

# **Frequently Asked Questions**

## **RAPID CITY TAX INCREMENT FINANCE POLICY REVISIONS**

**1/29/19**

**1. What is Tax Increment Financing (TIF)?**

Tax Increment Financing (TIF) is a government tool to assist and promote desired growth and development through financing the cost of public improvements. A project area is identified with a plan for new development and property improvements that will increase the value of the property. That increased value generates new tax income which is used to reimburse the developer for the project's cost of eligible and approved public improvements, such as road and utility infrastructure.

**2. Why does Rapid City use TIF?**

Tax Increment Financing (TIF) is a useful tool to assist developments with expenses related to public infrastructure, etc. in meeting goals to promote economic development, redevelopment, and various types of affordable housing, including workforce housing.

**3. When did the City start using TIF, and how many TIF Districts are there?**

Since 1978, Rapid City has administered a tax increment financing program to assist and promote new development in the community. To date, there have been 80 districts created throughout the community that have assisted with the payment of the construction of public improvements. The bulk of these districts have been located on or near the fringes of the historic developed community. Of the 24 currently active TIF districts, only 4 are currently within the Core Community.

**4. Why are revisions to the TIF Policy being proposed?**

Revisions to the policy are being proposed to provide a new focus on promoting new infill development and redevelopment within the core areas of the community and other targeted areas that include economic development and affordable housing. Additional objectives address the need to:

- A. Improve and simplify the staff review and certification processes, and
- B. Ensure that the TIF public financing tool is used responsibly and only when determined necessary, i.e. the project could not be built without (but for) TIF. A new set of evaluation criteria is proposed for use in determining a project's eligibility and demonstrated need for TIF.

**5. What revisions are being proposed?**

Proposed revisions include:

- A. Applications must meet all policy provisions in order to be reviewed for approval.
- B. A third party review will be performed for all applications regarding the project's financial feasibility and fiscal impact.
- C. A Focus on Priority Areas:

1. 1<sup>st</sup> Priority Areas - The Core Community within 1 mile of the Original Town boundaries, within revitalization corridors and nodes, and certain identified mobile home parks eligible for redevelopment
  2. 2<sup>nd</sup> Priority Area – Within the area between 1 and 2 miles of the Original Town
- D. A Focus on Targeted Uses:
1. Projects that include BOTH redevelopment of blighted areas AND provides either affordable/workforce housing or economic development
  2. Projects that meet the objectives of adopted master plans, including Plan Rapid City, Utility System Master Plan, and Community Development Block Grant Consolidated Plan.
- E. New and Clarified Guiding Principles:
1. Project Management
  2. No Guarantee of Approval
  3. Necessity of TIF as an Incentive
  4. Housing Development Tool
  5. Economic Development Tool
  6. TIF Use for Blight and Excessive Development Costs
  7. Private Funding
  8. Financing Costs Based on Increased Value
  9. Code and Policy Compliance
  10. Waive Reduced Taxation
  11. Overlapping Districts
  12. Performance Measures / Clawbacks
  13. Economic Development Grants
  14. TIF Project Costs
  15. Infrastructure Compliance
- F. Revised and Clarified Eligible and Ineligible Costs:
1. Eligible costs tied to public infrastructure needs
  2. Administrative Fee - the greater of \$20,000 or 0.5% of the total TIF costs
- G. Revised Program Procedures:
1. Applicant meets with TIF Review Team to discuss proposal prior to submittal
  2. Project Plan and agreements prepared
- H. Revised Evaluation Criteria:
1. Base Requirements for Application Submittal:
    - a. Demonstration of Necessity
    - b. Financial Feasibility and Fiscal Impact Studies
    - c. Cost Projections
    - d. Market Analysis
    - e. Legal Review
  2. Project Criteria – 10 points minimum to be achieved among the criteria (See Evaluation Chart)
- I. Revised TIF Process and Flow Chart, Certification, Definitions and Appendices

**6. How long has the current TIF policy been in place, and what will be the impacts of these revisions?**

The current TIF Policy has been functioning mostly as is for many years. The new policy will continue to assist the development of needed projects in the community,

but the core of the community and evidence of the necessity of TIF will be emphasized.

**7. Will the City Council have to approve the TIF Policy revisions?**

Yes. The City Council has begun a review of the new TIF Policy proposal and they will be the approving body for any revisions.

**8. Does the City have authority to establish TIF policies beyond what is stipulated by state statutes?**

Yes. Many cities have established their own TIF policies and requirements, above the state-mandated requirements. This is within the City's legal purview.

**9. Will a focus on the community core areas prohibit TIF to be approved for projects in other developing areas of the community?**

No. There is plenty of opportunity built into the various proposed criteria that will allow and promote new developments in any area of the city.

