

NOTE: The TIF Policy changes proposed herein are shaded in orange with most recent changes shaded in green.

This document is drafted based upon earlier dialogue of the TIF Policy Committee and is intended for discussion purposes only. It does not constitute the final TIF Policy language or such TIF Policy recommendations that may be introduced to the Common Council at a later date.



City of Madison TIF Objectives and Policies

Adopted by the Common Council on
November 21, 2006

**Draft of Proposed Amendments
June 30, 2008**

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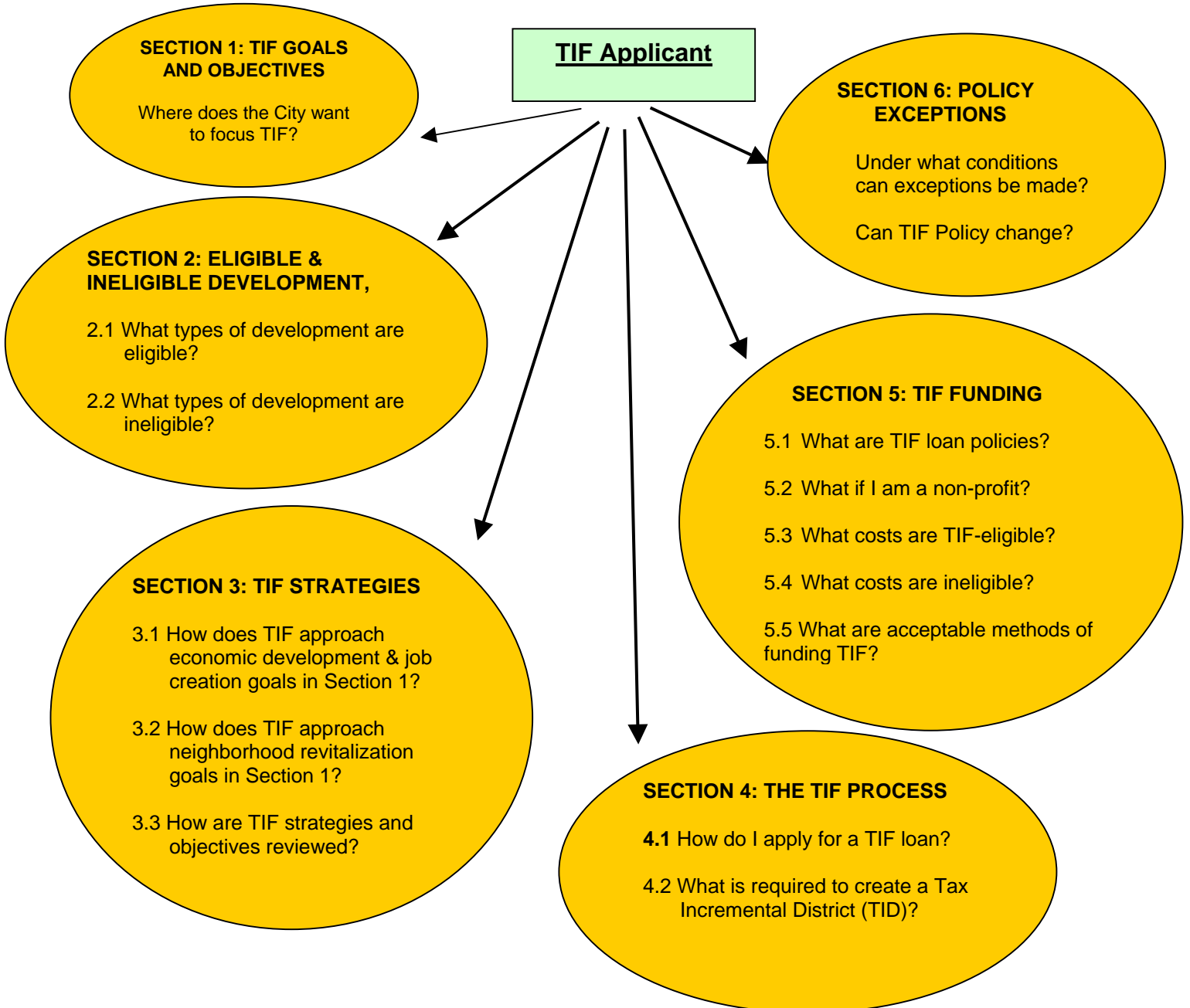
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INTRODUCTION

Tax Incremental Financing (TIF) is a governmental finance tool that the City of Madison uses to provide funds to construct public infrastructure, promote development opportunities and expand the future tax base. TIF assistance in Madison is only used when the proposed development would not occur “but for” City assistance. The proposed development should be consistent with and reinforce all City plans and lead to the consolidation and redevelopment of underutilized properties.

TIF POLICIES – ORGANIZATION OF DOCUMENT

From the TIF “user” perspective, there are six general categories of questions that are typically asked by TIF applicants. We have organized the policy into six sections: (5/19/08)



SECTION 1: TIF GOALS AND OBJECTIVES

Goal 1.1: Support Economic Development

TIF Objectives:

- (1) **Job Creation in High-Need Areas.** Job creation in “high need” areas located within blighted area TIDs that demonstrate a **significant and substantial** combination of the following economic factors:
 - (a) Deteriorating or obsolete building stock
 - (b) Stagnation or decline in property values
 - (c) Commercial and/or industrial vacancy
 - (d) Concentration of unemployment within an existing or proposed TID boundary that exceeds the national average unemployment rate
- (2) **Job Creation Through New Business Development.** New business development in high-need areas or industrial TIDs to create living wage jobs that offer an identifiable career ladder.
- (3) **Job Creation Through Attraction, Retention, Expansion of Existing Business.** Attraction, retention or expansion of existing business in high-need areas or industrial TIDs that create and retain jobs with a preference for businesses that are located near existing housing or planned housing developments.
- (4) **Mixed-Use or Industrial Projects Linked to Workforce Housing**—Whenever feasible, consider projects within mixed-use TIDs that combine the creation of living wage jobs with the provision of workforce housing. In order to be considered, a developer must demonstrate a direct connection between the jobs created and the housing being developed. **(5/5/08)**

