COMMON COUNCIL ORDINANCE COMMITTEE

SPECIAL MEETING

September 4, 2018
7:00 p.m. – Room A300
Norwalk City Hall-125 East Avenue
Norwalk, CT

AGENDA

1. **ROLL CALL**

2. **PUBLIC HEARING (possible action on):**

   - **Discuss and vote on proposed ordinance – Innovation District**
   - **Discuss and vote on proposed ordinance - Department of Chief of Staff**
   - **Discuss and vote on proposed ordinance - Economic and Community Development Department**
   - **Discuss and vote on proposed revisions/amendments to Article III: Department of Recreation and Parks ordinance**
   - **Discuss and vote on proposed revisions/amendments to Department of Public Works ordinance**

3. **PUBLIC HEARING DISCUSSION:**

4. **PUBLIC COMMENT**

5. **ACCEPTANCE OF MINUTES:** August 21, 2018

6. **OLD BUSINESS:** Chapter 12, Article I, Section 12-1 of the Ordinances of the City of Norwalk

7. **NEW BUSINESS:**

8. **DISCUSSION ITEM:**

9. **ADJOURNMENT**

{00036337.DOC 1}

Innovation District

Innovation District Tax Agreements

§99-1. Concept

It is hereby found and declared that the establishment of a Norwalk Innovation District (the "District") in the Wall Street and West Avenue area will assist in the revitalization of that area and diversify its economy as it relates to advanced health, science, design and technology. The District shall serve as an economic development tool by which partnerships between public and private institutions, businesses, and government will fuel future job growth. The District's concept is that collaboration and productivity result from proximity, and therefore job creation and innovation can be fostered through the intentional clustering of businesses, institutions, ideas and people.

§99-2. Objectives

The District's objectives include; leveraging area advantages, improving local industry research, growing, attracting and retaining new technology companies, securing a sufficient workforce and ensuring that those who work in the district can live in the district.

§ 99-3. Definitions

(a) Office Use: A location, usually a building or portion of a building, where a company conducts its business.
(b) Mixed Use: A development that blends two or more permitted uses including residential, commercial, cultural, and/or industrial uses.
(c) Retail Use: Business or firms engaged in offering goods and services directly to consumers at that particular location.
(d) Manufacturing: Any business that uses components, parts or raw materials to make a finished good. These finished goods can be sold directly to consumers or to other manufacturing businesses that use them for making a different product.
(e) Light Manufacturing: Product production that is characterized by less capital-intensive and more labor-intensive operations. Products tend to be targeted toward end consumers rather than other businesses.
(f) Information Technology: All forms of technology used to create, store, exchange and utilize information in its various forms including business data, conversations, still images, motion pictures and multimedia presentations.
(g) Residential Use: All uses identified in Chapter 118, Article 30 of the City of Norwalk Zoning Regulations.
(h) Commercial Use: All uses identified in the City of Norwalk Zoning Regulations including, but not limited to, the accommodation of for-profit businesses.
(i) Cultural Use: All uses identified in the City of Norwalk Zoning Regulations to accommodate the visual and performing arts, including, but not limited to, art galleries, art studios, theaters, auditoriums, television and recording studios, as well as art, dance and music schools.

(j) Industrial Use: All uses identified in Chapter 118, Article 70 of the City of Norwalk Zoning Regulations.
(k) Applicant: Any person or entity that has filed an application under this ordinance.
(l) Related Entity: Any corporation, limited liability company, shell company, partnership, sole proprietorship, joint venture, trust, estate, foundation, association, business, company or other organization, whether or not operated for profit, with respect to which an Applicant, or a relative of the same, has, directly or indirectly, an ownership interest in, is employed by, is an agent for or otherwise represents in any legal capacity.

§99-4. Eligible Projects

Consideration of a potential negotiated tax agreement is extended to the following project types provided they evidence the project's furtherance of technology, science, health or design within the District:

(a) Office Use
(b) Mixed Use
(c) Retail Use
(d) Manufacturing Use
(e) Information Technology
(f) Light Manufacturing

§99-5. Eligibility Requirements

From time to time eligibility requirements may be amended by the Common Council.

a. Any project located within the District that has previously obtained a foundation, building permit, or zoning approval prior to the adoption of the Ordinance is not eligible.
b. Any Applicant or Related Entity that has debt owed to the City of Norwalk including real or personal property taxes, parking fees or penalties, or permit fees or penalties is not eligible.
c. Any Applicant or Related Entity that is not compliant with Norwalk City Code or has had a violation within the past 12 months is not eligible.

§99-6. Review Process

a. Applications shall be submitted to the Norwalk Redevelopment Agency with an estimated application processing fee on a form approved by the Common Council. The Redevelopment Agency's review of the application shall be forwarded to the Planning Committee of the Common Council. The Planning Committee shall advance the application materials to the Board of Estimate and Taxation (BET). The BET shall review the forwarded materials and provide its comments to the Planning Committee within forty five (45) days. If the BET does not provide comment within forty five (45) days, the application shall be deemed approved. Following the review by the BET, the Planning Committee shall review all application materials and determine application advancement to the Common Council for final action consistent with the limitations of subsections 99-5b and 99-5c.

b. The decision to grant, reject or re-structure any tax agreement shall be within the sole and exclusive discretion of the Common Council. The Common Council is under no obligation to approve any tax agreement application, nor will any application be granted that does not comply with CGS §§ 12-65b and 12-65h.
c. If the tax agreement is approved, the fixed assessment period shall commence the first fiscal year following the issuance of a Certificate of Occupancy for the real property or air space which is the subject of the tax agreement.
d. Approved Projects are required to commence construction within six (6) months and shall be completed within 30 months of execution of the Agreement. Failure to comply with this schedule may result in termination of the Agreement by the Common Council.