**10. Would previously approved TIF Districts qualify for approval under the new, proposed criteria?**

Some would, however certain types of TIF projects that were previously approved might be unable to qualify if they were to make a new, similar application.

**11. Does the community at large pay the bill for TIF funded projects?**

TIF funds are paid out of the increase of taxes generated from the increased value of the property after the new development occurs. Normally, existing tax funds are not used. If a TIF District is considered "local", the school district property owners would make up the difference for the School Tax. For example, TID 79, a residential (local) district requires an additional tax levy to ensure that the School District received its estimated \$4,783 yearly portion of the increment, assessed to all property owners within the School District. This \$4,783 is estimated at 0.000701 per \$1,000 in valuation. The estimated TIF cost to the district taxpayers based on the additional levy for a \$200,000 home within the School District is \$0.00014 per year or \$0.001332 for the 11.5-year life of the proposed Tax Increment District. With few exceptions, the provisions of the City's TIF policy discourage the creation of a local TIF District.

**12. How does a TIF District in Rapid City impact the rest of the state?**

The City has been reviewing the need for possible changes to our TIF program and policy for a few years. There was no specific request from the state that prompted our review and proposed changes. The main way that TIF Districts in Rapid City, Sioux Falls, Aberdeen or other cities impacts the rest of the state is that it benefits the overall tax base by encouraging new, needed development and improving property values. Since no existing tax revenues are used for TIF projects, the state benefits from the new tax dollars generated because of the development projects. For all economic, industrial and affordable housing TIFs, the school district incremental tax is collected from all statewide property taxpayers.

**13. How do TIF Districts impact jobs and taxes in the community?**

The responsible and eligible uses of TIF Districts in the community are set out specifically to create more jobs in the community, with an emphasis on jobs that pay a healthy wage. The increase of property values will of course, positively impact the local tax base and general prosperity of the area.

**14. Will the review of TIF applications change?**

Yes. A new focus will be given to including the applicant/developer in a substantial pre-application review which will assist the completion of the application to be reviewed by the TIF Review Team (TRT), presented to the County and School District, and then forwarded to the Planning Commission and City Council for approval.

**15. Why are changes being proposed for, and what is the proposed makeup of, the new TIF Review Team (TRT)?**

The concern with the current process is that the public (and ultimately, politics) gets involved too early in the review and approval process of proposed TIFs, which takes away from effective negotiation with the applicants. State law does not require, nor is it practiced elsewhere in the state, to have a public hearing prior to the Planning Commission meeting review. Since the TIF is a city finance mechanism and obligation, the review and preparation of an application should first fall to a City representatives committee. Once they have performed the needed review and negotiations, the application will be presented to / shared with the County and the School, for their review and feedback. Any issues or concerns they identify will be addressed by the City committee and ultimately the Planning Commission and City Council.

The proposed new TRT (as defined in Section X, Definitions, in the proposed revised policy) will be made up of the following City representatives: The Mayor, the City Finance Officer, the Community Development Director, the City Engineer, the Long Range Planning Manager, and the Elevate Rapid City President.

**16. How does Rapid City's TIF Policy compare with those of other cities in South Dakota?**

Rapid City staff have researched the TIF policies of other South Dakota cities. The only city that has a situation close to Rapid City's is Sioux Falls, although their total of 21 approved TIF Districts is well below Rapid City's total of 80.

On October 24, 2018 Sioux Falls City representatives presented a review of their TIF program at a joint work session of the City Council and Planning Commission. Key principles from their policy and program include:

- A. Encourage redevelopment of blighted, deteriorated areas,
- B. Stimulate economic development with long term vitality,
- C. Stimulate private investment in areas that would otherwise remain un-developed or underdeveloped,
- D. Offset extraordinary development costs,
- E. Dedicated to reimbursement of eligible costs considered to be necessary,
- F. Projects must show a financial gap necessitating TIF, pass the "but for" test,

- G. Third party review is performed of project costs,
- H. A development agreement based on the financial gap, listing and capping the amount of eligible expenses, and
- I. Certification based on actual costs as listed in the agreement.

**17. How is the recently increased TIF application fee (\$2,500) justified?**

A recent review of the substantial level of effort employed by City staff in reviewing the application justifies the new fee. Until recently, staff efforts have been focused on the post-application process, but will now be shifted to the pre-application and initial review processes in order to better influence the success of approval, and ultimately, the success of the TIF.

