



TAX INCREMENTAL FINANCING (TIF) POLICY

Adopted: April 19, 2022

Updated:

I. PURPOSE

The purpose of this Policy is to articulate the following:

1. Responsible use of tax increment financing (TIF) as a tool to encourage new development and redevelopment consistent with and reinforcing the Strategic Plan, Comprehensive Plan and/or other City planning documents, see ***Economic Development Goals, Objectives, Policies, Programs, and Priority Initiatives.***
2. Provide a range of development incentives, when necessary, to attract new development, retain local employers, stimulate their expansion, and facilitate the redevelopment and revitalization of properties.
3. Provide Developers with a consistent set of guidelines for the City's approach to the utilization of TIF.
4. Maximize the effectiveness of the City's limited resources to stimulate new development and redevelopment projects that create employment opportunities and expand the tax base.
5. Monitor the performance of active tax increment district's to ensure their financial success.

Meeting statutory requirements, policy guidelines or other criteria listed herein does not guarantee the provision of TIF assistance. The provision of TIF assistance is a policy choice to be evaluated on a case-by-case basis by the Common Council. The approval or denial of one project does not set precedent for approval or denial of another project. The burden of establishing the public value of TIF shall be placed upon the Developer (applicant) and the application must substantially meet the criteria contained herein.

II. DEFINITIONS

Base Value: The total value, as equalized by Department of Revenue, of the real and personal property located within the TID as of the valuation date.

Blighted Area: Areas in a damaged condition. TIF Law provides two specific meanings for the designation of blight. Neither definition includes any open land developed only for agricultural purposes:

- Definition 1: An area in which the structures, buildings or improvements contribute to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and are detrimental to the public health, safety, morals or welfare, due to dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light air, sanitation or open spaces, high density population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes.

- **Definition 2:** An area which is predominantly open and which consists primarily of an abandoned highway corridor as defined in sec. 66.1333(2m)(a), Wis. Stats. or that consists of land on which buildings or structures have been demolished and because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, substantially impairs the sound growth of the community.

District Type: One of five categories of TIDs. The creation resolution must declare the TID type. The five TID types include: blighted, rehabilitation or conservation, industrial, mixed-use, and environmental remediation. The declaration is based on the type of land that makes up 50% of the area in the TID.

Environmental Remediation District: A TID with significant environmental pollution. Before creating an Environmental Remediation TID, the municipality must obtain certification of the site investigation report by the Wisconsin Department of Natural Resources. In the report, the municipality must describe the pollution, how it will be cleaned up, costs and a timeframe for the clean-up.

Equalized Value: The Department of Revenue process of creating a uniform value for all general property in the state. Equalized property value is based on 100% of market value.

Industrial District: TID with more than 50% of land suitable for industrial sites. Any real property within an industrial type TID that is zoned for industrial use must remain zoned for industrial use for the life of the TID.

Mixed-Use District: TID with a combination of residential, commercial, and industrial uses. Mixed-use TIDs can only include lands proposed for newly platted residential use if they do not exceed 35%, by area, of the real property in the TID and the residential development meets other qualifications.

Project Costs: Any expenditure planned or made that can be paid for with tax increment revenue. DOR does not make decisions on the eligibility of specific project costs. Each municipality must consult with its legal and accounting advisors to decide whether a project or specific cost is eligible under TIF law.

Rehabilitation or Conservation Work: To restore, preserve or repair. Defined for the purposes of TIF law in sec. 66.1337, Wis. Stats., rehabilitation and conservation includes any of the following (these descriptions do not override the restrictions on project costs defined above):

