

**TAX INCREMENT FINANCING POLICY GUIDELINES  
LINCOLN, NEBRASKA  
2022**

**STATEMENT OF PURPOSE**

This policy outlines the use of Tax Increment Financing (TIF) in the City of Lincoln. Lincoln’s purpose in the use of TIF is to remove blight, stimulate reinvestment in deteriorating areas, and further the goals of the Comprehensive Plan and Redevelopment Plans.

TIF is a public funding mechanism authorized by the State of Nebraska Constitution and statutes allowing municipalities to help pay for public improvements and enhancements associated with redevelopment projects in blighted and substandard areas. The Nebraska Community Development Law, Neb. Rev. Stat. §§18-2101, et seq., (the “Act”) authorizes communities to designate as blighted and substandard areas that have a preponderance of deteriorating buildings, high unemployment, old structures, unimproved land, low-income residents, and/or a declining population along with other factors.

The Act allows for the use of divided ad valorem (property) taxes to repay bonds or debt on Redevelopment Projects that would not be economically feasible and would not have occurred in the community redevelopment area without the use of TIF. Upon approval of a TIF project, the ad valorem taxes generated on the increased value of the redevelopment project site (the tax increment) is used to repay bonds or project debt for a period of years. The maximum tax division and repayment period for blighted and substandard areas is up to 15 years.

Additionally, the state law authorizes a tax division and repayment period of up to 20 years in areas declared extremely blighted. Extremely blighted areas must not only meet the definition of blighted and substandard conditions, but also satisfy the following conditions:

1. the average rate of unemployment in the area during the period covered by the most recent federal decennial census must be at least two hundred percent of the average rate of unemployment in the state; and,
2. the average poverty rate in the area must exceed twenty percent.

The extension of the repayment period is, in part, intended to make investment in extremely blighted areas possible and more competitive with other areas of the municipality.

**HISTORY OF TIF IN LINCOLN**

Lincoln first began using TIF in 1982 and it has been used in hundreds of local projects since. In the first 20 years, Lincoln authorized the creation of 20 TIF districts. However, interest in the use of TIF in Lincoln has substantially increased. Over the last 20 years, 97 TIF districts have been created with 14 additional approved projects expected in the near term. Some districts are project based and initiated at the request of a developer, business owner, and/or property owner. Other districts are developed by the City with the intent of impacting a larger area, such as a neighborhood, a business district, a transportation corridor, or other defined area (“Area TIF Districts”). Examples of Area TIF Districts include Havelock, N. 27th Street Corridor, University Place, South of Downtown, and Greater Downtown Principal Corridors.

## **ELIGIBILITY FOR TIF FUNDING**

To qualify for TIF financial support, all projects must meet the following criteria required by Neb.Rev.Stat. §§18-2101 et seq.:

1. The project must be located in an area declared blighted and substandard by the City Council.
2. The project must be in conformance with the City's Comprehensive Plan and the Redevelopment Plan for the project area.
3. The costs and benefits of the redevelopment project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services, have been analyzed and have been found by the City Council to be in the long-term best interest of the community impacted by the redevelopment project.
4. The project would not occur as proposed without the use of TIF.
  - a. The redevelopment project as proposed in the plan would not be economically feasible without the use of TIF.
  - b. The redevelopment project would not occur in the community redevelopment area without the use of TIF.

This is commonly called the "but for" test, meaning the project would not occur as designed or envisioned, "but for" the availability of TIF funding.

With very limited exceptions, the project site must be located within the Lincoln City Limits to be eligible for TIF.

## **REVIEW AND APPROVAL OF TIF PROJECTS**

The Urban Development is designated as the Community Redevelopment Authority for the City of Lincoln. The Lincoln City Council makes blight and substandard designations based on information provided in a Blight Study, and the recommendation of the Urban Development and Planning Departments. Subsequently, a Redevelopment Plan conforming with the requirements of the Act must be reviewed and found to be in conformance with the City County Comprehensive Plan. These Plans outline specific projects that will be accomplished through the use of TIF funds. Plans are often amended to include projects as they arise. Redevelopment Plans and Plan Amendments are proposed by the Urban Development Department to the Planning Commission, which then evaluates the Plan and/or Project for conformance with the Comprehensive Plan and forwards a recommendation to the City Council. If approved by City Council, the Mayor provides the final signature on the resolutions approving the Redevelopment Plans and subsequent amendments.

If a developer participates in a Redevelopment Plan, the next step is to negotiate a contract ("Redevelopment Agreement") that provides the terms of the redevelopment project in exchange for the City's allocation of TIF funds. Redevelopment Agreements are approved by the City Council by resolution, which authorize the Mayor to sign the agreement on behalf of the City. Other City Council actions often occur with these resolutions, including resolutions amending the Capital Improvements Program to account for the TIF expenditure and bond ordinances authorizing the issuance of debt.