**18. How will the policy revisions provide for improved review of TIF applications?**

In addition to increased city staff pre-application review and negotiations with the applicants, the City will involve a third party professional (municipal financial consultant) to perform a cost/benefit analysis on the pro-forma, who will provide recommendations regarding the viability of the project and how the application meets the objectives of the city policy.

**19. What policy scoring criteria will be used in the review of a TIF application?**

The following criteria will be used (see also TIF Evaluation Chart):

- A. The project will develop infill areas within priority areas.
  - 2 points: First Priority - the area within one (1) mile and inside of the Original Town, between East and West Boulevards and North and South Streets, or  
Areas in revitalization nodes or corridors, and certain identified mobile home parks eligible for redevelopment.
  - 1 point: Secondary Priority Area - the area between the one (1) mile and two (2) mile area from the inside of the Original Town, between East and West Boulevards and North and South Streets.
- B. The project will eliminate actual or potential hazard(s) to the public.
- C. The project will result in the redevelopment of blighted areas and / or provides new economic development. (2 points if both met)
- D. The project is a transit-oriented development or otherwise planned to reduce the amount of urban sprawl and the associated need for additional public infrastructure, thereby by creating livable, sustainable, walkable, bikeable and accessible growth providing good connectivity with surrounding areas.
- E. The project involves the start-up of an entirely new business in a targeted economic development industry within Rapid City. (2 points if met)
- F. The project involves the expansion of an existing business located within Rapid City.
- G. The project will bring new or expanded employment opportunities as demonstrated by proposed wage scales, employee benefits and mixture of full and part-time employees.
- H. It has been demonstrated that the project that it will do one of the following:
  - 1) Generate at least one full-time job for each \$75,000 in principal value of the Tax Increment Financing;

- 2) Create a significant number of new jobs that meet or exceed the targeted minimum wage rate used by the Rapid City Economic Development Partnership, or
- 3) Cause significant economic impact to the community, defined by evidence submitted with the application (excluding public infrastructure costs).
- I. The project will result in additional redevelopment in the Targeted Areas and Uses, as defined in Section III of the TIF Policy.
- J. The project will result in the construction of affordable housing units, as defined in Section IV of the TIF Policy.
  - 1 point: up to 115% of AMI (workforce housing)
  - 2 points: 80% of AMI
  - 3 points: 50% of AMI
- K. The project will result in the construction of public improvements as identified in the current Capital Improvements Plan.
- L. The developer agrees to waive any discretionary formula for reduced taxation, if applicable, for the life of the district.
- M. The project includes regional infrastructure improvements located in or near the TID that are determined beneficial to the community.
- N. The developer participation rate (ratio of the amount of developer provided capital used in a project relative to the entire investment in a project) is at least:
  - 85%: 1 point
  - 90%: 2 points
- O. All Tax Increment Financing proceeds are to be used for the construction of public improvements.
- P. The project involves the rehabilitation of a building listed on or eligible for listing on the National Register of Historic Places.
- Q. The building or site identified for redevelopment itself displays conditions of blight, as defined in the Rapid City TIF Policy.
- R. The project site has displayed a recent pattern of declining real property assessments, as measured by the Pennington County Director of Equalization.
- S. The project costs are limited to those specific costs associated with a site that exceed the typical or average construction costs (i.e. excessive fill, relocation costs, additional foundation requirements associated with unusual soil conditions, extension of sewer or water mains, on-site or off-site vehicular circulation improvements, etc.)

**20. If TIF is paid off early, can unused interest payments within the total TIF funding pay for additional costs?**

The proposed policy specifies under Item 2 of the Ineligible Costs, page 11, that “Financing and interest expenses shall not be reallocated to capital expenditures or any other purpose, unless otherwise noted.”

**21. How will an application be evaluated if the proposed project area includes both blighted and non-blighted areas?**

Review and evaluation will look at how much of the property (majority/minority) is blighted, and will weigh the project’s potential impact in meeting the TIF policy objectives.

**22. Can nonprofit organizations be included in a development utilizing TIF?**

Since non-profit organizations do not generate tax revenues, they would not play a role in the ability to pay off the financing, and therefore would not be able to be financed as a stand-alone project. However, it could work if a non-profit is involved but not the main component of the project, or utilizes a land trust.

**23. Could the City utilize TIF to address variances or deferrals for infrastructure that have been approved for development projects?**

Possibly, but there are many variables that would need to be evaluated. Normally, infrastructure projects would need to be included in a project area which includes the potential for increased tax revenues. Usually, the larger the project and project area, the better chance for success of the TIF.

**24. Could there be a downtown tax or impact fee charged when a development utilizing TIF is intended to compete with existing downtown business?**

Such taxes or impact fees could be used, but would require a legal mechanism set up by the City to do so. Further research should be undertaken first to determine whether this would be a desirable tool to utilize.

