

City of Spearfish

Tax Increment Financing

Policy Guideline Recommendations

Final Draft

I. Introduction

Tax Increment Financing (TIF) is an economic development tool that allows the use of property tax revenues generated within a specific area designated as a Tax Increment Financing District, to pay for the cost of public improvements that support new development within the district. TIF should be considered a public policy and planning tool that helps direct a community's vision and mission.

II. Purpose

Tax increment financing is intended to contribute to the economic growth and stabilization of Spearfish. The policies herein outlined, have been established by the Spearfish Economic Development Corporation as recommendations to the Spearfish City Council for the following purposes:

- a. To provide a framework with which the City Council and Mayor can evaluate and compare proposed uses of tax increment financing; and
- b. To guide city staff and other recognized public bodies in forming recommendations regarding the use of tax increment financing and negotiating contract terms with developers; and
- c. To inform developers and the public of the City's position on the use of tax increment financing and the process through which decisions regarding the use of the tool are made.

III. Goals and Guiding Principles

The City may consider the use of tax increment financing as a tool for projects that achieve two or more of the following:

- a. To improve the City's economic vitality through the creation and expansion of employment opportunities.
- b. To increase the availability of affordable housing within the community.
- c. To support redevelopment efforts which enhance and preserve the core downtown area, and to further develop recreation, cultural, and tourism amenities.

- d. To develop industrial sites to attract new industry, and provide suitable locations for the expansion and relocation of existing industries.
- e. To clean contaminated areas and/or eliminate blighting influences in order to encourage private/public reinvestment in those areas.
- f. To encourage development that fills an unmet need in the community.
- g. To promote industrial and residential development under special circumstances that would not otherwise occur.
- h. To achieve-other goals as may be adopted by the City Council from time to time.

IV. General Guidelines

The following (a-g) apply to all projects:

- a. The City of Spearfish may use tax increment financing only when a clearly identified goal from Section III is served, and only to the degree required to accomplish that development objective.
- b. Tax increment financing may only be used when the developer can clearly demonstrate that the development may be able to meet its financial and public purpose commitments.
- c. The City's participation in a TIF may only be used to support those public improvements directly associated with or needed to serve the proposed development and where project economics are unable to secure or support the necessary financing needed to undertake such improvements. Justification for economic need and City involvement must be demonstrated by one or more of the following:
 - i. a need to offset infrastructure costs to the site; or
 - ii. a need to offset economic advantages available to the corporate entity if it should be built (or expand) outside of Spearfish; or,
 - iii. a lack of sufficient private or other public funding sources to meet the full capital investment needs of the project seeking assistance; or
 - iv. a preliminary financial assessment showing that the project would not be financially feasible but for the public assistance to be provided. The level of TIF financing should be reduced to the lowest possible level.
- d. "Pay as You Go" participation agreements are the preferred method of financing all public improvements within the tax increment district. This means that the developer pays all up-front costs, unless otherwise authorized by the City

Council.

- e. The City may not issue general obligation tax increment bonds except when all net bond proceeds are used to pay for municipal directed projects.
- f. In general, no more than 50% of the total project costs shall be funded by Tax Increment Financing. Exceptions may be granted if the applicant is a governmental entity, a non-profit developer, or TIF assistance is for the development of long-term affordable housing as referenced in Section V.
- g. All proposed projects should create a new taxable value equal to or greater than \$2 million or as deemed necessary by City Council.

V. Special Project Eligibility

Affordable Housing It is a goal of the City of Spearfish to increase the amount of affordable housing throughout Spearfish. To accomplish this goal, the following criteria have been developed to direct the use of Tax Increment Financing for the purpose of housing. Affordable housing is defined where not more than 30% of a household income is used to pay for housing expenses.

Requests for TIF financing for affordable housing should meet Priority 1 or 2, with additional consideration being given to requests that can meet priority 3.

Priority 1: Affordable housing units are sold to individuals and/or families with incomes which are at or below 100% the median income for Lawrence County, adjusted for family size. (currently, at \$49,500 family of four).

Priority 2: Affordable housing units are sold to individuals and/or families that exceed the income guidelines in paragraph a, but do not exceed that established by the South Dakota Housing Authority's Loan Assistance program. Evidence should be provided that there is an unmet demand for affordable housing for this income bracket. (note: currently \$56,500 family of two or less; \$64,975 family of three or more).

Priority 3: A method will be available to provide reasonable assurance that units designated as "affordable" can be affordable for buyers after the first owner and would be administered through a third party such as, but not limited to, a land trust, or non-profit housing agency. The general intent is that an oversight entity not affiliated with the City of Spearfish is provided that is able to monitor continued affordability.