Goal 1.2: Support Neighborhood Revitalization, Including Downtown

TIF Objectives:

- (1) **High-Need TIDs.** Improved conditions in blighted area TIDs in “high need” areas that demonstrate a **significant and substantial** combination of the following examples of physical deterioration:
 - (a) Deteriorating or obsolete building stock
 - (b) Stagnation or decline in property values
 - (c) High density or overcrowding
 - (d) Existence of conditions which endanger life or property by fire or other causes
 - (e) Any combination of factors that are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety or welfare.
 - (f) Land upon which buildings or structures have been demolished and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise substantially impairs or arrests the sound growth of the community.
- (2) **Adaptive Re-use.** Adaptive re-use of obsolete or deteriorating property into other appropriate uses.
- (3) **Urban In-fill.** Urban in-fill projects that either increase or decrease density ~~where appropriate and~~ consistent with neighborhood plans. **(5/5/08)**

SECTION 2: ELIGIBLE & INELIGIBLE DEVELOPMENT

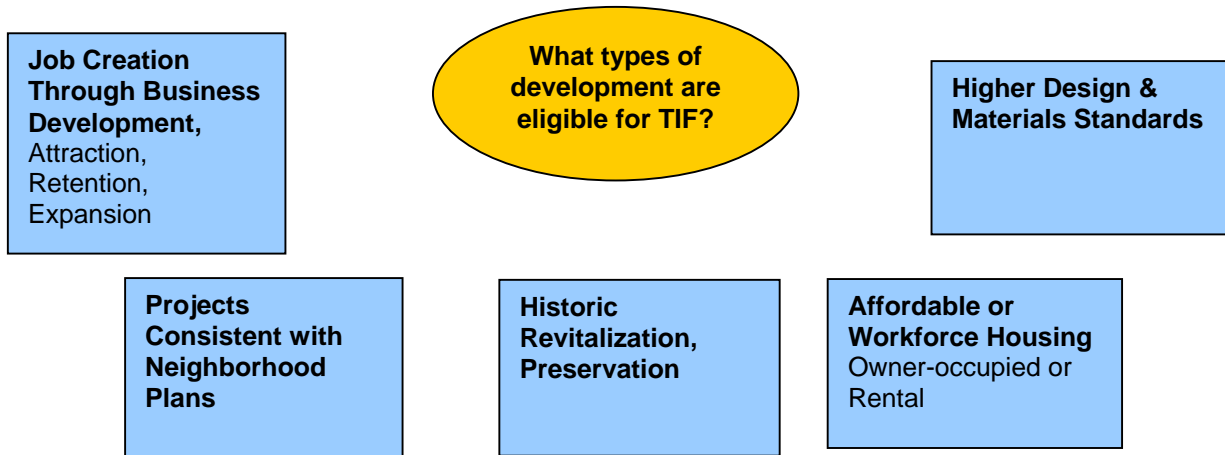
2.1 Eligible TIF Development (Not In Priority Order—See Figure 1a.)

- (1) **Affordable or Workforce (6/16/08) Housing** (rental or owner-occupied).
- (a) **TIF Assistance for Affordable or Workforce (6/16/08) Housing.** Affordable or workforce housing projects may apply for conventional TIF assistance provided they demonstrate “but for” to the City’s satisfaction. (5/5/08)
- (b) **10% TIF Set-Aside.** In each TID involving residential use created after October 1, 1999, at least 10% of the anticipated district-wide increment shall be reserved to assist in the development of affordable or workforce (6/16/08) housing within the TIF District under program parameters and guidelines adopted by the Common Council. **In cases where the gap is greater than 50% of the present value of tax increments generated by the project (“i.e. “The 50% Rule”) (5/19/08), the City may provide funds from the set-aside to fund the gap. (5/5/08)**
1. Projects funded with this affordable housing set-aside must be budgeted for each applicable TIF district in the City’s Capital Budget and may be borrowed or otherwise financed.
 2. The expenditure of the monies must be in accordance with the uses and timeline prescribed by TIF law.
 3. **Dane County Median Income.** The affordable housing units shall be made available to income certified households at or below 80% of the Dane County median income, adjusted for family size **for rental housing and 100% of Dane County median income for owner-occupied housing. (5/5/08).** By adopting this income standard, it is the intent of the Common Council to encourage the development of mixed-income affordable or workforce housing, which should include housing units at low and very low-income levels.
- (2) **Historic Revitalization.** Assisting revitalization of historic or architecturally significant or deteriorated buildings.
- (3) **Neighborhood Plan Consistency.** Supporting projects that are consistent with adopted neighborhood plans.
- (4) **Job-Creation Through Business Development.** New Business Development, Attraction, Retention or Expansion of business that are located in high-need areas or industrial TIDs that create living wage jobs that offer an identifiable career ladder.
- (5) **Higher Standards of Building Design, Materials.** The City encourages projects that include additional housing, **commercial or industrial (5/5/08)** performance standards that incorporate materials, fixtures, designs and appliances which provide health-related benefits and energy conservation and enhance quality of life including accessibility; such standards may include: energy conservation equipment and appliances, designs and fixtures that provide for fully accessible dwelling units, and equipment that provides a high level of air quality.
- (6) **Private Development Projects Used by Government Units.** The City may provide TIF assistance to a private development project wherein a unit of County, State or U.S. Government leases space when the project addresses all of the following situations:
- (a) Satisfies all other underwriting policies for TIF assistance to private development projects.
 - (b) Maintains or expands existing employment or reuses a blighted or vacant property.

- (c) Provides an anchor for an overall development plan that will include other commercial, office, housing or mixed uses.
- (d) Advances a development plan in an already established tax incremental district.
- (e) Private development projects assisted under this policy will be required to provide a full reimbursement of the City's financial assistance and expenses for the project in the event the project is removed from the tax roll.
- (f) Projects will be funded under this policy with sources other than general obligation debt to the maximum possible extent, in accordance with the general policy of the City's use of TIF.