§ 99-7. Post-Award Compliance

If a successful Applicant during the term of the Agreement: (a) relocates its business from Norwalk; (b) becomes non-compliant with subsections 99-5b or 99-5c; (c) declares bankruptcy; (d) substantially reduces its operations on the subject property during the time of the Agreement, with substantially reduced "operations" meaning for purposes of this Ordinance, among other things, a reduction in square feet occupied within the facility by more than 20%, a reduction in workforce by more than 20%, a failure to construct upon additional phases of construction, and/or sale or lease of some or all of the property; and/or in any other way fails to comply with the Agreement, this Ordinance and or C.G.S § 12-65b and 12-65h, the Common Council may terminate the Agreement and any tax incentive or other benefit granted to the successful Applicant under this program, the Agreement shall be deemed breached, and the successful Applicant shall be required to pay all assessments which were abated under the Agreement.

Innovation District Tax Agreements

§99-1. Concept

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The District's objectives include; leveraging area advantages, improving local industry research, growing, attracting and retaining new technology companies, securing a sufficient workforce and ensuring that those who work in the district~~,~~ can live in the district.

§ 99-3. Definitions

(a) Office Use: A location, usually a building or portion of a building, where a company conducts its business.
(b) Mixed Use: A ~~Pedestrian-friendly~~ development that blends two or more permitted uses including residential, commercial, cultural, ~~institutional~~, and/or industrial uses.
(c) Retail Use: Business or firms engaged in offering goods and services directly to consumers at that particular location.
(d) Manufacturing: Any business that uses components, parts or raw materials to make a finished good. These finished goods can be sold directly to consumers or to other manufacturing businesses that use them for making a different product.
(e) Light Manufacturing: Product production that is characterized by less capital-intensive and more labor-intensive operations. Products tend to be targeted toward end consumers rather than other businesses.
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(g) Residential Use: All uses identified in Chapter 118, Article 30 of the City of Norwalk Zoning Regulations. **[Source - See Article 118 §§ 300 - 360]**
(h) Commercial Use: All uses identified in the City of Norwalk Zoning Regulations including, but not limited to, the accommodation of for-profit businesses. **[Source - See Article 118]**
(i) Cultural Use: All uses identified in the City of Norwalk Zoning Regulations to accommodate the visual and performing arts, including, but not limited to, art galleries, art studios, theaters, auditoriums, television and recording studios, as well

as art, dance and music schools. **[Source - See Article 118 §§ 100 & 118-504(C)(1)(a)(1)(d)]**

(j) Industrial Use: All uses identified in Chapter 118, Article 70 of the City of Norwalk Zoning Regulations. **[Source - See Article 118 §§ 700 - 720]**

(k) Applicant: Any person or entity that has filed an application under this ordinance.

(l) Related Entity: Any corporation, limited liability company, shell company, partnership, sole proprietorship, joint venture, trust, estate, foundation, association, business, company or other organization, whether or not operated for profit, with respect to which an Applicant, or a relative of the same, has, directly or indirectly, an ownership interest in, is employed by, is an agent for or otherwise represents in any legal capacity.

§99-~~3~~4. Eligible Projects

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(b) Mixed Use
(c) Retail ~~u~~Use
(d) Manufacturing ~~u~~Use
(e) Information Technology
(f) Light Manufacturing

§99-~~4~~5. Eligibility Requirements

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a. Any project located within the District that has previously obtained a foundation, building permit, or zoning approval prior to the adoption of the Ordinance ~~are~~ is not eligible.
b. Any ~~a~~Applicant or Related Entity that has debt owed to the City of Norwalk ~~or any related entity~~ including real or personal property taxes, parking fees or penalties, or permit fees or penalties ~~are~~ is not eligible.
c. Any ~~a~~Applicant or Related Entity that ~~is~~ is not compliant with Norwalk City Code or has had a violation within the past 12 months ~~are~~ is not eligible.

§99-~~5~~6. Review Process

a. ~~Preliminary a~~Applications shall be submitted to the Norwalk Redevelopment Agency with an estimated application processing fee ~~– PROCESSING CONCERN (deposit)~~ on a form approved by the Common Council. The Redevelopment Agency's review of the application shall be forwarded to the Planning Committee of the Common Council.

The Planning Committee shall advance the application materials to the Board of Estimate and Taxation (BET). The BET shall review the forwarded materials and provide its comments to the Planning Committee within forty five (45) days. If the BET does not provide comment within forty five (45) days, the application shall be deemed approved. Following the review by the BET, the ~~The~~ Planning Committee shall review all application~~s~~ materials and determine application advancement to the Common Council for final action consistent with the limitations of subsections 99-5b and 99-5c.

b. The decision to grant, reject or re-structure any tax agreement shall be within the sole and exclusive discretion of the Common Council. The Common Council is under no obligation to approve any tax agreement application, nor will any application be granted that does not comply with CGS §§ 12-65b and 12-65h.

~~c. Applicants are required to sign a waiver on appeals upon entering the Agreement as the decision is based upon the sole discretion of the Common Council per CGS 12-65b and 12-65h. – LEGAL STAFF CONCERNS~~

~~d.~~c. If the tax agreement is approved, the fixed assessment period shall commence the first fiscal year following the issuance of a Certificate of Occupancy for the real property or air space which is the subject of the tax agreement.

~~e.~~d. Approved Projects are required to commence construction within six (6) months and shall be completed within 30 months of execution of the Agreement. Failure to comply with this schedule may result in termination of the Agreement by the Common Council.

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THE PLANNING COMMITTEE
OF THE COMMON COUNCIL
125 East Avenue
P.O. Box 5125
Norwalk, CT 06856

MEMORANDUM

TO: ORDINANCE & PLANNING COMMITTEE MEMBERS

FROM: TIM SHEEHAN, STAFF TO PLANNING COMMITTEE

DATE: AUGUST 28, 2018

RE: INNOVATION DISTRICT TAX AGREEMENT ORDINANCE QUESTIONS AND ANSWERS FROM ORDINANCE COMMITTEE MEETING AUGUST 28, 2018

Ordinance and Planning Committee members, attached please find the questions and answers resulting from the public comment session that the Ordinance Committee held on the proposed Innovation District Tax Agreement Ordinance. I have advanced same to Ordinance Committee staff and have posted the document on the city website under Planning Committee Documents. Should the Ordinance Committee require any further information prior to its public hearing on September 4, 2018, please let me know.