All Projects – General Guidelines

All requests should describe the following information in detail and, where applicable, propose methods to comply as indicated:

- a. Sales prices of the finished home as it relates to the income levels identified in Priority 1 or 2.
- b. The housing expected to be provided is owner-occupied, single-family homes or attached homes.
- c. To the extent which a for-profit or not-for-profit developer provides affordable housing opportunities (defined above), project costs as referenced in State Statute may be eligible for tax increment reimbursement equal to the pro rata share of affordable housing made available within a proposed project, which should be calculated based on the total number of proposed lots for all phases of development.
- d. All projects applying for TIF must meet the general provisions of SDCL § 13-13-10.2, in order to not create a tax shift within the community as it related to education funding.

VI. Eligible Project Costs – State Statutes

Eligible project costs are defined under SDCL §11-9-15 and a table of contents are attached in Appendix 1.

VII. Criteria for Evaluation – State Statutes

In addition to the guidelines described in previous sections, South Dakota statute requires that the area with in the TIF district must be determined to be blighted in order to form the Tax Increment District. The TIF application should clearly demonstrate how the project meets the city guidelines described in this document, and statutory criteria. However, in all cases, the decision to create a Tax Increment Financing District and to enter into a developer’s agreement with any applicant is wholly discretionary. There is no right for an applicant to have a Tax Increment District created.

VIII. Application Procedure and Requirements

Each project seeking to use Tax Increment Financing must submit the following information to the City Planning Department for review:

- a. A detailed project description;
- b. Purpose of the Tax Increment Financing;
- c. List of specific public improvements and a list of the specific private improvements proposed to be constructed along with the project;
- d. A list of project costs to be funded by the Tax Increment Financing including identification of typical developer costs, exceptional costs and over-sizing costs;

- e. A preliminary development financing plan, including sources of funds, identification of lender, interest rates, financing costs and loan terms;
- f. A pro forma indicating projected costs and revenues;
- g. A statement and demonstration that the project would not proceed without the use of Tax Increment Financing;
- h. A statement identifying the specific criteria from Sections II. through V. and the statutory criteria which the applicant believes the request addresses;
- i. Conceptual plans, sketches, maps or site plan for the projects;
- j. A development time schedule including specific phasing of improvements and project costs;
- k. A narrative describing methods of TIF reimbursement so they are “results oriented”, thereby providing assurances to the City that the project has met the guidelines identified in this document at the time reimbursement is made. In the case of affordable housing TIF’s, specific time frames and documentation that clearly demonstrates the match between eligible buyers and units sold should be provided.
- l. Corporation, LLC, partnership papers or other business documents identifying the parties with ownership interest in the property involved in the property in the project, including land ownership, contract for deed or other contractual information relating to control of the property and the applicants ability to complete the project;
- m. A financial statement of the corporation, partnership or individual for the past five years;
- n. A copy of the proposed wage scale, employee benefit package, and full and part time employment levels;

IX. TIF Approval Process

Each project seeking to use TIF must submit all items listed in Section VIII to the City Planning Department which may be forwarded to the TIF Review Committee for evaluation. The TIF Review Committee may make recommendation on the use of TIF to the Planning Commission and City Council. The TIF Review Committee may consist of the following members: City Administrator, City Planner, Mayor or his/her designee, one Planning Commission appointee and one appointee from Spearfish Economic Development Corporation.

The applicant and his/her designees shall meet with the TIF Review Committee to present the proposed Tax Increment District. A simple majority of the TIF Review Committee members present at the meeting where the TIF proposal is evaluated must concur for a project to receive a positive recommendation.

If the TIF Review Committee recommends approval for Tax Increment Financing assistance, the following approval process shall be initiated:

- a. Preparation of Project Plan- The City Staff or its designee shall prepare a Project Plan for the proposal. The Plan must meet certain statutory requirements including information about the use of the Tax Increment Financing funds. It shall also include a resolution defining the proposed Tax Increment District. The actual up front costs to prepare the Project Plan may be paid for by the applicant. All application expenses may be reimbursable by the TIF if approved by council.
- b. Approval of Project Plan- The Resolutions creating the Tax Increment District and the Project Plan are then submitted to the Planning Commission for its recommendation. Following Planning Commission review and recommendation, the Resolution and Project Plan are then submitted to the Legal and Finance Committee for recommendation. The recommendation of the Legal and Finance Committee is forwarded to the City Council for its approval.
- c. Approval of Development Agreement- Following approval of the Resolutions creating the Tax Increment District Boundaries and the Project Plan by the City Council, the City Attorney shall draft a Development Agreement. The Agreement sets forth the mutual responsibilities of both parties. The Development Agreement is reviewed by the City Council who must authorize the Mayor and Finance Officer to sign the agreement. All up front costs for the City Attorney fees to prepare the development agreement shall be paid by the applicant.

