires removal or remedial action for use; and, the estimated cost of remediation exceeds the land's fair market value, or, exceeds \$2 per square foot.
- Tax increment may be used only to:
 - (1) Acquire parcels on which the improvements will occur;
 - (2) Pay for the cost of removal or remedial action; and
 - (3) Pay for the administrative expenses of the TIF Authority allocable to the district.
- **Maximum term is 20 years after receipt of the first increment.**

E. TAX ABATEMENT GENERAL REQUIREMENTS

Pursuant to MN Statutes 469.1812 to 469.1815 the City is authorized to grant abatement of all or a portion of the City property tax amount on specified parcels. The City may abate taxes only after holding a public hearing and adopting an abatement resolution that stipulates the specific terms of the abatement agreement and the nature and extent of the public benefit that the City expects to result from the abatement.

The City must find that the expected benefits to the City of the proposed abatement agreement at least equal the cost to the City of the proposed agreement. The City Council must also find that the abatement is in the public interest because it will facilitate one or more of the following objectives:

1. Increase or preserve tax base;
2. Provide employment opportunities in the City of St. Cloud;
3. Provide or help acquire or construct public facilities;
4. Help redevelop or renew blighted areas;
5. Help provide access to services for residents of the City of St. Cloud; or
6. Finance or improve public infrastructure.

The abatement of taxes shall typically be limited to the new taxes generated from the project.

It is the intent of the City to provide the minimum amount of Tax Abatement, as well as other incentives, at the shortest term required for the project to proceed. The maximum duration of an abatement is 15 years (with a maximum of 20 years in limited situations).

Preference is given to projects in which other local government jurisdictions support the project, including but not limited to participation in the abatement agreement.

Each project shall be reviewed on an individual basis. Prior approval of a similar project for Abatement shall not establish a precedent for future approval.

F. DEVELOPMENT OBJECTIVES

As a matter of adopted policy, the City of St. Cloud will consider using TIF or Abatement to assist private developments only in those circumstances in which the proposed private projects meet one or more of the following objectives:

1. To increase and diversify the long-term tax base of the City in order to ensure the long-term ability of the City to provide adequate services for its residents while lessening reliance on the residential property tax.

2. To improve the City's economic vitality through the creation and expansion of quality employment opportunities.
3. To retain local jobs, increase the local job base, and provide economic diversity in that job base.
4. To encourage additional unsubsidized private development in the area, either directly or through secondary "spin-off" development.
5. To remove blight and encourage redevelopment in the commercial and industrial areas of the City, including high profile or high priority sites, in order to encourage high levels of property maintenance and private reinvestment in those areas.
6. To offset increased costs of redevelopment over and above those costs that a developer would incur in normal urban and suburban development.
7. To finance or provide public infrastructure as part of a development/redevelopment project including public parking facilities.
8. To accelerate the development process and achieve development on sites which would not be developed without this assistance.
9. To assist in achieving other goals contained in adopted public policies as may be adopted by the City from time to time, including without limitation, quality design and construction, energy conservation, and reductions in capital and operating costs of government.

G. PROJECT APPROVAL CRITERIA

In addition to complying with all statutory requirements, projects requesting TIF or Abatement assistance should meet the following minimum approval criteria. However, it should not be presumed that a project meeting these criteria will automatically be approved.

1. TIF or Abatement assistance shall be provided within applicable state legislative restrictions, debt limit guidelines, and other appropriate financial requirements and policies.
2. The project shall meet one or more of the above Development Objectives.
3. The project must be consistent 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.
4. TIF or Abatement assistance will not be provided to projects that have the financial feasibility to proceed without the public financial assistance. In effect, assistance will not be provided solely to broaden a developer's profit margins on a project. Prior to consideration of a TIF or Abatement assistance request, the City may undertake an independent financial evaluation or feasibility study of the project to help ensure that the request for assistance is valid.