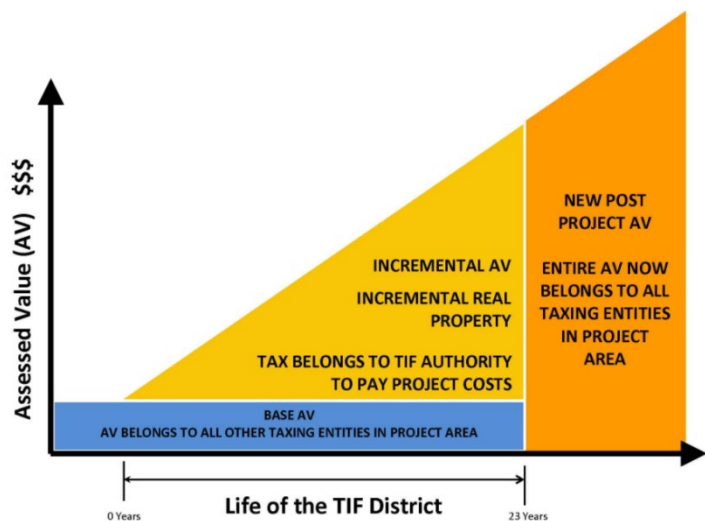
- Operating a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements
- Acquisition of real property and demolition; removal or rehabilitation of buildings and improvements on the property to eliminate unhealthful, unsanitary, or unsafe conditions, lessen density, reduce traffic hazards, eliminate uses detrimental to the public welfare, remove or prevent the spread of blight or deterioration, or provide land for needed public facilities
- Installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for the objectives of an urban renewal project
- The disposition of any property acquired in the area of the project for uses meeting the objectives of the urban renewal project

Tax Base: The total of all equalized real and personal property in an entire municipality or taxing jurisdiction on which property taxes are levied.

Tax Increment: The taxes levied by all overlying taxing jurisdictions on the value between the base value and the current value of the TID. The municipality that manages the TID uses these taxes to pay for the approved project costs. Review the TID Creation Timeframes for information on when increments begin for a new creation. Review TID Termination Timeframes for information on when increments end for a termination.

III. WHAT IS TAX INCREMENTAL FINANCING (TIF)?

Tax incremental financing (TIF) is a funding tool available to local municipalities that spurs economic development which otherwise would not occur. When a Tax Increment District (TID) is created property owners within the district continue to pay the same property tax rates as those outside the district. The difference is that tax collections, over and above the “base value” are placed into a segregated fund that is used to pay for project costs. Once all costs incurred by the creation of the TID are recouped by the additional tax increment created the TID is closed, and the additional property taxes created are shared by all taxing entities. The use of TIF varies from project to project and district to district. As an example, municipalities use TIF to promote redevelopment of blighted parcels of land. In another example, a municipality can utilize TIF to create industrial parks through land acquisition and construction of infrastructure. In both cases, and many other scenarios, increased property tax collections are used to pay down debt service associated with project costs.



TIF AUTHORITY

The authority and regulations for Tax Incremental Financing and the establishment of Tax Increment Districts are found in Wis. Stats. 66.1105. The City of Port Washington reserves the right to be more restrictive than provided under the statutes.

“BUT FOR” TEST

The fundamental principle and that which the City must determine through information provided by the Developer is that the project would not occur “but for” the assistance provided through Tax Incremental Financing (TIF). The burden is on the Developer to make this case to the City and not the City to make this case for the Developer. Should this “but for” determination not be made, TIF for the project cannot be approved.

The following outlines the City’s policy regarding TIF.

IV. GENERAL POLICIES

As a matter of policy, the City of Port Washington will consider using tax incremental financing (TIF) to assist private development in those circumstances where the proposed private project shows a demonstrated financial gap, and that the TIF assistance request is the minimum necessary to make the project feasible. The Developer is expected to have exhausted every other financial alternative(s) prior to requesting the use of TIF, including equity participation, other federal and state funds, bonds, tax credits, loans, etc.

It is the intent of the City to provide the minimum amount of TIF assistance to make the project viable and not solely to increase a Developer's profit margin on the project. As part of a TIF request, the City will undertake (at the Developer's cost) an independent analysis of the project to ensure the request for TIF assistance is valid, see attached sample ***Reimbursement Agreement***.

In requesting TIF assistance, the Developer must demonstrate that there will be a substantial and significant public benefit to the community.

Each project and location is unique and, therefore, every proposal shall be evaluated on its individual merits. Each project must demonstrate a high probability of financial success.