If the TIF Review Committee does not recommend approval of the Tax Increment Finance proposal the applicant may appeal that decision to the Planning Commission. If approved by the Planning Commission, City Staff and/or its designee shall prepare the Resolutions creating the District and the Project Plan and the proposal shall be reviewed as outlined above in steps b and c.

If the Planning Commission does not approve the appeal, a request for the same TIF cannot be re-submitted within one year of the Commission's final determination, unless in the opinion of the TIF Review Committee, a substantial change has been made and a new review is warranted. The determination of the Planning Commission shall be final in all appeals.

X. Process for Revising Approved Tax Increment Project Plans

- a. Applicant may submit a written request detailing the proposed revision to the City Planning Department.
- b. Staff may review the request and make recommendation to the Planning Commission.
- c. Pursuant to the provisions of SDCL 11-9-18, the Planning Commission considers the proposed revision (s) and approves any changes by resolution.
- d. Upon approval by the Planning Commission, the request is forwarded to the City Council; City Council may approve the revised Project Plan.

APPENDIX 1

State Statute References

CHAPTER 11-9

TAX INCREMENTAL DISTRICTS

- 11-9-1 Definition of terms.
- 11-9-2 Municipal powers related to districts.
- 11-9-3 Planning commission hearing on creation of district--Notice.
- 11-9-4 Recommendation by planning commission for creation of district--Designation of boundaries.
- 11-9-5 Governing body resolution creating district--Boundaries--Name.
- 11-9-6 Districts with overlapping boundaries permitted.
- 11-9-7 Maximum percentage of taxable property in municipality permitted in districts.
- 11-9-8 Findings required as to blighted areas--Likelihood of enhanced value from improvements.
- 11-9-9 Areas conducive to disease or crime defined as blighted.
- 11-9-10 Developed areas impairing growth defined as blighted.
- 11-9-11 Open areas impairing growth defined as blighted.
- 11-9-12 Determination of tax incremental base on creation or expansion of district.
- 11-9-13 Recommendation of project plan by commission--Statement of improvements proposed, costs, and plan for financing.
- 11-9-14 Definition of project costs.
- 11-9-15 Specific items included in project costs.
- 11-9-16 Statement as to zoning and property use impact--Relocation methods.
- 11-9-17 Governing body resolution adopting project plan--Findings of feasibility and conformity with municipal master plan.
- 11-9-18 Amendment to project plan--Procedure.
- 11-9-19 Tax incremental base defined.
- 11-9-20 Determination of tax incremental base for newly created district.
- 11-9-20.1 Aggregate assessed value for district not in compliance with § 10-6-33.8.
- 11-9-21 Identification on assessment rolls of property within districts.
- 11-9-22 Property recently acquired by municipality--Presumption as to inclusion in tax incremental base.
- 11-9-23 Redetermination of tax incremental base when project costs increased by amendment of plan.
- 11-9-24 Annual notice to taxing districts as to total assessed value and tax incremental base-- Change in laws not to result in lower assessed values--Conditions.
- 11-9-25 Allocation to municipality of tax increments--Duration of allocation.
- 11-9-26 Definition and computation of tax increment for district.
- 11-9-27 Taxation of property in district.
- 11-9-28 Payment to municipality of allocable tax increment.
- 11-9-29 Repealed.

- 11-9-30 Methods of paying project costs.
- 11-9-31 Tax increments deposited in special fund--Municipal appropriations to fund--Investment of moneys in fund.
- 11-9-32 Permissible uses of special fund.
- 11-9-33 Bonds and notes authorized for payment of project costs.
- 11-9-34 Resolution authorizing bonds or notes--Voters' approval not required.
- 11-9-35 Maximum amount of bonds or notes--Maturity--Redemption provisions--Bearer or registered--Denominations.
- 11-9-36 Bonds and notes payable only from special fund--Not general debt of municipality.
- 11-9-37 Pledge of special fund to bonds or notes--Restrictions on use of fund--Lien on fund.
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- 11-9-38 Bonds and notes negotiable--Bonds payable only from tax increment.
- 11-9-39 Other provisions to secure holders of bonds and notes.
- 11-9-39.1 State pledge not to alter rights vested in bondholders until bonds or notes are fully discharged.
- 11-9-40 Sale of bonds or notes--Other municipal bonding provisions applicable.
- 11-9-41 Procedure for condemnation under power of eminent domain.
- 11-9-42 Tax increments not to be used for residential development.
- 11-9-43 Performance bond required of purchaser or lessee of property.
- 11-9-44 Notice to purchaser or lessee and surety of default in contract--Taking possession of property on default.
- 11-9-45 Disposition of special fund remaining after payment of project costs.
- 11-9-46 Termination of tax incremental district.
- 11-9-47 Repealed.