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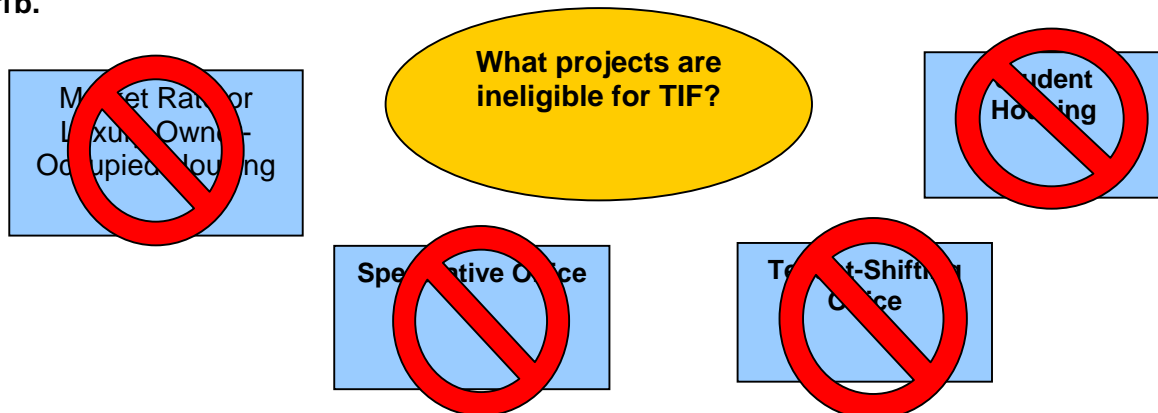
Figure 1a.



2.2. Ineligible TIF Development (See Figure 1b)

- (1) **Luxury Housing or 100% Market Rate (5/19/08)**
- (2) **Speculative office development** defined as projects that have not secured anchor tenants.
- (3) **Tenant-Shifting Office Development.** Office development that consists of moving a downtown office or business to another downtown location for purposes other than to retain or substantially expand the business.
- (4) **Student Housing.** Student housing, defined as multi-unit residential structures, whether publicly or privately owned, that are leased whole or in part to students attending post-secondary educational institutions, shall not be funded with TIF.

Figure 1b.



SECTION 3: TIF STRATEGIES (5/5/08)

3.1 Strategies for TIF Goal #1: Support Economic Development (5/5/08)

- (1) Improve the public infrastructure.
- (2) Support development of industrial sites and business parks (5/5/08) to attract new industries and provide suitable locations for expansion and relocation of existing industries.
- (3) Upon demonstrating that “but for” TIF a project could not otherwise be built, provide financial assistance to new and existing businesses whose projects create living wage jobs that demonstrate identifiable opportunities for advancement, i.e. a “career ladder.”
- (4) Focus such financial assistance to businesses that create such jobs in the following categories or clusters:
 - (a) Manufacturing
 - (b) Medical/Biotechnological
 - (c) Agricultural/Biotechnological
 - (d) Information Systems, Software Technology, Communications
 - (e) Financial and Insurance
 - (f) Those business or industry categories that are consistent with the Economic Development Plan

~~(5) Financial assistance shall be in the form of an end-loan wherein borrower shall have 12 months to create 60% of the jobs projected in the TIF Application, at which time the City may disburse funds. (6/16/08)~~

(5) Job Creation Guaranty for Industrial TID Projects (6/16/08)

Financial assistance initially may be provided to employers that seek TIF financial assistance in order to expand or relocate in the City of Madison, resulting in job creation as identified in 3.1 (3) and (4). Such financial assistance shall be in the form of an interest-bearing loan (“Loan”) provided to the Borrower contingent upon the following job creation guaranty requirements:

- (a) Loan shall be payable by Borrower to the City of Madison at the City’s borrowing rate, interest only, for a period not to exceed three years from the date of funds are disbursed. The term of said loan shall not exceed ten (10 years). Borrower shall guaranty that tax increment shall be sufficient to repay the Loan.
- (b) Borrower shall demonstrate that at least 80% of the projected jobs in the Borrower’s TIF Application are created within three years of the date the funds are disbursed. A corresponding percentage of the principal amount of the Loan shall then convert to a grant. Borrowers that do not create at least 80% of the projected jobs within the three-year period shall pay principal and interest, out-of-pocket (i.e. without tax increment) on the entire loan balance. The Borrower’s increment guaranty shall be offset by any principal and interest payments made to the City.

Example: \$1,000,000 loan, interest-only
100 jobs to be created

Borrower Creates 80% of Jobs	Borrower Creates Less than 80% of Jobs
- \$800,000 of loan becomes grant - \$200,000 becomes a 0% interest loan - Loan repaid with tax increment	- \$1,000,000 loan remains a loan - Borrower pays principal and interest out-of-pocket - City’s borrowing rate, 10 yr. term

Start Here

(c) The remaining loan balance shall convert to a 0% interest loan, to be repaid with tax increments generated by the project or out-of-pocket increment guaranty payments made by the Borrower. **(6/16/08)**

~~(6) Borrowers stipulating that job retention or creation **(5/19/08)** is the purpose of TIF assistance, 80% of the retained or created jobs stipulated in the TIF Application shall be retained for three (3) years from the date of disbursement of the TIF Loan. Failure to comply shall constitute a loan default wherein the City shall seek repayment of the amount of TIF provided divided by total jobs created and retained up until the date the default is reported.~~

(6) Encourage development projects that enhance the streetscape and pedestrian experience and improve the vitality of commercial districts by adding interest and activity on the first floor of mixed-use buildings and parking facilities.

(7) Encourage the development of higher concentrations and mixes of commercial, retail, business and professional office uses, with parking and Transportation Demand Management (TDM), within mixed-use projects.

3.2 Strategies for TIF Goal #2: Support Neighborhood Revitalization

(1) Improve the public infrastructure.