**25. Will the revised policy affect the City's participation in the construction of public improvements funded by TIF?**

Yes. City Engineers will play a larger role by overseeing both the design and construction of the public improvements included in TIF development projects.

**26. What is the definition of a land trust that would be allowed to receive land acquired under a TIF?**

An example is when a land trust creates permanently affordable housing solutions by utilizing the Community Land Trust Model. The land trust takes the cost of land out of the purchase price of the home and sells the home to an income-qualified buyer. The land is then placed in the stewardship of the land trust and the homeowner leases the land from the CLT through a 99-year, renewable ground lease.

**27. How does community land trust homeownership compare to conventional homeownership?**

Community land trust homeownership is essentially the same as other homeownership except that the land which DLT homes are located on is owned by the community-based organization. Similarities include:

- A. The homeowner has a mortgage with a bank
- B. The homeowner accumulates equity
- C. The homeowner pays property taxes
- D. The homeowner can make alterations and improvements
- E. The homeowner receives federal tax deductions for mortgage interest and property taxes

Differences include:

- A. The purchase price is lower, because the land is not purchased by the homeowner

- B. The CLT owns the land, the homeowner leases the land from the CLT for a nominal fee
- C. If a family chooses to sell their home, the selling price will be lower – selling a CLT home helps limited income families the same way as buying a CLT home”

**28. If the land trust is tax exempt, shouldn't that prevent it from being involved in a TIF in the first place?**

The land trust creates the “community land trust,” a taxable agency. Other than the land trust owning the land and leasing the land to the homeowner, everything else is the same.

**29. What kind of relocation costs could be considered eligible expenses?**

Eligible relocation costs would be consistent with that identified in SDCL 5-2-18, as follows: “Relocation benefits and assistance in acquisition of property--Compliance with federal act. The State of South Dakota, its departments, agencies, instrumentalities, or any political subdivisions may provide relocation benefits and assistance to persons, businesses, and farm operations displaced as the result of the acquisition of land or rehabilitation or demolition of structures in connection with federally assisted projects to the same extent and for the same purposes as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P. L. 91-646) as amended by Surface Transportation and Uniform Relocation Assistance Act of 1987 (P. L. 100-17), and may comply with all the acquisition policies contained in said federal act.”

**30. Can a traffic signal be included as an eligible expense?**

Potentially. The Manual on Uniform Traffic Control Devices (MUTCD) requires that before a traffic signal can be installed there are numerous “warrants” that must be met. With this requirement and the 5-year expenditure limitations on using TIF funds, we want to restrict the taxpayer purchasing signal components (through the TID developer and TIF reimbursements) for those components that cannot be utilized until the required warrants are met (sometimes extending until the purchased components are obsolete).

Currently, a traffic impact study (TIS) is required for any nonresidential development generating more than 100 peak hour trips or any multifamily residential development with 150 or more dwelling units. Many of the larger development applications need to submit the traffic impact study as part of the submittal process, usually at the beginning of the TIF five-year period. This 4-year timeline encourages development sooner so that the warrants are met as well as preventing the taxpayers from purchasing potentially obsolete equipment and paying for a TIS that may need to be updated before the signal can be installed (because of changing circumstances and/or the delay in meeting the warrants.)

**31. Can residential structures be considered an eligible expense?**

No. SDCL 11-9-42 prohibits using tax increment funds on residential structures.

**32. Can historic buildings utilizing a tax abatement program be included in the TIF?**

No. Item #9 under the Principles, page 8, identifies that reduced taxation in any form

shall not occur during the life of the TIF District. If developers choose TIF over the historic tax abatement, the historic requirements still apply. The project would still have to stand on the merits of the overall TIF process, with the participation rate, scoring, etc.

There are specific parameters to the historic property tax abatement program administered by the State Historic Preservation Office. There may be instances where a developer would have greater benefit from a TIF (especially if there were other public improvements included), but both programs would not be used simultaneously.

**33. Can expenses be included for residential development infrastructure?**

Yes, particularly residential development infrastructure (local street) that provides connections to a transit-oriented development (TOD). A TOD is a type of urban development that maximizes the amount of residential, business and leisure space within walking distance of public transport. In doing so, TOD aims to increase public transport ridership by reducing the use of private cars and by promoting sustainable urban growth.

A TOD typically includes a central transit stop (such as a train station, or light rail or bus stop) surrounded by a high-density mixed-use area, with lower-density areas spreading out from this center. A TOD is also typically designed to be more walkable than other built-up areas, through using smaller block sizes and reducing the land area dedicated to automobiles. The densest areas of a TOD are normally located within a radius of ¼ to ½ mile (400 to 800 m) around the central transit stop, as this is considered to be an appropriate scale for pedestrians, thus solving the last mile problem.