THE PLANNING COMMITTEE
OF THE COMMON COUNCIL
125 East Avenue
P.O. Box 5125
Norwalk, CT 06856

ORDINANCE COMMITTEE MEETING
AUGUST 21, 2018
PUBLIC COMMENT QUESTIONS AND ANSWERS REGARDING PROPOSED INNOVATION DISTRICT TAX AGREEMENTS ORDINANCE

1. **Why consider local tax incentives for development when the state is in a budget crisis?**

The State of Connecticut has amassed nearly $80 billion in long-term obligations. Its economic recovery since the recession has lagged that of the nation, job growth remains among the lowest in the nation and only modest growth is projected for the foreseeable future. The three major credit rating agencies all downgraded the state, citing weak revenues. Further, the continuing budget fights and tax increases coming from the statehouse has driven down business and investment confidence in Connecticut. The state's fiscal condition has caused most municipalities to reduce expenses and contain expenditure growth. Simultaneously, municipalities have redoubled their efforts in trying to increase local revenues. These efforts have been particularly evident in the area of economic development, where incentives have been designed locally to attract businesses and new growth, yielding new municipal tax revenues over the long term (Further explained in question 16).

For more than 50 years, people and businesses have favored suburban environments, but now the pendulum has swung back to activated urban environments. Cities are growing faster than their surrounding suburbs, but urban environments require support and investment to overcome the years of disinvestment in their amenities, infrastructure and building stock. Governor Malloy said, "At a time when other states were reinvesting in cities, Connecticut was not, and certainly the state itself was not. Now, when millennials and people 50-plus want to live in urban environments, our urban environments are not up to snuff". While many may dismiss the need to be mindful of commercial real estate investor perceptions of the local market and associated risks, it is a fact that such investors and developers have the ability to drive local Grand List growth. In considering this ordinance the Common Council can make one of two decisions; either close the door on incentivizing economic development by using a percentage of new tax revenue the city realized because of a project or advance cautious consideration of tax incentives to strengthen the city's urban environment with jobs, housing, urban amenities and infrastructure. Investment complacency, as the state has witnessed, comes with its own costs.

2. **If the City's land use entitlement process were more streamlined would that not improve Norwalk's ability to attract broader development opportunities and potentially negate the need for the proposed development tax relief?**

Time is money in every business endeavor. It only takes a few delays, inter-departmental conflict, agreement modifications and or a contentious commission to turn the local entitlement process into a nightmare. These delays represent an especially difficult challenge for affordable housing and smaller scale development projects, fundamentally affecting who can afford to purchase/rent a home and who can expand their business. As a result, fewer affordable housing units are built and many smaller projects are curtailed resulting in lost tax revenue.

There can be no argument that the commissions with land use jurisdiction and their staff should be seeking out entitlement efficiencies. Streamlining that process should be an ongoing public policy. Expediting the time between permit and construction does not itself outweigh the project related advantage of a proposed tax agreement. Tax agreements should only be employed when a project can fully evidence that <u>but for</u> the tax agreement the project would not be economically feasible.

3. **Why can't the Innovation District Tax Incentive Program be reviewed in the context of the POCD which is currently being advanced by Planning and Zoning?**

It can and it has been. The Planning and Zoning Director reviewed with Santec, the POCD consultants, the ordinance and the proposed incentive structure. Stantec is supportive of the ordinance allowing for potential tax agreements. They remain concerned, however, that it is not applied to a project as of right.

4. **Can the ordinance be modified to include conditions such as:**
    a. **Apply once every five years**
    b. **Agree not to seek zoning modifications**

The Common Council can seek to tighten or qualify any of the CGS 12-65 B statutory provisions of the Ordinance. They cannot, however, exceed any of the referenced thresholds or modify the referenced terms to be greater than what is articulated in the enabling statute.

5. **Why does the Innovation District geography need more multi-family housing?**

The Wall Street-West Avenue area is the second least populated Census Tract behind the Silvermine area. Despite recent growth associated with the new development in the area it is still one of the least populated Census Tracts in Norwalk. Urban areas are meant to be dense, walkable, and highly populated areas. Without additional housing, Norwalk's urban geography will fail to meet the population levels necessary to economically sustain an active urban environment. The Urban Land Institute provides guidance regarding successful local neighborhood business districts and the population required to sustain them. A business district of 100,000 square feet requires a market area population of approximately 30,000 people within one to three miles. By way of comparison the Innovation District geography based on the census has a total population of 1,822. Alternatively, the allocation of 15 square feet of neighborhood business space per household suggests that the existing neighborhood population can only support neighborhood business district uses totaling less than 20,000 square feet.

6. **While the Innovation District may be a useful tool, the tool is only as good as those that administer it. What will be the basis of the Common Council's decision to utilize the tool beyond politics?**

Larger tax agreements, which are paired to larger improvement projects (any improvement of $5,000,000 or more), the city will undertake at the applicant's expense an economic impact study. This study, which is planned to be completed by the Connecticut Economic Resource Center, will provide the underlying basis for the Common Council's decision. Should the analysis determine that the project fails to meet the "but for" provision and does not need the tax incentive to be economically feasible or if the project does not produce a net positive economic impact for the city, then that project will be advanced to the Common Council with a recommendation to deny that request.

7. **Why is the Innovation District Tax Agreement Ordinance so heavily weighted toward new development?**

Neither the proposed ordinance nor the enabling statute advantages new development over rehabilitation. Both require a threshold of improvements to be constructed that is not less than $10,000.

8. **Why is the Common Council advancing the potential of tax agreements when the area was just recognized as a Federal Opportunity Zone?**

The Opportunity Zone designation for the district is good news. It does not, however, bring with it direct federal funding or incentives for the development projects being advanced within it. Rather the Opportunity Zone provides a federal tax incentive to equity investors. The tax incentive seeks to unlock potential investor capital that has been withheld from economically distressed geographies because of the higher risk associated with such capital investments.

H.R.1, the Tax Law, signed in December of 2017, allows investors to defer up to 9 years their payment of the taxes owed on a capital gain if the funds from the gain are invested in a Qualified Opportunity Fund. The law further eliminates any additional investor gain if the investor's funds remain in the Opportunity Fund for ten or more years. The tax incentive is for the investor only, not the development itself, as the investor and the associated Opportunity Fund will seek to realize a market return on the funds invested with the project.