TIF GUIDELINES

1. Port Washington will give preference to TIF assistance for projects that are occurring on sites that are already developed (redevelopment projects) over greenfield development projects which typically have lower costs.
2. All TIF considerations shall be consistent with approved TID Project Plan(s).
3. If Port Washington provides TIF assistance to Developers, it will do so primarily through "Pay As You Go" method. Port Washington may consider up-front TIF incentives on a case-by-case basis where gap financing is required.
4. Port Washington will consider TIF requests only after determining that "but for" the TIF, the project would not be financially viable.
5. Port Washington aims to provide only the needed percentage of increment applied to a development project. Generally, the City of Port Washington does not approve total increment financing for more than 15% of the project's total future projected assessed value.
6. For development projects that will include competitive funding resources allocated by any state or federal agency, Port Washington may evaluate TIF assistance with the standards of the state or federal funding source.
7. In special circumstances, Port Washington may provide TIF assistance for job creation or retention, provided the Developer (1) unsuccessfully applied for the Revolving Loan Fund Program; or (2) successful applied for the Revolving Loan Fund Program and the number of jobs created or retained will have a substantial local impact. If economic incentives are offered, there will be a job maintenance and lookback provision requirement.
8. Port Washington may require heightened design standards for TIF projects.
9. Developers shall pay TIF creation costs from TID consultant(s) for site-specific TIDs.
10. Developers shall make a good faith effort to work with local contractors on development phase of the project.

GOALS FOR THE USE OF TIF

1. Strengthen the property tax base by growing it.
2. Increase the property values and tax revenues.
3. Foster the creation and retention of quality family supporting jobs for individuals of all abilities and backgrounds.
4. To compete on an equal basis with other communities for an increased share of development projects.
5. Redevelop blighted areas that are obsolete or detrimental to public health and wellbeing.
6. Promote infill development and redevelopment that can achieve highest and best use of land.
7. Remediate contaminated brownfield sites.
8. Incentivize the development of a range of housing options to increase the number of opportunities for existing and prospective residents of all backgrounds.
9. Fund public improvements that enhance livability, improve the City's infrastructure, enhance the urban greenway, improve multi-modal transportation options and access to employment areas, enrich the aesthetics of key areas and corridors within the City using streetscaping and art amenities, and boost the stormwater management capabilities.
10. Level the playing field for sites that are challenging to develop due to extremely poor soil quality.
11. Assist the City in implementing adopted City plans, policies, and strategies, particularly the City's Strategic Plan, Comprehensive Plan, and other City planning documents.
12. Ensure that sufficient increment is available to fund public infrastructure projects, as described in TID project plans.

ELIGIBLE TIF PROJECT TYPES AND COSTS

The following project types may be TIF eligible if they meet the City's TIF Goals:

- a. Projects that are consistent with the approved TID Project Plans.
- b. Projects that contribute to the implementation of adopted City plans.
- c. Projects that are mixed-use developments that creatively integrate commercial projects into a residential development.
- d. Projects that promote business development (attraction, retention, expansion).
- e. Projects that promote the revitalization of historically significant or deteriorated buildings.
- f. Projects that promote neighborhood stabilization or revitalization.
- g. Projects that promote industrial development.
- h. Projects that involve environmental clean-up, removal of slum and blighting conditions.
- i. Redevelopment projects, including but not limited to historic preservation, office, research & development, medical uses, manufacturing, hospitality and leisure, housing, and mixed-use projects.

The following project costs may be TIF eligible if they meet the City's TIF Goals:

- a. Public infrastructure necessary for the proposed project.
- b. Demolition of existing structures for the proposed project.
- c. Remediation of soils that are contaminated or remediation of soils that are of poor quality for construction purposes.
- d. Structured parking that maximizes density on a site.
- e. Extraordinary costs related to affordable housing development.
- f. Whole building energy modeling (BEM) for new construction and building retrofits.

- g. Renewable energy, including solar photovoltaics, geothermal, and wind energy.
- h. Microgrid technology that can support renewable energy and energy reliability.
- i. Green roofs that include gardens that can capture and retain stormwater.
- j. Blue roofs that capture and store stormwater to mitigate runoff effects.
- k. Under-parking water retention systems that capture and store stormwater to mitigate runoff effects.
- l. Stormwater management best practices that are above the State mandate.
- m. Purple pipe reclaimed water piping systems.
- n. Site-specific public art projects.