Unless the development is located within a half-mile of an existing transit stop, residential infrastructure expenses would not be an eligible expense.

**34. Can expenses be included for normal subdivision required improvements?**

Such expenses could only be eligible if they are related to regional public infrastructure. This could include off-site improvements such as sidewalk connectivity and pedestrian oriented lighting provided the improvements are located on public property.

**35. What would qualify as an eligible interest expense?**

Example: A developer brings in a loan at 6.5%. If the City's current interest rate is 3%, the eligible expenses would be 3%. The calculation for the developer's participation rate would include the difference between the City's current interest rate and the proposed rate, up to 4% over the City's rate.

**36. How does the participation rate work in an economic development TIF project?**

An economic development TIF project is defined by SDCL 13-13-10.2 as follows: "For the purposes of this chapter, the term, economic development, includes any area where there is or will be one or more businesses engaged in any activity

defined as commercial or industrial by the governing body that has zoning authority over the land contained within the tax increment financing district.” The participation rate, for any TIF project, would still be determined by the amount of capital the developer is expending for the project versus the amount of tax increment funded expenditures. The TIF legislation was designed to create opportunities for development where the development would not occur without additional funding. This provides the city with another tool (in addition to the outside review) to better determine that shortfall need.

**37. What is Rapid City Economic Development’s current targeted hourly rate that is applicable to an economic development TIF project?**

Currently, the 2013-2017 ACS Median Household Income for Rapid City is \$48,895, making the targeted wage \$17.63 an hour. Proposed policy language addresses the shifting hourly rate to include the following: “...however, the targeted industry hourly rate shall be no less than 25% of the US Census Bureau’s current American Community Survey (ACS) five-year household median income.”

**38. Can an approved TIF District boundary overlap with a previously approved, active TIF District?**

The revised policy states that “the overlapping of more than two (2) active TID boundaries should be limited, unless necessity is demonstrated.”

**39. Can undeveloped or “greenfield” properties be included in TIF funded projects?**

Yes. In some situations, a business expansion, start-up or relocation is not viable in developed areas. It is recognized as important to allow for such and avoid ceding any competitive positioning to other communities or creating a cap on growth for existing businesses looking to expand. Previous policy revision draft language that discouraged the inclusion of greenfield development has been removed.

**40. What costs and factors may be included as part of an economic development TIF project?**

While the City maintains a strategy of utilizing TIF primarily for excessive development costs, an economic development project may also include costs specific to investments that are demonstrated to increase project output capacity, job creation, the finishing of work-spaces, and/or land acquisition.

In demonstrating the necessity of TIF, evidence may be submitted of recent cost comparisons for subdivision expenditures, site excavation, grading, environmental remediation, as well as detailed review of other significant factors regarding the available labor force, access to air transportation, education system and quality of life for primary workers as well as their spouses/family members, etc. For more information on demonstrating the necessity, see Principle 3 in the draft revised policy.

**41. Can TIF funding cover regional infrastructure improvements?**

Yes. Projects may include regional infrastructure improvements located in or near the TIF District that are determined beneficial to the community.

**42. Are there any residential properties or neighborhoods in Rapid City that would meet the policy's residential blight criteria?**

Yes. There are several neighborhood areas and many properties in the core areas that currently meet this criteria, many within the proposed core areas.

**43. Can landscaping costs be included as an eligible project cost?**

Yes, including costs for irrigation and design by a professional landscape architect with review and approval by the Parks and Recreation Department, for locations adjacent to or within a revitalization corridor and/or node. The developer shall be responsible for the live vegetative landscaping maintenance for the life of the TIF; thereafter, the Parks and Recreation Department shall be responsible.

**44. How can TIF be used to assist the development of affordable housing?**

Consistent with SDCL 11-9-42 wherein "no tax increments shall be used for the construction of residential structures," only developmental costs will be eligible as a project plan cost, not the construction of the housing structures. A potential project cost could be land acquisition, with the land transferred to the non-profit to hold in trust in perpetuity, holding down the housing cost. TIF has been used well as a financing tool for both cities of Aberdeen and Sioux Falls for infrastructure related to projects with an affordable housing emphasis.

**45. What is an appropriate level for the developer's financial participation in the total development costs?**

In the proposed evaluation criteria, the recommended developer participation rate (ratio of the amount of developer provided capital used in a project relative to the entire investment in a project) is at least 85%, for which one point be given towards qualifying for approval. Two points can be given if the participation rate is at least 90%.