9. **Why is historic preservation not emphasized more given the Wall Street area is a Historic District?**

As previously stated, neither the proposed ordinance nor the enabling statute favor any type of development over another. Both are based on a threshold improvement, the minimum being $10,000.

10. **Why is the proposed ordinance supporting potential development that the POCD survey participants indicate they do not want?**

The POCD Survey was a result of an online survey of approximately 350 Norwalk Residents. Of those respondents, over 60% of individuals were over the age of 50, over 75% were White Non-Hispanic, and over 60% of their households make over $100,000 per year. Additionally, only 51 of the respondents lived in the city's urban corridor. A majority (over 75%) of the respondents also live in single family homes.

While the survey results are valid as opinions of these particular residents of Norwalk, the sample is not representative of Norwalk's population. Over 25% of Norwalk's population is of Hispanic or Latino origin, only 6% within the actual survey and only 53% of Norwalk's total population is White Non-Hispanic compared to the over 75% in the survey. Additionally, the median household income in Norwalk is $80,896 with 59% of the households making less than $100,000 per year. This is compared to the over 60% of respondents making over $100,000 per year within the survey. Only 35.5% of Norwalk residents are over the age of 50 compared to the over 60% of respondents over 50 within the survey. The survey cited does not accurately represent the voices of the entire Norwalk community but rather a small and rather homogeneous subset thereof.

11. Why is there no support in the proposed ordinance for industrial and manufacturing uses?

While the ordinance does not support heavy industrial uses, it does support both manufacturing and light manufacturing uses. As such, the Innovation District seeks ways in which to revitalize the area by gaining a competitive advantage, which we believe exists in the traditional distinction between light and heavy industry. To locate in a light industrial zone, an industrial use cannot impact any surrounding properties through loud noises, vibration, noxious fumes, or other hazardous byproducts. Light industrial land uses typically include final-stage or "clean" manufacturing, wholesaling, warehousing and distribution, and the sale and servicing of vehicles and equipment. Light industry includes a broad spectrum of land uses, much of which can be compatible with urban, mixed-use development. Most zoning ordinances do not make this distinction. Certain light industrial businesses have great potential in Norwalk to:

- Revitalize and preserve urban industrial land
- Create relatively high-income, low-barrier-to-entry jobs near existing transit and housing
- Further diversify the local economy
- Improve regional self-sufficiency as rising fuel costs and rising foreign wages undercut the advantages of outsourcing
- Supply unique products and retail experiences
- Provide a sense of place and local character
- Provide a way to activate street-level storefronts as the conventional retail sector contracts

The Innovation District cannot support heavy industrial uses within the geography mainly due to the fact that such uses require large footprints for operation and storage that this geography does not have. Additionally, industrial uses can have health, environmental, and social implications that do not mix with residential development or urban areas which are meant to be areas of high human interaction. The types of manufacturing and light manufacturing being sought are compatible with some if not all of the other uses identified in the ordinance.

12. Why is this ordinance not being deferred until the reorganization is complete and the new Economic and Community Development Director is hired?

Consideration of a municipal tax ordinance is the purview of the Common Council, not city staff. While the Common Council can and has sought input from various parties regarding this ordinance, it is a legislative decision. Further, the position of Economic and Community Development Director reports to the Mayor. The Mayor has already publicly expressed his support for the proposed ordinance.

13. Why does the proposed ordinance not do more for the existing businesses that have struggled to remain in business?

The city cannot write its own tax laws because the city's taxing authority is derived from the state. Therefore, any municipal ordinance involving taxes must be based on an enabling state statute. According to state statute 12-65b that allows cities to enter into tax agreements, there must be a minimum of $10,000 worth of improvements to a property to create a tax increment in which to abate. The incentive is based on these improvements as to not "lose" existing tax revenue, but rather reduce the amount of the new taxes associated with the improvement for a specific period of time. If an existing business owns its building and is seeking to undertake improvements totaling more than $10,000 then they do benefit from the proposed ordinance. If they rent their building and they are seeking property improvements to be undertaken by their landlord the ordinance provides additional incentive for the property owner to undertake the desired improvements.

14. Why does the ordinance include the potential to incentivize more multi-family housing, when I hear from people that live at Waypointe that there are entire floors of empty units?

Waypointe is over 92% occupied. Other developments within the area, such as Head of the Harbor, are at capacity (100% occupied). With the multi-family housing available included in combination with American Community Survey data, the population in the area remains one of the least populated Census Tracts in Norwalk. Urban areas are meant to be densely populated to promote economic activity within the area. If there is no additional multi-family housing to bring larger amounts of population into the area, then economic activity can suffer.

15. Will additional multi-family housing in this geography negatively impact our schools which are already overcrowded?

Multi-family housing units have not produced significant amounts of additional school children to the Norwalk School Districts. The Waypointe developments (including Mid-Block, North-Block, Quincy Lofts, and The Berkeley) have only produced 25 additional students to the school system out of 662 housing units. Similarly, in South Norwalk developments (Ironworks, the Pearl, Sheffield, and 19 Day Street), only 7 students have been produced out of 367 units. In total only 32 students have been produced out of over 1,000 units in all of Norwalk's urban areas. This data and its interpretation has been supported by the demographer for Norwalk Public Schools as confirmed by Thomas Hamilton, the Chief Financial Officer for Norwalk Public Schools. The demographer stated "The number of students coming out of the new apartments that have been developed in recent years is quite low in comparison to the number of students coming out of other housing types."

Additionally, the individuals that live in these multi-family developments are often single. In Waypointe, out of 942 residents 675, or 71% of them, are single, divorced, or widowed and only 260, or 27%, are married. (The remaining 7 individuals are related to corporate units or persons who chose not to respond.)