5. All TIF projects will need to meet the “but for” test. TIF will not be used unless the need for the City’s economic participation is such that without that assistance the project would not be financially feasible.
6. Prior to approval of a TIF or Abatement application, the developer may be asked to provide market and financial feasibility studies, appraisals, soil boring, information in the developer’s possession or provided to private lenders for the project, and other information or data that the City or its financial consultants may require in order to proceed with an independent evaluation.
7. The developer must provide a minimum of 10% equity in the project.
8. TIF and Abatement assistance shall typically be in the form of pay-as-you-go. Requests for upfront financing will be considered for priority projects on a case-by-case basis. The developer should provide adequate financial guarantees to ensure the repayment of TIF or Abatement subsidy. These may include, but are not limited to: assessment agreements, letters of credit, etc.
9. Any developer requesting TIF or Abatement assistance shall be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposal.
10. The developer shall 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 TIF or Abatement.
11. The level of TIF funding shall 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 TIF or Abatement assistance funding.
12. The developer shall be responsible to pay any legal, consultant fees and related costs incurred by the City in reviewing applications for TIF or Abatement and preparation of plans and agreements.
13. Developers receiving TIF or Abatement assistance shall meet the requirements of the City’s approved Business Subsidy Criteria.
13. Proposals shall optimize the private development potential of a site.
14. Proposals shall create the highest possible ratio of property taxes paid before and after redevelopment. Given the different assessment circumstances in the City, this ratio will vary widely. However, under normal circumstances the expectation shall be at least 1:2 ratio of taxes paid before and after redevelopment.
15. TIF or Abatement assistance should normally not be used to support speculative industrial, commercial, and office projects. In general, speculative projects are defined as those projects which have letters of intent or pre-leasing for less than 50 percent of the space available for lease.

16. Proposals will normally not be used in a project that involves an excessive land and/or property price. This will normally be where the acquisition price is more than 10 percent in excess of fair market value as demonstrated by the City Assessor.
17. TIF or Abatement will not be used when the developer's qualifications, in the judgment of the City, are unacceptable due to past or present performance and qualifications relating to: completion of projects, general financial responsibility and experience and/or bankruptcy, or other problems or issues considered relevant by the City.
18. To the extent the proposed project places extraordinary demands on City services, an evaluation may be conducted to consider the extent of total public costs required to support the project, including off-site facilities costs that may be required.
19. TIF or Abatement will not normally be used for projects that would generate significant environmental problems in the opinion of the local, state, or federal governments.
20. TIF or Abatement funding should not be provided to projects that fail to meet good public policy criteria as determined by the City, including: poor project quality; projects that are not in accord with the Comprehensive Plan, zoning, redevelopment plans, and City policies; projects that provide no significant improvement to surrounding land uses, the neighborhood, and/or the City; projects that do not provide a significant increase in tax base; projects that do not have significant new, or retained, employment; projects that do not meet financial feasibility criteria; and projects that do not provide the highest and best desired use for the property.
21. TIF or Abatement will not be used in projects that would give a significant competitive financial advantage over similar projects in the City due to the use of assistance. Priority consideration will be given to projects that fill an unmet market need.

H. EVALUATION CRITERIA

The following items will be taken into consideration in the evaluation of any development proposal requesting TIF or Tax Abatement assistance.

1. Need For Public Assistance – In all cases, it is required that the need for public assistance be demonstrated and documented by the developer to the satisfaction of the City. All such documentation, including development budgets, cash flow projections, market studies and other financial and market information, must be submitted by the developer along with an application for public financial assistance. If the request is based on financial gap considerations, the developer will demonstrate the profitability and feasibility of the project both with and without public assistance.
2. Amount of Public Assistance versus Private Investment – All development proposals should seek to maximize the amount of private investment per dollar of public assistance. Public assistance as a percentage of total development costs

will be determined for each project and compared to other development projects of similar scope and magnitude whenever possible.

3. Term of Public Assistance – The term of the assistance shall be kept to a minimum. The proposed term of any assistance shall be fully documented and explained.
4. Development Benefits and Costs – The direct and indirect benefits of the development proposal shall be determined and quantified to the degree possible. Benefits shall include, but are not limited to, employment benefits (number of jobs retained or created, wage and salary information, etc.), tax base benefits (estimated market value of new development, new property taxes generated, etc.), housing benefits (number of new rental or ownership units, etc.), and other benefits relating to transportation, parking, blight remediation, environmental cleanup and historic preservation.