The following project types are not TIF eligible:

- a. Projects that occur outside a TID.
- b. Projects that are not consistent with the Comprehensive Plan.
- c. Projects that are market rate housing on greenfield sites. Market rate housing projects will be evaluated on a case-by-case basis and may be considered for assistance to the degree they demonstrate a financial gap and promote the City's TIF goals.
- d. Projects that are retail-only buildings on greenfield sites.
- e. Projects that are speculative office, manufacturing, and industrial developments (projects that have no secured tenants).
- f. Projects that have already been completed.
- g. Projects that are exempt from the payment of property taxes.

The following project costs are not TIF eligible

- a. Land costs that exceed market land costs.
- b. Ordinary or typical development costs that are normally provided in the market for the type of land use that is being proposed or that are required to meet City or State requirements or codes. Examples could include, but are not limited to:
 - a. costs related to meeting code requirements; and
 - b. costs related to meeting City stormwater management requirements.
- c. Energy efficiency improvements (including high-efficiency windows or shadings, energy efficient appliances, LED lighting, enhanced insulation, etc.) within a building.
- d. City fees (impact, permits, park improvement, stormwater management, etc.).
- e. TIF may not pay for infrastructure that is normally paid for by special assessments or other city charges.
- f. Other costs that are deemed to be normal development costs.

V. APPLICATION AND APPROVAL PROCESS

1. **Pre-Application Meeting:** The Developer shall meet with City Staff, specifically the Director of Planning and Development and the City Administrator, and other designated staff, to discuss the project in concept including the need for TIF, potential TIF-eligible costs, project timeline, and economic benefits.
2. **Application and Review Fee:** If the Developer wishes to proceed with a request for TIF they shall submit a TIF application form and submittal materials, along with a TIF Review Fee of \$1,000, which will be used to cover the cost for Staff in processing, reviewing, preparing, coordinating, and staffing meetings for the TIF request. The TIF Review Fee is non-refundable.

3. **Determination of Completeness:** The Director of Planning and Development, and other designated staff, will review the application and submittal materials for completeness within 30 days. If the application is incomplete or additional information is needed the Developer (applicant) will be notified and provided with an explanation about what is not complete.
4. **Staff Review and Recommendation:** Staff will review the request for TIF assistance from the City's consultants (Financial Advisor and City Attorney) and from the City Assessor, as needed. Depending on the complexity of the project the Developer may be invited in for additional meetings.
5. **Term Sheet:** Staff will prepare a term sheet outlining the key terms of a recommended Development Agreement including the type and amount of TIF assistance, TIF-eligible costs, percentage of TIF increment to be applied to the project, the projected rate of return for the project with and without TIF assistance, and other key terms of a Development Agreement. The term sheet will be provided to the Developer. Staff shall have the authority to negotiate the types and level of development incentives needed in accordance with the provision of this policy. Upon reaching a tentative agreement regarding the term sheet, Staff will then forward the TIF request and term sheet to the Finance Committee.
6. **Plan Commission:** If the project is not a permitted land use (requiring a rezoning or a conditional use permit), then the Plan Commission should review the project for concept approval (at a minimum) prior to concept review of the TIF request by the Finance Committee and City Common Council. The Plan Commission will not review TIF requests.
7. **Finance Committee Conceptual Review:** The Finance Committee will meet to review the TIF request and term sheet. The Committee may meet with the Developer in open session to ask questions regarding the request. The Finance Committee will then have the opportunity to meet in closed session to discuss the term sheet with or without the Developer. The Finance Committee will make a recommendation to the City Common Council on the term sheet. The City Common Council will consider the Finance Committee's recommendation at the next regularly scheduled meeting but will not consider the recommendation on the same date that it is made.
8. **Common Council Conceptual Review:** The City Common Council will review the term sheet and Finance Committee recommendation. The City Common Council will then have the opportunity to meet in closed session to discuss the term sheet. The City Common Council may take action by providing conceptual approval of the terms of the Development Agreement regarding the TIF request. If approval is not granted, City Common Council will direct Staff how to proceed.
9. **Drafting of Developer Agreement:** Following conceptual approval by the City Common Council, Staff will work with the City Attorney to draft the Development Agreement based on the term sheet and the direction of the City Common Council.
10. **Development Agreement Approval:** The Finance Committee will review the Development Agreement and make a recommendation to the City Common Council who shall take action to approve or reject the agreement.
11. **Bond Issuance and Payment of TIF Incentives:** For City-financed (upfront) TIF incentives, Staff will work with the Financial Advisor to issue debt based on the amount of documented TIF-eligible costs and detailing the timing and amount of TIF payments. The necessary approvals for the issuance will go to the Finance Committee and City Common Council for approval.
12. **Expiration:** Approved TIF term sheets shall become void after six (6) months from the date of approval if there is not an executed Development Agreement. Both parties may agree to an extension.