16. What are other Fairfield County communities doing to incentivize development in their urban areas?

Stamford has enabled multiple tax incentives within the City. The most significant of which is their use of Tax Increment Financing (TIF) Districts of which the city has three; South Stamford, Mill River Park, and the new Transportation TIF District. Combined the three districts have had bonding authority in excess of $500 Million as approved by the General Assembly. Stamford Economic Development Director Thomas Madden said, "We're one of the most successful cities using TIFs." Other economic development incentives include but are not limited to Enterprise Zone benefits, Entertainment Zone benefits, Land Tax Credit Donations, Green Buildings Tax Credits, Renewable Energy Tax Abatement, and Urban and Industrial Site reinvestment Tax Credit. Some of these have also been enabled by CGS 12-65b. (http://www.choosestamford.com/incentives).

Further, Bridgeport has enabled multiple tax incentive programs. Bridgeport and the state Bond Commission used TIF financing for the site development costs for the Steel Point project, home of the Bass Pro Shop, with $22 Million in TIF bonding issued by the state being paid by future sales tax revenue. Bridgeport also has Enterprise Zone benefits, a Bridgeport Urban Enterprise Zone Program, and a Tax Incentive Development Program that specifically uses CGS 12-65b. (http://www.bridgeportct.gov/oped/TaxIncentives). New Haven also has a plethora of available tax incentives including Façade Improvements, Property Tax Assessment Deferrals, and Enterprise Zone Benefits. (https://www.newhavenct.gov/gov/depts/obd/business/get_incentives_n_funding.htm)

It should be noted a brief review of communities that have either previously used, recently approved or are advancing TIF Districts as a development incentive include:

New Britain – Approved
Groton – Approved
Suffield – Approved
Canton – Approved
Cheshire – Reviewing
Hartford – Approved
Windsor Locks – Approved
East Hampton – Approved

Norwich – Approved
Stamford – Approved
East Hartford – Approved
Wallingford – Approved

Further, I have attached the Yale Law School Community and Economic Development Clinic's memo regarding Tax Increment Financing and Public Act 15-57 as made effective October 1, 2015 which modified the state's TIF legislation allowing it to be more flexible for municipalities to employ. The proposed Tax Agreement Ordinance does **NOT** advance the use of TIF. But it is important that the Common Council understand there are a host of municipalities across the state that are using tax revenue in a variety of different ways to advance economic development and to spur new and stabilized tax revenue over the long term.

17. What is the statistical basis for determining this geography needs potential development assistance?

The impacted geography is sparsely populated when compared with other census tracts in the city. The median household income is 40% below census tract 441 (South Norwalk) and almost 30% of the families in the geography have incomes below $50,000.

COMMUNITY AND ECONOMIC DEVELOPMENT CLINIC
YALE LAW SCHOOL

Draft

MEMORANDUM

TO: Connecticut Main Street Center
FROM: Community & Economic Development Clinic, Yale Law School
DATE: March 4, 2015
RE: Tax Increment Financing

The Connecticut Main Street Center has asked the Community and Economic Development Clinic ("CED") to:

1. Research the substantive and procedural provisions of tax increment financing ("TIF") in Connecticut, including current law, proposed legislation, and projects that have successfully utilized TIF funds; and
2. Compare TIF legislation in Connecticut to TIF legislation in other states and the District of Columbia, with a view to developing TIF legislation to help revitalize Connecticut downtowns.

I. Introduction to Tax Increment Financing

Tax Increment Financing ("TIF") is a tool used by states and municipalities to stimulate development and redevelopment.[1] TIF is used to "provide funds to construct public infrastructure, promote development opportunities and expand a municipality's future tax base."[2] These funds are made available based on the expectation that increases in future tax revenue will be sufficient to pay off any debt incurred.[3] Currently, TIF legislation exists in 49 states and the District of Columbia. TIF programs vary widely from state to state, but the basic process by which TIF funds are raised is fairly consistent.

a. General Outline of a TIF Program

First, a city or state will establish a "TIF District." TIF Districts can comprise commercial districts, designated blighted areas, or other areas the state or municipality has designated for redevelopment.[4] Often, the legislation will include some restrictions on the designation of TIF

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[1] See Jonathan M. Davison, *Urban Redevelopment—Tax Increment Financing*, Rathkopf's The Law of Zoning and Planning § 15:59 (4th ed. 2013) (technique for implementing a local redevelopment, industrial or economic development program).
[2] *Tax Increment Financing as a Tool for Affordable Housing in Connecticut* 8 (July 2013).
[3] Rob Kerth & Phineas Baxandall, *Tax Increment Financing: The Need for Increased Transparency and Accountability in Local Economic Development Subsidies* 6 (Fall 2011).
[4] *Id.*; *see also Tax Increment Financing as a Tool for Affordable Housing in Connecticut* 9 (July 2013).

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Districts.[5] The legislation may specify a geographical area for the district, limit the number of years a district can exist, or require that there be a reasonable expectation of development, among other possible limitations. In some instances, the legislation may only enable the use of TIF funds if there is some existing barrier to development (e.g., contamination).[6]

Once a TIF District is established, the current tax assessment is frozen for the duration of the TIF District designation.[7] Tax revenue is then split into two streams. The municipality continues to receive the frozen level of taxes into its general fund, and the additional taxes collected on account of the redevelopment are devoted to a special fund.[8] The municipality then issues bonds or loans based on the anticipated future revenues, and those bonds or loans are used to finance the development in the TIF District.[9]

II. TIF in Connecticut

TIF has rarely been used in Connecticut.[10] Evidence suggests that this is for two reasons: (1) all but one of Connecticut's TIF statutes authorize only the use of increases in property taxes, and not sales or income taxes, to pay off the bonds; and, (2) Connecticut legislation does not allow for the collection of tax revenues from properties nearby TIF-designated projects.[11] Because of these statutory limitations on TIF, Connecticut municipalities often prefer to use other mechanisms of financing, such as general obligation bonds or tax abatements.[12]