The City of Lincoln Urban Development Department is the project manager and administrator for all redevelopment plans and projects. Urban Development is responsible for ensuring that the

project is completed in a manner consistent with the Redevelopment Agreement and Redevelopment Plan. Other departments assist in the implementation process and monitoring.

### **HOW TIF MAY BE USED**

Eligible expenditures for TIF Projects are listed in the Act and otherwise authorized in practice. Those expenditures may include:

1. Certain soft costs related to the preparation materials, applications, contracts, financing instruments, etc. related to the redevelopment project;
2. Site acquisition and associated costs, including studies, appraisals, surveys, and other activities related to due diligence;
3. Site demolition and preparation;
4. Eligible relocation expenses;
5. Public improvements or enhancements associated with the design, construction, installation, and implementation of redevelopment projects, including but not limited to
  - a. the design and construction of public rights of way, such as streets, sidewalks, alleys, street lights, and public streetscape amenities;
  - b. the design and construction of public utilities, such as water, sewer, and storm sewer facilities;
  - c. the design and construction of public facilities, such as public parking, transit, parks and recreation, community centers, and other facilities; and,
  - d. the design and installation of public enhancements, such as the preservation of historic facades and structures, and façade, energy efficiency, and flood prevention and storm water mitigation enhancements that exceed community standards set forth by municipal code, including building codes and design standards.
6. Provide support for the development and preservation of affordable housing.

To be eligible for reimbursement, the expenditures listed under items four through six above may only occur following the approval of a redevelopment plan and the specific project, including the redevelopment agreement, if applicable. These eligible TIF uses are subject to City discretion.

### **WHERE TIF IS ELIGIBLE TO BE USED**

While all TIF districts must be located in areas that have been determined to be blighted and substandard, some are in Redevelopment Areas that are more urban or in older areas of the City and some are located in areas that have not been improved or are more rural. These locations are generally referred to as the Core Area and the Outer Area, respectively.

#### **“Core Area”**

The “Core Area” includes all properties located inside the 1970 City boundaries and areas that are classified as “extremely blighted.” In 1982, downtown was the first area in Lincoln to be declared as blighted and substandard and eligible for redevelopment projects to encourage private investors to ameliorate substandard and blighted conditions by redeveloping deteriorating structures. Redevelopment plans have since been implemented primarily in the urban core or oldest areas of the City, including Clinton Neighborhood, Malone Neighborhood, North 27th Street, Havelock, University Place, Antelope Valley, 48th and O Streets, South of Downtown, and South Street.

Core Area is a relatively new term that was created in 2007, after the City received requests to use TIF in unimproved areas of the City. While these perimeter areas technically qualified as blighted and substandard, they typically had different needs than less recently incorporated areas of Lincoln. The Core Area has changed over time, increasing from the 1950 City boundaries to the 1970 City boundaries, to accommodate the needs of areas of the City with aging buildings and infrastructure and/or higher low-to-moderate income populations. There is often substantial overlap between older areas and low-to-moderate income areas.

### **“Outer Area”**

In 2005, the City began allocating TIF to unimproved areas. The “Outer Area” includes all real estate located outside the 1970 City boundary and not classified as extremely blighted. The “Outer Area” projects are generally located near the City’s perimeter and are usually unimproved areas that lack infrastructure, which stymies private redevelopment.

The City of Lincoln also desires that, in addition to the requirements of the Act, Core Area and Outer Area TIF projects should also meet separate criteria to be eligible for TIF financing.

### **CORE AREA PROJECT CRITERIA**

All Core Area TIF Projects must be located inside the 1970 Lincoln city boundaries or in areas that are classified as extremely blighted. The Project must achieve at least one of the following goals:

- Benefits low- and moderate-income people or areas.
- Redevelops a building or site that displays a preponderance of substandard conditions or blight as defined by Nebraska state law.
- Redevelops a site that has displayed a pattern of declining real property assessments, a measured by the Lancaster County Assessor’s Office.
- Rehabilitates a designated city landmark, a building listed on or eligible for listing on the National Register of Historic Places, or a building located within a local landmark district.
- Shows exceptional potential to attract additional reinvestment in adjacent blighted or substandard areas.
- Substantially improves the energy efficiency of an existing building.
- Develops new housing opportunities, including affordable housing.
- Relocates an existing business from an area which is incompatible with existing or proposed zoning, improves traffic flow, and/or, addresses other conflicts that require relocation.
- Supports the location of a new business or the expansion of existing businesses that adds to Lincoln’s existing tax base.
- Contributes to the solution of a unique public problem that may not otherwise be resolved within the timeframe or in the manner necessary to meet a public service or public facility need.