I. APPLICATION PROCESS

1. Meet with appropriate EDA and City Staff to discuss the scope of the project, public participation being requested, and other information as may be necessary.
2. Completion of Preliminary Application form and initial deposit of \$5,000.00 submitted to the Economic Development Director. The initial deposit will be used toward the cost of services provided in the evaluation of financial feasibility and preparation of legal documents and agreements.
3. The request shall be reviewed by EDA staff on a preliminary basis as to the feasibility of the project. The staff shall prepare a preliminary recommendation to the EDA and City Council regarding 1) the completeness of the application, 2) whether the application meets the goals of this policy, and 3) whether the application complies with the criteria established in this policy.
4. The preliminary recommendation shall be placed on the EDA agenda for concept review. The applicant may make a formal presentation of the project. The staff will present its findings.
5. If the EDA's Preliminary Concept Review is positive, the applicant may file a formal application accompanied by a fee deposit of \$15,000. The fee will be used toward the cost of services provided in the preparation of legal documents and agreements. Projects that demand services in excess of the fee shall be required to reimburse the City for the additional expenses.
6. If Planning Commission action is required, it will be necessary for the applicant, at this time, to make application to the Commission for Concept Review.
7. A public hearing may be set, if required by statutes, at which the EDA or City will consider a final recommendation related to the formal application. Following the necessary financial analysis and preparation of detailed plans, the EDA and/or City Council shall take action on the project as required under Tax Abatement or Tax Increment Financing statutes. If approved, EDA staff will be directed to undertake the following steps:

- Prepare a development agreement based upon the terms approved.
 - Prepare an economic development plan or redevelopment plan and tax increment financing plan if required.
8. If a redevelopment plan or zoning action is required, the Planning Commission and City Council shall take the appropriate action at the same time the redevelopment agreement is considered for approval.

The following information is needed to begin financial analysis and drafting of a Term Sheet related to financial assistance from the City of St. Cloud in the form of Tax Increment Financing or Tax Abatement.

1. A description of the project to be undertaken. This would include the size of the buildings, estimated cost of the buildings, the estimated values for real estate tax purposes (which must be a value agreeable to the City Assessor).
2. Description of the real estate to be included in the project:
 - a. Provide the name, address of the owners of each parcel.
 - b. Provide the name and address of each occupant of the property, if different than the owner.
 - c. Provide copies of the real estate tax statements for each parcel.
3. List the streets and utility easements needing to be vacated/relocated, if any.
4. Does the project site need to be rezoned? If so, what is the schedule?
5. List sources and describe the proposed financing plan for construction of the project.
6. List estimated costs expected to be paid with tax increment or tax abatement. Examples could be:

a. property acquisition	\$ _____
b. demolition	\$ _____
c. relocation	\$ _____
d. utility relocation	\$ _____
e. site improvements e.g. parking facility	\$ _____
f. other (describe)	\$ _____
7. Provide job creation information with the number of jobs to be retained and created and wage scale for each class of jobs. The jobs should be created within two (2) years of the benefit date, which is generally upon completion of construction of the Project.
8. Provide the name and organizational documents for the organization to be the developer and owner of the project. If the entity is newly created, who will "guarantee" satisfactory completion of the work under the Contract for Private Development?
9. Provide a schedule for commencement and completion of each phase of the project.

10. Provide area map and detailed map of the project area.
11. Provide a statement or analysis as to why you believe this project would not proceed without the benefit of tax increment.
12. Provide the following supporting information:
 - a. Detailed sources for the proposed project (i.e. bank debt, equity, other funds, TIF request, etc.
 - b. Detailed uses of the funds for the construction and financing
 - c. NNN Lease rate to be charged (copy of lease if available)
 - d. Bank financing term and rate
 - e. 15-year Operating proforma
 - f. Expected return (cash-on-cost or cash-on-cash)