a. Current Law

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[5] *See Tax Increment Financing as a Tool for Affordable Housing in Connecticut* 9 (July 2013).
[6] *Id.*
[7] *Id.* at 8.
[8] Rob Kerth & Phineas Baxandall, *Tax Increment Financing: The Need for Increased Transparency and Accountability in Local Economic Development Subsidies* 6 (Fall 2011).
[9] *Id.*
[10] Greg Bordonaro, *State mulls expanding TIF model financing*, Hartford Business, April 4, 2012, available at http://www.hartfordbusiness.com/article/20120402/PRINTEDITION/304029998/state-mulls-expanding-tif-model-financing.
[11] See Conn. Gen. Stat. § 32-23zz (2014), Conn. Gen. Stat. § 8-192 (2014); Conn. Gen. Stat. §§8-140 – §8-145 (2014); Conn. Gen. Stat. §§8-125 – §8-139 (2014). Increases in government revenue other than property taxes (such as income tax, and sales tax) or increases in private sector revenue (e.g., ticket sales, parking fees, etc.) could be the funding source for bonds under Section 32-285.
[12] Greg Bordonaro, *State mulls expanding TIF model financing*, Hartford Business, April 4, 2012, *available at http://www.hartfordbusiness.com/article/20120402/PRINTEDITION/304029998/state-mulls-expanding-tif-model-financing* (stating city was able to offer only $1.6 million in TIF bonds as opposed to $5.2 million in general obligation bonds). General obligation bonds are backed by the full faith and credit of the government issuer and typically do not include any assets as collateral. Unlike revenue bonds, which are repaid from the revenues of the funded project, general obligation bonds can be repaid from a variety of sources, including taxes.

Legislation authorizing the use of TIF can be found in five different parts of the Connecticut General Statutes. The statutes authorize the use of TIF for the following: (1) information technology and remediation projects; (2) municipal development projects; (3) significant economic projects; (4) urban renewal; and (5) redevelopment. Since the merger of Connecticut Innovations, Inc. and the Connecticut Development Authority in 2012, much of the TIF funding has flowed through Connecticut Innovations. Connecticut Innovations is a quasi-public entity, which finances and supports Connecticut's growing companies and also serves as the state's lender for these projects.[13]

1) Information Technology and Remediation Projects, Section 32-23zz

Section 32-23zz of the Connecticut General Statutes authorizes the use of TIF to fund Information Technology and Remediation projects. An information technology project is defined as one that both "provides information technology intensive office or laboratory space" as well as one that Connecticut Innovations decides will "materially contribute to the economic base of the state."[14]

A remediation project must be one that improves property subject to a spill, a facility, an establishment, or a project that is eligible to be treated as polluted real property or contaminated real property.[15] This type of project must follow a strict remediation plan. That plan must meet the applicable standards and requirements of the Department of Energy and Environmental Protection ("DEEP").[16]

These standards are set at the discretion of the Commissioner of Energy and Environmental Protection.[17] Additionally, Connecticut Innovations must determine that the project will support significant employment or new economic activity, contribute to the economic base of the state or the municipality, or provide a residential or mixed-use development that requires assistance from Connecticut Innovations to attract private funding.[18]

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[13] *Who We Are*, Connecticut Innovations (July 24, 2014), http://www.ctinnovations.com/about (according to its website, "Connecticut Innovations is the leading source of financing and support for Connecticut's innovative, growing companies.").
[14] Conn. Gen. Stat. § 32-23d(dd) (2014).
[15] *Id.*; *see also* Conn. Gen. Stat. § 22a-134(3) (2014) ("Establishment" means any real property at which any business there were generated "hazardous waste generated at a different location was recycled reclaimed, resued, stored, handled, treated, transported or disposed of" or where dry cleaning, furniture stripping or vehicle body repair was conducted after May 1, 1967); 42 U.S.C. § 9601 (9)(B) (2012) ("Facility" means any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located").
[16] *Id.* § 32-23d(gg) (2014).
[17] *Id.* § 22a-133aa(a) (2014).
[18] *Id.* § 32-23d(dd) (2014); § 32-23d(gg) (2014).

Figure I below lists all publicly-available projects that have been funded through Section 32-33zz.

Figure I

Project Name	Location	Description
Legion Square Associates	Berlin	Connecticut Brownfields Redevelopment Authority ("CBRA") provided $675,000 in TIF funds for this project, which converted a solid waste facility into a retail center.[19]
Killingly Commons	Killingly	The conversion of a manufacturing facility received $1.5 million in TIF funds from CBRA.[20]
Daticon	Norwich	CBRA bonded $1 million to improve an under-utilized site in 2001.[21]
North Haven Commons	North Haven	This project was given $2.3 million in TIF funding from CBRA.[22] The total cost to convert a former scrap yard into a regional retail center was $55 million.[23]
Hudson Baylor Corporation	South Windsor	An abandoned building was converted into a state-of-the-art recycling center.[24] The total amount of TIF funds made available for this project is not available.

2) Chapter 132: Municipal Development Projects, Sections 8-186 to 8-192

The General Statutes also authorize the use of TIF for municipal development projects.[25] A "development project" is "a project conducted by a municipality for the assembly, improvement, and disposition of land or buildings or both to be used principally for industrial or business

[19] Maria Chrysochoou et al., *Reversing Urban Sprawl: A Reclaimability Index Approach for Reviving Downtown Brownfields* Ctr. for Transp. and Livable Sys., 11 (March 2011), http://www.ctls.uconn.edu/pdf/CTLS_08-03_Final_Report.pdf.
[20] *Id.*
[21] Adam Benson, *Hotel deal could yield $1M in taxes for Norwich*, Norwich Bulletin, Dec. 16, 2013, *available at* http://www.norwichbulletin.com/article/20131216/NEWS/131219665/10283/NEWS?template=printart.
[22] Steve Dwyer, *North Haven Commons: Going Above, Beyond the Call*, Brownfield Renewal (July 24, 2014), http://www.brownfieldrenewal.com/news-north_haven_commons__going_above__beyond_the_call-255-r02d4bf.html.
[23] *Id.*
[24] Connecticut Innovations, *Connecticut Brownfields Redevelopment Authority: Giving Commercial and Industrial Sites a Fresh Start*, *available at* http://www.ctinnovations.com/pdf/CBRA.pdf.
[25] Conn. Gen. Stat. § 8-192 (2014).

purposes and includes vacated commercial plants."[26] The funds used to furnish bonds come from the increase in taxation from personal and real property within the development project.[27] This means that the statute assumes that the project will generate an increase in property or personal property taxes in order to service the bond.[28] These bonds can be administered either by the municipality or Connecticut Innovations.[29] Bonds issued pursuant to this statute need to first be noticed for a public hearing. After the public hearing, they must be passed by a resolution of the legislative body of the municipality.[30] DECD is then required to give final approval.[31] If the project includes housing and facilities related to housing, the bonds may be issued for up to forty years.[32] In all other cases, bonds may be issued for a thirty-year term.[33] The Clinic could find no projects on record financed through Section 8-192.