13. **Lookback and Review of TIF-Eligible Costs:** Following completion of the project, the Developer shall submit the final sources and uses (costs) for the project. In addition, the Developer shall provide documentation of the actual amount of TIF-eligible costs. The amount of the TIF assistance shall be limited to the actual amount of TIF-eligible costs.

VI. PROJECT EVALUATION

The following criteria will be used in evaluating applications for TIF assistance. The City reserves the right to consider other factors, or not consider all the factors below, on a case-by-case basis.

- Does the project conform to existing plans and zoning?
- Does the Developer (applicant) own the property the project is being proposed on?
- How does the project increase and improve the City's tax base?
- What portion of the tax increment is applied to the project compared to total TID?
- What is the economic impact of the project including job creation and retention?
- Does the project support affordable housing?
- What impact would the project have on current City businesses?
- What are the qualifications of the Developer and the development team?
- What level of private equity and financing is included in the project budget?
- Does the project rely on reasonable assumptions of real property value increases?
- What is the form of incentive being requested?
- What is the percentage of TIF assistance being requested relative to the total estimated project cost?
- What is the payback period?
- What is the impact on City services?
- Would the proposed project assist in achieving other policy goals established by the City Common Council?
- What is the public benefit of the proposed project?

VII. METHODS OF FINANCING

The City may consider any or all the following financing approaches depending on the nature of the project.

1. **"Pay as you Go" TIF** – The City will use the "pay as you go" TIF Districts as a method to help reduce the financial exposure of the City. Under this financing method the Developer pays for the upfront costs of the project. The City would provide a Municipal Revenue Obligation (MRO), which establishes the criteria to provide payments to the Developer from future tax increment to allow them to recoup a portion of their initial investment. This shall be the standard means of providing TIF assistance unless the Developer (applicant) can clearly demonstrate a need for upfront funding.
2. **Traditional TIF Assistance** – Under this financing method the City provides a loan to the Developer at the start of the project in return for meeting certain development criteria. The term of the loan (i.e., interest rate, amortization schedule, collateral) will be negotiated as part of the Development Agreement. If such TIF assistance requires borrowing by the City, additional guarantees may be required of the Developer (applicant).

3. **Tax Increment Loan at Occupancy** – Under this financing method the City provides a loan to the Developer when the project is complete, i.e., receives a building occupancy permit for the entire building(s). The loan is paid back through future annual tax increments generated from the project.
4. **Tax Increment Loan at Project Start** – Under this financing method the City provides a loan to the Developer at the start of the project, i.e., after the Development Agreement is executed and within 60 days of receiving a building permit. The loan is paid back through future tax increments generated from the project.
5. **Combination of Financing Methods** – Some projects may be eligible for some upfront funding, with the remainder of the project being paid over-time as taxes are paid on the new project.