In addition, Core TIF projects which include the development, rehabilitation, and/or elimination of housing should support city-wide housing goals by accomplishing the following:

1. If the project involves the development of new rental housing, there is an expectation that a minimum of 10 percent of that housing will be affordable (costing no more than 30 percent of gross income for housing costs, including utilities) to those earning 60 percent or less of the Area Median Income for the City of Lincoln. Alternatively, the project may contribute to a City fund to help provide affordable housing (“in-lieu-of contribution”).
2. If the project proposes the elimination of existing affordable housing, there is an expectation that displaced units will be replaced on a one-to-one basis. Alternatively, the project may make an equitable in-lieu-of contribution. The value of the existing housing will be calculated by the City.

In areas designated extremely blighted, projects may be eligible to use the extended repayment period of up to 20 years, under certain conditions.

If the project includes rental and/or owner-occupied housing, the project must provide additional support toward access to affordable housing

1. If the project proposes the development of new rental housing, a minimum of twenty percent of that housing must be affordable (costing no more than 30 percent of gross income for housing costs, including utilities) to those earning 60 percent or less of the Area Median Income for the City of Lincoln. Alternatively, the project may make an in-lieu-of contribution to the City’s affordable housing fund.
2. If the project proposes the development of new owner-occupied housing, a minimum of twenty percent of that housing must be affordable (costing no more than 30 percent of gross income for housing costs, including utilities) to those earning 80 percent or less of the Area Median Income for the City of Lincoln or the project will make an in-lieu-of contribution to the City’s affordable housing fund.
3. If the project proposes the elimination of existing affordable housing, displaced units must be replaced on a one-to-one basis or the project must make an equitable in-lieu-of contribution to the City’s affordable housing fund. The value of the existing housing will be calculated by the City.

If the project is located with a flood plain, the project must improve flood plain resiliency of the redevelopment project site:

1. The project must create and implement a plan to improve conditions during a flood event.
  - a. If the project is constructed in a floodway, the project must cause a decrease in the water surface elevation of the 100-year flood.
  - b. If the project is constructed in a floodplain or flood prone area where no floodway is designated, the project shall cause no increase in the water surface elevation of the 100-year flood at any location.
2. The project must not cause the City to expend any additional funding on flood mitigation measures beyond the TIF funds dedicated to the project; and,
3. The project must develop and implement a plan to protect the project from current and expected future flood hazards related to climate change.

If the project does not include housing as part of the project and if it is not located within the flood plain, the project must satisfy at least one of the following three requirements to qualify for the 20-year repayment period:

1. Substantially exceed environmental sustainability and energy efficiency standards:
  - a. If the project is new construction or redevelopment of an existing building not designated as historic, the project must
    - i. Adhere to industry-recognized sustainable building practices in the construction of the project that exceed the minimum standards set forth in the City’s building code (Title 20, Lincoln Municipal Code);
    - ii. Adhere to industry-recognized standards in the sustainable operation of the building/project which exceed the minimum requirements of the City’s building code, state energy code, stormwater best management practices, and relevant design standards;
    - iii. Certify that the construction methods and materials used are intended to sustain the life of the building beyond 60 years; and,
    - iv. Divert a minimum of 20 percent of materials removed as a result of demolition activities from the landfill for salvage or reuse.
  - b. If the project includes the redevelopment of a historic building or a building under review for historic designation, the project must adhere to those items listed under “a” to the extent that such building practices would not reduce the historic integrity of the building or area.
2. Substantially improve and preserve a National Register or Local Landmark designated building.
3. Substantially contribute to the solution of a unique public problem that may not otherwise be resolved within the timeframe or in the manner necessary to meet a public service or public facility need.

The project may qualify for a 20-year repayment period by satisfying a combination of the requirements above. If the project is otherwise eligible for TIF, but chooses or is unable to satisfy one of the five requirements above, the 15-year repayment period will be used.

### **“Outer Area” Project TIF Criteria**

Outer Area TIF Projects should achieve at least one of the following goals:

- The project involves a new business or the expansion of businesses that increase Lincoln’s existing tax base by generating new primary employment (Primary employers are businesses that have out-of-county sales greater than 50% of their total sales; and will have a median wage for its new employees equal to or in excess of 105% of the average starting wage for Lancaster County.) The City, in furtherance of appropriate growth, may include adjacent or nearby sites in a project area in addition to the primary employer’s site.
- The project relocates an existing business from an area which is incompatible with existing or proposed zoning; improves traffic flow; or addresses other conflicts that require relocation.
- The project extends public infrastructure and/or public services identified in an approved City Plan, but for which funding has not been identified.
- The project improves the availability of affordable housing.

- Contributes to the solution of a unique public problem that may not otherwise be resolved within the timeframe or in the manner necessary to meet a public service or public facility need.

Outer Area TIF projects should not include existing or newly developing residential areas within their boundaries unless a minimum of 75 percent of the units are at prices affordable for rent at 60% or below Area Median Income for the life of the tax increment period or for sale at 80% or below Area Median Income.

Nothing in this policy limits the power of the City to exercise its redevelopment authority in furtherance of appropriate and desirable growth.