3) Significant Economic Projects, Section 32-285

Section 32-285 of the General Statutes establishes a TIF program for self-sustaining "significant economic projects."[34] The tax increments are generated from the increase in hotel taxes, sales, cabaret, admissions and dues taxes on a Connecticut Innovations approved project.[35] Admissions include the amount paid for the "right or privilege to have access to a place or location where amusement, entertainment or recreation is provided."[36] Dues include assessment charges to members as well as charges for social, athletic, or sporting privileges or facilities.[37] The purpose of the statute is to attract such projects to Connecticut. [38] The statute defines an eligible project as:

> A large-scale development project (A) that may add a substantial amount of new economic activity and employment in the municipality in which it is to be located and surrounding areas, and may generate significant additional tax revenues in the state; (B) for which use of the tax incremental financing mechanism may be necessary to attract the project to locate in the state; (C) which is economically viable and self-sustaining, taking into account the application of the proceeds of the bonds to be issued under the tax

[26] *Id.* § 8-187(4) (2014).
[27] *Id.* § 8-192(a) (2014).
[28] *Id.*
[29] *Id.* § 8-192 (2014)
[30] *Id.* § 8-192(a) (2014).
[31] *Id.* § 8-192 (2014)
[32] *Id.*
[33] *Id.*
[34] *Id.* § 32-285 (2014).
[35] *Id.* § 32-285(a)(1) (2014). *See also*, Conn. Gen. Stat. § 12-542 (stating cabaret tax repealed effective June 23, 1999).
[36] *Id.* § 12-540(3)(2014).
[37] *Id.* § 12-540(4)(2014).
[38] *Id.* § 32-285(a)(1) (2014).

> incremental financing program; (D) for which the direct and indirect economic benefits to the state and the municipality in which it will be located outweigh the costs of the project; and (E) which is consistent with the strategic development priorities of the state.[39]

Any person, firm, or corporation interested in obtaining funds from the TIF program must apply to Connecticut Innovations, which makes a preliminary determination "as to whether a proposed project may be eligible for participation in the program."[40] Connecticut Innovations can retain financial advisors to determine what applicable taxes will be generated, and whether the project is self-sustaining or economically viable.[41]

Should Connecticut Innovations decide to present a project using hotel taxes to its board of directors for final approval, the project must be noticed to numerous public officials: (1) the president pro-tempore and minority leader of the State Senate; (2) the speaker and minority leader of the House of Representatives; (3) the joint standing committees of the General Assembly which deal with matters related to finance, revenue and bonding; and (4) the Department of Economic and Community Development.[42] Any member of the General Assembly may request that Connecticut Innovations defer making a decision on the project for thirty days.[43]

In order to obtain final approval on a project using incremental sales, admissions, cabaret and dues taxes, Connecticut Innovations must submit the application to the joint standing committees of the General Assembly which deal with matters related to finance, revenue and bonding, as well as the Department of Economic and Community Development.[44] The committees then have forty-five days to advise Connecticut Innovations of their approval or modifications.[45] If the committees do not agree, then a committee on conference is formed, and issues a report back to the original committees.[46] If the joint standing committee rejects this report, the project is deemed approved.[47] If the report is approved, the modifications and suggestions are reported back to Connecticut Innovations.[48] If the committees do not act within forty-five days, approval is assumed.[49]

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[39] *Id.* § 32-285(b) (2014).
[40] *Id.* § 32-285(d) (2014).
[41] *Id.* § 32-285(c)(2) (2014).
[42] *Id.* § 32-285(e)(4)(a) (2014).
[43] *Id.*
[44] *Id.* § 32-285(f)(6) (2014).
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Id.*

After this process is completed, and the project has been approved, Connecticut Innovations may issue bonds, but only if they are then approved by the State Bond Commission.[50] The entire approval process occurs at the state level. Figure II below lists successful projects completed through Section 32-285 tax increment financing.

Figure II

Project Name	Location	Description
Lake Compounce	Bristol	The Lake Compounce Theme Park improvements were financed in 1996 with $18 million in TIF funding. The total project cost was $40 million.[51]
Oakdale Theatre	Wallingford	This project had a total cost of $20.3 million, and received $9.9 million in TIF funding in 1995.[52] The bond was issued for a twenty-year term.[53]
Dodd Stadium	Norwich	This project had a total cost of $9.8 million and received $1.545 million in TIF funding in 1994.[54] The bond was issued for a twelve-year term.[55]
The Meadows	Hartford	The Meadows Music Theatre was financed in 1994 with $9.885 million in TIF funding.[56] The total project cost was $22 million.[57] The bond was issued for a thirty-year term.[58] The state received more incremental tax revenue than the amount of debt service owed on the bonds between 1997 and 2008.[59]
Cabela's	East Hartford	This project had a total cost of $50.5 million dollars, and received $9.95 million in TIF funding in 2006.[60]