(2) Upon demonstrating the “but for”, provide TIF assistance to private development projects that:

(a) Provide a variety of housing choices, through renovation and rehabilitation of existing buildings and higher-density new construction in selected areas to increase the number and diversity of downtown residents.

(b) Stimulate the rehabilitation or removal of deteriorated or dilapidated buildings and the creation of mixed-use in-fill redevelopment.

(c) Provide the full range of basic neighborhood goods and services and employment opportunities.

(d) Provide transportation linkages and other urban amenities.

(e) Increase the supply and variety of high-quality, home ownership opportunities.

(f) Increase (or decrease, when appropriate), residential densities at selected locations as identified in the adopted neighborhood plans or the downtown master plan.

(g) Encourage the development of higher concentrations and mixes of commercial, retail, business and professional office uses, with parking and Transportation Demand Management (TDM), within mixed-use projects.

3.3 Annual TIF Strategy Review (5/5/08)

(1) The DPECD Director, **Economic Development Director (5/19/08)** and TIF Coordinator shall be responsible for coordinating an annual TIF strategy review during the first quarter of each calendar year, prior to drafting the Economic Development Division And Engineering capital budgets.

(2) Format of the Review. The strategy review shall follow the following format:

~~(d) Facilitate internal meeting of a staff team to generate report for discussion. **Staff team should include EDD staff, Planning, Mayor’s staff, CDBG and Engineering (5/19/08)**~~

- (e) Introduce resolution with report, referred to the Board of Estimates (lead), Economic Development (5/19/08) Commission and Housing Committee, Board of Public Works of findings, trends and strategies to be implemented for the following budget year.
- (f) Staff shall make a presentation of the Council's adopted strategy to the TIF Joint Review Board. This presentation may accompany or include information of anticipated new TIDs to be created per TIF Policy 4.3 (6) or the Annual TIF Report, if available at that time.

SECTION 34: THE TIF PROCESS

4.1 TIF Application Process (See Figure 2a)

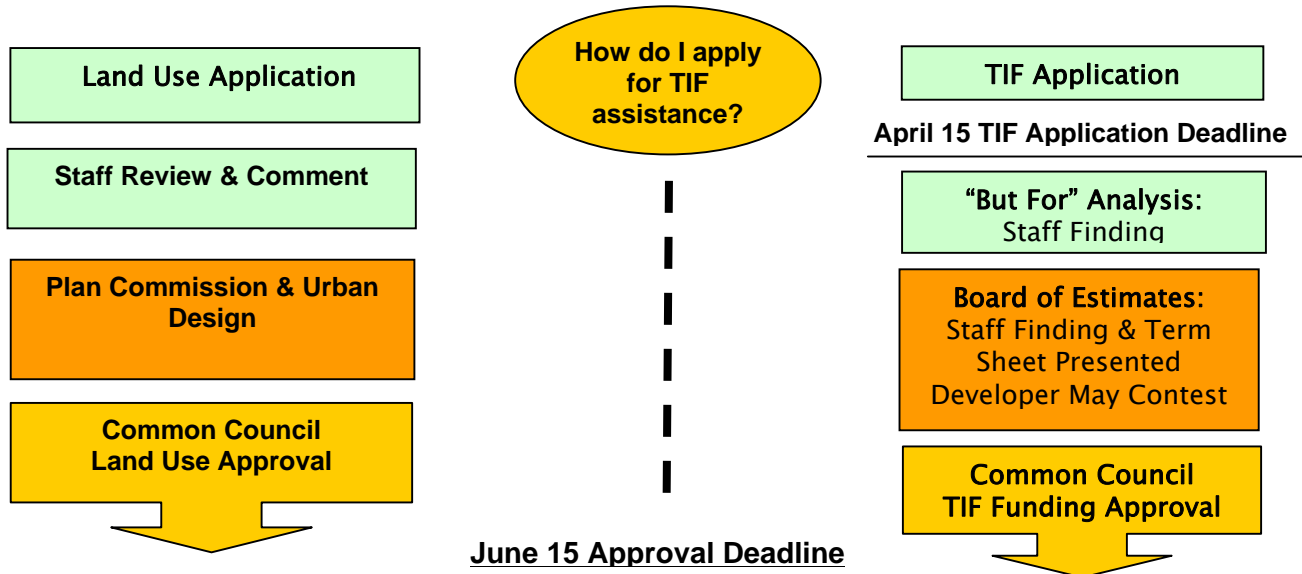
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- (1) Simultaneous Land Use, TIF Application.
 - a. Prior to or simultaneous with the initiation of the land use approval process, developers that seek TIF assistance must meet with Community & Economic Development staff and other city staff as appropriate.
 - b. All development projects seeking TIF assistance must receive project land use approvals simultaneous to the review for TIF assistance. In the case where land use process is completed before the TIF process, the land use resolution will be referred by the Plan Commission until the TIF Application process is completed and the Board of Estimates recommends approval of a TIF resolution to the Common Council. Land use approval does not constitute or otherwise influence TIF approval.
 - c. Developers shall identify on the land use application that they are seeking TIF assistance.
- (2) April 15 – June 15 Application Period. As the annual capital budget process begins in mid-June, developers seeking TIF assistance to be funded in the next year's capital budget should submit a TIF Application form prior to April 15 with a TIF Application fee of ½ of a percent of the amount of TIF requested, to allow sufficient time for staff analysis and discussion, toward producing a staff recommendation for TIF assistance prior to June 15. After the June 15 threshold, inclusion for consideration in the capital budget cannot be guaranteed and it is likely that the project could be deferred until the next year's budget process. The application must demonstrate gap and the project's potential eligibility for TIF consideration including completion of due diligence concerning market feasibility, site conditions and satisfactory meetings with the district alder and planning staff concerning building height, density and other land use issues. The City is not obligated to make a TIF assistance recommendation or conclude negotiations prior to June 15 in the event that information has not been presented to its satisfaction or the proposed project lacks feasibility.
- (3) Application Fee. Developers shall pay a TIF Application Fee in the amount of .5% of the amount requested, non-refundable, upon submission of the initial TIF Application or initial spreadsheet(s) representing a request for TIF assistance.
- (4) TIF Application Without A TID (Figure 2b). The City of Madison requires approximately five (5) months to create or amend a TID. TIF Law requires that all districts be either created or amended by September 30 of each year in order to be certified for that year. Developers seeking TIF assistance for development on a parcel or parcels that is not located in a TID boundary, and requires either the amendment or the creation of a TID as part of their request for TIF assistance shall apply for and receive TIF and land use approvals by the Common Council no later than April 15. (NOTE: The following is subject to legal review by the City Attorney) Developers seeking a TID amendment or creation as part of their application shall pay for the cost of all mailings pertaining to the TID. See TIF Policy 2.3 (h) Developer Mailings for Single Purpose TID Creation or Amendment.
- (5) Board of Estimates Presentations: Staff & Developer. The staff finding is presented to the Board of Estimates in closed session. Prior to the closed session meeting, the TIF Team shall provide the developer with a written report of its recommendation including: 1) the amount of the TIF request 2) the amount of TIF (if any) recommended and 3) a general statement of comments or issues concerning the project and its conformance to TIF Objectives and Policy. Said report shall be made available to the public, attached to the Board of Estimates agenda, as an electronic document. The Developer may comment on the staff analysis and recommendation at the open session of the meeting.
- (6) Term Sheet. Prior to closed session consideration by the Board of Estimates, staff shall provide