VIII. DEVELOPMENT AGREEMENT

Any entity receiving TIF assistance will be required to enter into a Development Agreement with the City. All Development Agreements must be approved by the City Common Council. Development agreements must contain, at a minimum:

1. Guarantee of assessed value
2. Guarantee of annual property tax payment
3. Guarantee to pay any deficiency in the City's annual debt service payments
4. Security (e.g., personal or corporate guarantees, letter of credit, or other collateral), however, this may not apply to "Pay As You Go" agreements
5. Maintenance of taxable status for greater of useful life of TID, period of TIF assistance, or 25 years
6. Lookback provisions on actual construction costs and TIF-eligible expenses
7. If TIF assistance is for job creation/retention, there should be a job maintenance and lookback provision
8. Sunset date for Developer to access TIF assistance

IX. HIRING AND CONTRACTING FOR TIF PROJECTS

For any project that is receiving or otherwise benefits from TIF assistance, either directly or indirectly, the Developer shall advertise and make all design, construction and other contracted services related to the project available to Minority Enterprise Businesses (MBE's), Women Enterprise Businesses (WBE's) or Disadvantaged Enterprise Businesses (DBE's).

A qualified business shall either be: 1) owned by person(s) who are consistent with the definitions of protected classes, as defined by the Title VII of the Civil Rights Act of 1964, and/or 2) have more than 60% of their workforce consisting of protected classes as defined by the Title VII of the Civil Rights Act of 1964. This criterion shall be deemed met upon the City receiving documentation from the Developer confirming that they have forwarded a formal solicitation of bids or proposals to at least three (3) businesses and fairly evaluated any bids or proposals received by these qualified businesses.

A qualified business shall be a business certified under the Wisconsin Supplier Diversity Program through the Wisconsin Department of Administration
(<https://doa.wi.gov/Pages/DoingBusiness/SupplierDiversity.aspx>).

ECONOMIC DEVELOPMENT GOALS, OBJECTIVES, POLICIES, PROGRAMS AND PRIORITY INITIATIVES

STRATEGIC PLAN

The City of Port Washington's Strategic Plan guides the City actions the next 3 to 5 years. One of the strategic directions is Catalyzing Development to Generate Revenue. This strategic direction seeks to capitalize on Port Washington's potential for greater growth in a way that is proactive, transparent, and predictable for users. It strives to update the City's practices at several stages of the development process and more actively pursue a variety of opportunities. Its aims include a clearer process for Developers, increased investment, and resulting growth in population, business formation, and property values.

Below are specific outcomes for this strategic direction. The City may consider utilizing Tax Incremental Financing (TIF) to enhance these objectives.

1. More diversity of, location for, and attractiveness of development
2. Population, number of businesses, and property values (value per acre) all grow
3. Less need to borrow
4. Redeveloped commercial corridors

COMPREHENSIVE PLAN

The City of Port Washington's Comprehensive Plan guides the future growth and enhancement of the City over the next 10 to 20 years. The Comprehensive Plan provides the City's vision and direction for economic and housing development, transportation and community facilities, natural resource protection, cultural growth, community image and appearance, intergovernmental relations, and other factors that together form Port Washington's future. Chapter 12 of the City's Comprehensive Plan's Vision and Directions speak specifically to the City's future economic development efforts and include goals, objectives, policies, and initiatives to guide the future enhancement and development of the City through their implementation efforts.

Below are the specific goal, objectives, policies, and initiatives within the Comprehensive Plan for economic development to promote the stabilization, retention, and expansion of the economic base and quality employment opportunities in the City of Port Washington. The City may consider utilizing TIF to meet the following goals, objectives, policies, and initiatives of the City.

1. **General Economic Development Issue**
Goal: Identify and encourage desirable and sustainable businesses and job development.
2. **Labor Force Issue**
Goal: Promote an adequate supply of workers to meet the employment needs of businesses located in the City of Port Washington through the plan design year 2035.
3. **Employment Issue**
Goal: Encourage business and industries desired by the City in order to provide the number of jobs projected by 2035.
4. **Commercial and Industrial Sites Issue**
Goal: Provide an adequate number of sites for business retention, expansion, and attraction in the City through the comprehensive plan design year 2035.
5. **Desirable Businesses and Strengths and Weaknesses Issue**
Goal: Attract desirable businesses to the City of Port Washington.