developer with a term sheet indicating the loan terms, conditions and applicable ordinances required by the City of Madison for providing TIF assistance. Staff shall draft a funding resolution upon Board of Estimates closed session approval and receipt of a term sheet that incorporates the terms and conditions found therein.

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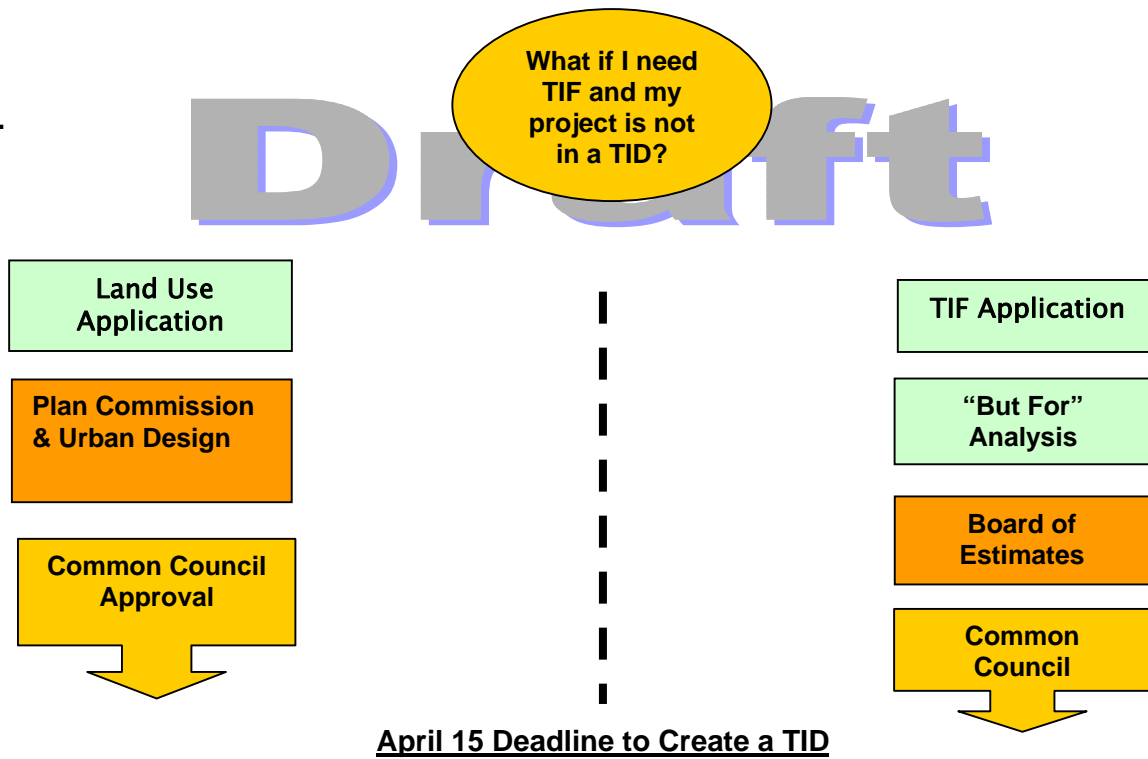
Figure 2a: Simultaneous Land Use, TIF



4.2 Projects Submitted After June 15 and Optional Vetting Process

- (1) Those TIF Applications that miss the June 15 vetting deadline may apply later but are subject to either a hold over until the next years' budget process or a 15-vote budget amendment. Discussion, analysis or negotiation between the City of Madison and a TIF applicant may continue.
- (2) **Vetting Process (Optional.)** In the event that the total requested funding for all qualified TIF Applications as of the June 15 deadline exceeds available City funding, or such applications concern projects that do not meet annual TIF goals or objectives, the Mayor at his/her discretion may authorize a “vetting” process before the Board of Estimates that shall evaluate and prioritize TIF requests according to established TIF objectives and criteria.
- (3) **Independent Analysis.** The City may conduct its own independent analysis of market value or retain consultants such as underwriters, bond counsel and economic analysts.

Figure 2b.



4.3 Creation or Amendment of TIDs (Figure 2c) The City will consider creation or amendment of a TIF district according to the following guidelines:

(1) **TIF Generators.**

- (a) The proposed TIF district has economic “generators”, i.e., at least one private development project that generates increment to finance TIF district costs, including a sufficient amount of public infrastructure improvements
- (b) The economic generators project must have an incremental value at completion of at least \$3 million **(in Year 2000 dollars (5/5/08))** to cover the typical costs of establishing a TIF district.

(2) **Twelve-Year Expenditure Period. (6/16/08)** Although TIF Law allows blighted area and industrial TIDs may make expenditures for up to 22 and 15 years respectively, the City of Madison shall make TIF eligible expenditures within newly-created TIDs for a period not to exceed twelve (12) years. **(6/16/08)**

(3) **Infrastructure TIDs.** The City may create a TIF district around an economic generator for the sole purpose of financing public infrastructure costs or financing long-term affordable housing serving income-certified households at or below 80% of the Dane County median income, adjusted for family size.

(4) **In-fill Development.** The proposed TIF district assists in-fill development or adaptive reuse or revitalization of older commercial corridors or underutilized or otherwise blighted parcels of land in older neighborhoods in the City.

(5) **Consistency with Plans.** The proposed TIF district is consistent with adopted City plans.

(6) **Conformance to TIF Law.** The City will conform to the requirements established in the State Statutes governing the elimination of blight and creation and use of TIF districts (Wis. Stats. 66.1105) as follows:

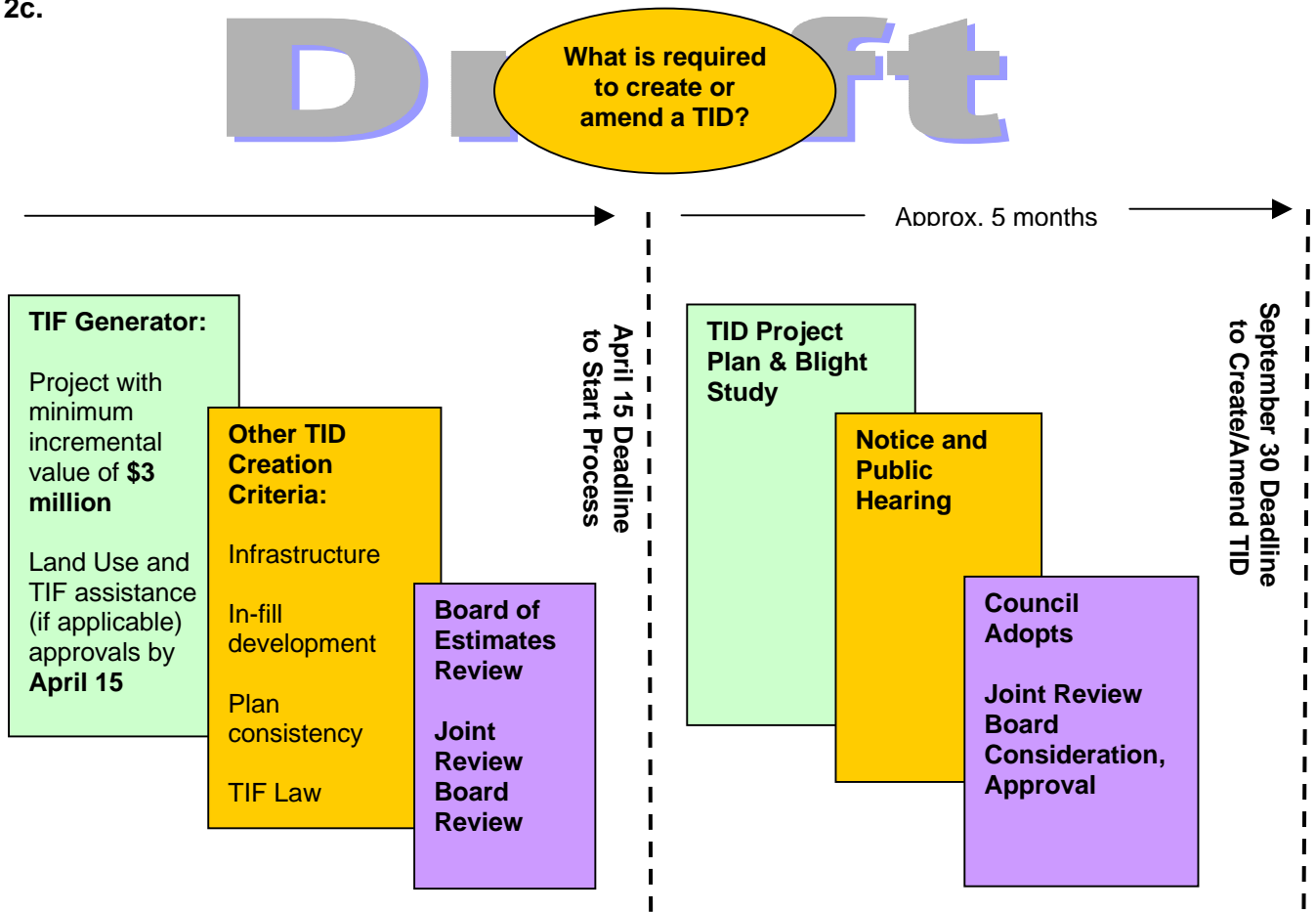
- (a) **Blighted Area, Environmental or Industrial TID.** The proposed TIF district assists blight elimination, environmental remediation, development of industrial parks.

- (b) **Blight Elimination.** Projects developed within the proposed TIF district would counteract or eliminate blight or neighborhood conditions that demonstrate a negative effect upon the public health, safety, morals or welfare.
- (c) **TID Value Cap.** The City will evaluate a proposed TIF district to ensure that it does not compromise the City's ability to create future, high-priority TIF districts. This evaluation will be based upon the proposed TIF district's impact upon equalized value limits established in the TIF Law (Wis. Stats. 66.1105 (4)) as follows:

"The equalized value of taxable property of the district plus all existing districts does not exceed 12% of the total equalized value of taxable property within the city."

- (7) **TID Presentation to Board of Estimates.** Staff shall submit a general plan concept sometime during the first quarter of the calendar year, when contemplating the development of a TID project plan. This would apply for TIDs that provided assistance to private development as well as TIDs created solely for infrastructure.
- (8) **Interested Party Registry.** The City of Madison shall create and maintain a TIF Interested Party Registry for each current and proposed TID, administered by the City Clerk, of interested parties that subscribe to the registry for that current or proposed TID. Said interested parties shall either reside, operate a business, or own property in the City of Madison but are not required to reside, operate a business or own property within the proposed district or its proposed amended boundary. Notification of registry members shall occur as follows:
- (a) The Clerk shall deliver via electronic or regular mail one of the following:
1. A notice of public hearing regarding the creation or amendment of a particular TID boundary or project plan. The notice shall be distributed on or about the day of the first publication of the Class 2 notice. The TIF Coordinator shall notify the Clerk in advance.
 2. A notice of scheduled neighborhood meetings regarding specific implementation of a TID project plan objectives. Appropriate DPD staff shall notify the Clerk in advance.
- (b) The Mayor's Office shall notify the Clerk in advance of a notice of public hearing concerning the Mayor's Executive Budget.
- (9) **Developer Mailings for Single-Purpose TID Creation or Amendment.** Upon demonstrating a "but for" condition satisfactory to the TIF Team, Board of Estimates and Common Council, developers requesting either the creation or amendment of a TID for the purpose of providing their proposed project with TIF assistance shall be required to pay for the cost of mailing the blight notification letters and other mailings to property owners within the TID that are deemed necessary and appropriate by the district alder or alders for the purpose of fully informing the public of the amendment or creation of a TID.
- (10) **Annual TIF Report.** The Comptroller shall oversee and submit an annual report to Council assisted by information provided by Engineering and Planning & Development concerning each active TID: 1) the financial position of each TID; 2) progress of implementation of infrastructure improvements and 3) TIF assistance to private development.

Figure 2c.



SECTION 45: TIF FUNDING

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5.1 TIF Loan Policies – All Development

- (1) **“But for” Standard.**
 - (g) Each project must demonstrate sufficient need for the City’s financial assistance, so that without that assistance, the proposed project would not occur.
 - (h) Every other financial alternative is to be exhausted prior to the use of TIF, including equity participation, other federal and state funds, bonds, tax credits, loans, etc.
 - (i) TIF assistance will be utilized as gap financing.
 - (j) Each project must demonstrate probability of economic success.
- (2) **Equity Greater, Equal to TIF.** TIF assistance shall not exceed the amount of equity provided by the Developer. Equity is defined as cash or un-leveraged value in land or prepaid costs attributable to the project. Donated Developer or Construction Management fees shall not be constituted as equity investment (See 3.2 Non-profit developers).
- (4) **50% Rule.** No more than 50% of the net present value of the tax increment generated by a private development project shall be made available to that project as gap financing.
- (5) **No Rent or Sales Price Write-Downs.** TIF assistance will be limited to the amount necessary to make a project competitive with other similar projects in the Madison metropolitan market area. The intent is not to provide below-market sales prices or rent subsidies to assisted projects, except as applied to assist affordable housing.
- (6) **Self-Supporting Projects.**
 - (a) Each for-profit project demonstrating a need for TIF assistance must generate sufficient tax increment to cover or repay both the TIF contribution to the project and a portion of the planned public infrastructure costs within the tax incremental district.
 - (b) No increment from other private development projects within a tax increment district may be used to supplement another project’s inability to generate sufficient tax increment.
- (7) **No Mortgage Guarantees.** The City will not provide mortgage guarantees.
- (8) **Personal Guaranty.** The City will require a personal guaranty for TIF assistance or in the case of a non-profit developer other forms of guaranty may be substituted. (See 3.2 – Non-Profit Developers)
- (9) **Real Estate Taxes.** All projects assisted with TIF shall pay real estate taxes.
- (10) **Equity Participation Payment (i.e. “Equity Kicker”). (6/5/08)** An equity participation payment (commonly referred to as “equity kicker”) (6/5/08) shall be required for both commercial and/or residential rental and/or owner-occupied projects.
 - (a) The rental equity participation formula, whether commercial or residential, shall be the percentage of TIF in the total project financing multiplied by the gross sale proceeds or the assessed value of the project on a date certain, capped at the total amount of TIF invested in the project.
 - (b) The equity participation payment for owner-occupied projects, whether residential or commercial, shall

be payable by Developer from any excess sales proceeds, defined as the net sales proceeds less actual TIF-eligible costs, less City fees identified in 5.4 (4) and less a 12% return on investment (ROI) over a period not to exceed two (2) years from the date a construction permit is issued. One-third (1/3) of said excess sales proceeds shall be paid to the tax incremental district, 1/3 to the City of Madison Affordable Housing Trust Fund and 1/3 retained by the Developer. Actual TIF eligible costs, City fees and ROI are subject to verification by an independent financial audit conducted by the City of Madison. (5/19/08)

~~The owner-occupied formula, whether commercial or residential, shall be 50-66%^{33%} of net profit after subtracting 100% of the total project cost identified in the TIF Application from actual net sales of the project ("Profit Sharing Threshold"). Actual TIF-eligible project costs that exceed the project costs estimated in the TIF application ("excess costs") plus a 12% simple return on Developer's investment shall be added to the Profit Sharing Threshold prior to applying the 50%-66% equity participation percentage, subject to verification by an independent financial audit conducted by the City of Madison. The City shall conduct an independent financial audit of the project. (5/19/08)~~

~~(c) 50% of the City of Madison equity participation payment shall be returned to the tax incremental district and 50% disbursed to the Affordable Housing Trust Fund.~~

- (11) **Condemnation.** The City may consider the use of condemnation by the CDA in blighted area districts in accordance with existing redevelopment law and condemnation law.
- (12) **Living, Prevailing Wage, Affirmative Action.** The Developer shall abide by City ordinances regarding living wage, prevailing wage and affirmative action on the TIF assisted project.
- (13) **ADA Compliance.** All projects shall be in compliance with all applicable ADA requirements.
- (14) **Land Use or Contract Violations.** Agreements for TIF assistance shall provide for remedies in the event the applicant violates the land use approvals or other contractual arrangements.
- (15) **TDM Plans.** Encourage development projects to prepare comprehensive transportation demand management (TDM) plans, especially those projects that have large numbers of employees or dwelling units.
- (16) **Inclusionary Zoning Waiver.** In cases where more than 50% of the demonstrated gap requiring TIF assistance is attributable to the provision of Inclusionary Zoning (IZ) units, and the amount of TIF subsidy attributable to IZ constitutes more than \$50,000 per unit, the BOE and Plan Commission shall review the gap analysis or IZ waiver requests in joint session.
- (17) **Board of Estimates Report.** The City staff team will provide the Board of Estimates with a report accompanying any resolution authorizing TIF for a private development. The report shall summarize the financial needs of the project and compare the project to the adopted TIF Objectives and Policies.

5.2 Non-Profit Developers

- (1) **Equity Requirements.** In lieu of developer(s) providing a minimum of 10% of the total estimated project cost as equity, the strength of the proposal may be judged by substitute criteria in cases where all of the following apply:
 - (a) A nonprofit developer is the recipient of the TIF assistance.
 - (b) The TIF assistance is for the development of long-term affordable housing.
 - (c) The recipient of the TIF assistance has provided additional security in a form satisfactory to the City.

- (2) **Guaranty.** In lieu of the City requiring a personal guarantee for TIF assistance, other forms of guarantee may be substituted in cases where all of the following apply:
- (a) A nonprofit developer is the recipient of the TIF assistance.
 - (b) The TIF assistance is for the development of long-term affordable housing.
 - (c) The recipient of the TIF assistance has provided additional security in a form satisfactory to the City.
- (3) **Repayment Through Increment.** Non-profit affordable housing projects must generate sufficient tax increment to cover or repay only the TIF contribution that is not provided by the Affordable Housing Set-Aside Fund.

5.3 Eligible TIF Costs

The City may consider TIF assistance for project costs that demonstrate gap, including but not limited to the following examples of typical eligible project costs:

- (1) **Land Costs**—write-downs from the value of the current land use to the market value of the proposed use.
 - (a) Developers shall demonstrate proper due diligence in the purchase of land, including but not limited to studies of soil conditions, comparable land prices, environmental issues. Prior to purchase, developers seeking TIF shall provide the City with documented market evidence that the purchase price negotiated is within an acceptable range of values for the property's current land use and condition.
- (2) Developers shall conduct initial meetings with the district alder and planning staff concerning building height, land use and other issues and shall provide such findings to the City.
- (3) Developers are encouraged to option land while such studies are performed. The City of Madison is not obligated to provide TIF assistance for land costs, whether purchased or optioned.
- (4) Developer shall provide all such studies or reports to the City at the time of application.
- (5) **Parking Construction Costs**—where the cost exceeds the sales or rental income value of parking stalls.
- (6) **Higher-Quality Design and Building Materials**—where the cost of higher-quality design and building materials exceeds the reasonable cost of typical design and building materials used in new developments on the City's edge.
- (7) **Environmental Remediation**—where the cost to remediate environmentally contaminated property exceeds the reasonable cost experienced on typical redevelopment projects.

5.4 Ineligible TIF Costs

- (1) **Excessive Land Write-Downs.** The City shall not assist write-downs for land purchases that greatly exceed the assessed value of the current land use(s), as determined by the City.
- (2) **Assessable Infrastructure Costs.** TIF may not be used to pay for public infrastructure expenditures that are paid for by special assessments or other City charges. Non-assessable public infrastructure expenditures may be funded with TIF.
- (3) **Operating Costs.** Including, but not limited to, lease-up reserves, working capital.
- (4) **City Fees.** Inclusionary Zoning waiver fees and parks dedication, sewer, water assessments, etc. are not

TIF-eligible.

5.5 TIF Funding – Accepted Methods of Funding

- (1) **Accrued Tax Increment** In certain cases, a TID may have accrued excess increment over a course of time that may be sufficient to cover a TIF request. In this case, although no borrowing is required, the expenditure requires Council authorization.
- (2) **General Obligation Borrowing** In many cases, the City must include funds to be loaned to a development project in its annual general obligation borrowing. The project must be included in the capital budget process that begins in June and concludes in November of each year unless it qualifies under 2.2 (a). Such borrowing may be tax-exempt or taxable, according to laws governing municipal borrowing.
- (3) **Internal Borrowing** In a few cases, the City has been able to borrow funds from internal sources such as utility reserves, etc. to be repaid with interest by tax increments generated by the project. The Common Council must approve such borrowing for this purpose.
- (4) **“Pay-As-You-Go” Financing Method**. So-called “Pay As You Go” or “developer-financed” TIF is a variant of traditional methods to finance TIF assistance wherein the municipality agrees to a “moral obligation” of tax increment to repay a portion of a developer’s bank loan. Under this method, the municipality agrees to incur higher interest and fee costs at longer terms in comparison to municipal borrowing. The municipality must budget the amount of debt service owed to the bank each year as part of its annual capital budget process and has the option, with penalties, to forego repayment in any year. Such borrowing may be considered on a case-by-case in comparison to the other methods indicated above. The City of Madison reserves the right to choose the option that is in the best interests of the taxpayer. In all cases, a project using the Pay As You Go method must comply with all other aspects of TIF Law and TIF Policy, including but not limited to the “but for” standard and the 50% rule.

SECTION 56: POLICY EXCEPTIONS, CHANGES

- (1) **Significant Public Purpose.** TIF Policy exceptions shall only be made in rare instances upon approval of the Common Council. In those cases, the resolution authorizing TIF funding should state a detailed, specific and significant public purpose explanation for making the exception.
- (2) **Five-Year Evaluation.** Staff and appropriate boards and commissions shall conduct an evaluation and review of the adopted TIF objectives and policies every five (5) years and recommend changes as necessary.
- (3) **Changes to TIF Law.** Any language in these Objectives and Policies pertaining to TIF Law is subject to change as TIF Law may be changed from time to time by the Wisconsin State Legislature.