[50] *Id.* § §32-285(g)(2) (2014).
[51] Linda Miller, *Meadows Music Theatre and the Lake Compounce Theme Park: Comparison of Annual Tax Revenue and Debt Service Payments on Tax Incremental Financing Bonds* (Jul. 2010), *available at* http://www.cga.ct.gov/2010/ofarpt/2010OFA-0319.htm.
[52] *Id.*
[53] Judith Lohman, *Facilities Exempt From Admission Tax*, OLR Research Report, (Feb. 2006), *available at* http://www.cga.ct.gov/2006/rpt/2006-R-0177.htm.
[54] http://www.cga.ct.gov/2010/ofarpt/2010OFA-0319.htm
[55] Judith Lohman, *Facilities Exempt From Admission Tax*, OLR Research Report, (Feb. 2006), *available at* http://www.cga.ct.gov/2006/rpt/2006-R-0177.htm.
[56] Linda Miller, *Meadows Music Theatre and the Lake Compounce Theme Park: Comparison of Annual Tax Revenue and Debt Service Payments on Tax Incremental Financing Bonds* (Jul. 2010), *available at* http://www.cga.ct.gov/2010/ofarpt/2010OFA-0319.htm.
[57] *Id.*
[58] Judith Lohman, *Facilities Exempt From Admission Tax*, OLR Research Report, (Feb. 2006), *available at* http://www.cga.ct.gov/2006/rpt/2006-R-0177.htm.
[59] Linda Miller, *Meadows Music Theatre and the Lake Compounce Theme Park: Comparison of Annual Tax Revenue and Debt Service Payments on Tax Incremental Financing Bonds* (Jul. 2010), *available at* http://www.cga.ct.gov/2010/ofarpt/2010OFA-0319.htm.
[60] *Id.*

4) Chapter 30: Redevelopment Projects, Sections 8-125 to 8-139

Sections 8-125 to 8-139 enable funding for "redevelopment projects," defined as the development of areas that are "deteriorated, deteriorating, substandard or detrimental to the safety, health, morals or welfare of the community."[61] Deteriorated or deteriorating means that at least twenty percent of the buildings contain "building deficiencies" or "environmental deficiencies."[62] Section 8-134(a) authorizes the use of real and personal property taxes that increase within the redevelopment project area to finance bonds and fund the project. The project must follow a redevelopment plan.[63] Redevelopment plans typically include a description of the redevelopment area and its condition, as well as information on the necessary changes to land use, zoning and public utilities, displacement and temporary relocation assistance required, and the financial aspects of the proposed redevelopment.[64] These bonds may be issued by Connecticut Innovations but are paid for by the municipality.[65] The municipality must first approve such action.[66] In order for a bond to be adopted by the legislative body of the municipality, there must first be a public hearing.[67] The redevelopment plan may include more than one municipality.[68] The Clinic could find no projects on record financed through Sections 8-125 to 8-139.

5) Urban Renewal Projects, Sections 8-140 to 8-145

An urban renewal project includes "undertakings and activities for the elimination and/or prevention of the development or spread of slums or substandard, insanitary, blighted, deteriorated or deteriorating areas.[69] Section 8-141 lists examples of what may be permitted, which include the following: (1) "acquisition of real property and demolition"; (2) "removal or rehabilitation of buildings"; (3) removal or rehabilitation aimed at eliminating hazardous conditions; (4) "installation, construction or reconstruction" of such items as streets, public parks, utilities, or playgrounds; and (5) approved disposition of any property necessary to the "objectives of the urban renewal project."[70]

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[61] Conn. Gen. Stat. § 8-125(2) (2014).
[62] *Id.* § 8-125(7) (2014).
[63] *Id.* § 8-134(a) (2014).
[64] *Id.* § 8-125(3) (2014).
[65] *Id.* § 8-134 (2014).
[66] *Id.*
[67] *Id.*
[68] *Id.* § 8-139 (2014).
[69] *Id.* § 8-141 (2014).
[70] *Id.*

b. Proposed Legislation

1) Substitute House Bill 6527

In 2011, Substitute House Bill No. 6527[71] proposed allowing "corridor zone municipalities to use incremental property tax revenue a project generates to repay the loans and other debt a business incurred to finance a project."[72] The bill proposed to expand Section 32-23zz to include any type of project to be completed in one of the thirteen corridor zone municipalities.[73] Under the bill, the enterprise corridor zone municipalities can finance new development by returning increases in tax revenue to pay private debt taken on by a developer during the course of the project.[74] This would change current law that dictates that incremental tax revenue may be used only to repay previously municipal or state issued bonds.[75]

The proposed legislation also sought to expand Section 32-285, giving priority to projects in municipalities designated as enterprise corridor zones.[76] Furthermore, the act proposed expanding the eligible enterprise corridor zones.[77] This bill did not propose including taxes other than real and personal property taxes, nor did it propose to expand the area producing this incremental revenue beyond that of the project area.[78] This bill passed the Commerce Committee by a vote of eighteen to one, with support from various community organizations and leaders, and was then referred to the Committee on Finance, Revenue and Bonding where it never received a vote.[79]

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[71] Substitute House Bill 6527 was subtitled "An Act Concerning Tax Incremental Financing in Enterprise Corridor Zones, Tax Incremental Financing in Municipal Development Zones, and Allowing Certain Commercial Properties in Bristol and Plainville to Qualify for Enterprise Zone Benefits."

[72] H.B. 6257, 2011 Leg., Jan. Sess. (Ct. 2011) (OLR Bill Analysis), Conn. Gen. Stat. § 32-80(b)(2) (2014) (an enterprise corridor zone is defined as "two or more contiguous eligible municipalities, at least one of which is located along an interstate highway, limited access state highway or intersecting interstate or limited access state highways and is designated as a regional center in the locational guide map included in the state plan of conservation and development adopted pursuant to chapter 297").

[73] H.B. 6257, 2011 Leg., Jan. Sess. (Ct. 2011).

[74] *Id.* (OLR Bill Analysis).

[75] *Id.* § (3)(h)(2).

[76] *Id.* § 2.

[77] *Id.* § (4)(b) (adding specific census blocks and municipalities that have major research universities with programs in bioscience, biotechnology, pharmaceuticals or photonics, and an enterprise zone).

[78] *Id.* §(1)(b).

[79] Ct. Gen. Assemb. H.B. 6527, Bill Tracking, *available at* http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=6527&which_year=2011&SUBMIT1.x=7&SUBMIT1.y=7, Ct. Gen. Assemb. An Act Concerning Tax Incremental Financing in Enterprise, J. Favorable Rep., Mar. 22, 2011, *available at* http://www.cga.ct.gov/2011/JFR/H/2011HB-06527-R00CE-JFR.htm (supported by Representative Mae Flexer, Connecticut Conference of Municipalities, Connecticut Community Development Association, Connecticut Economic Development Association, and the Town of Killingly).

2) Senate Bill 144

In 2012, Senate Bill 144[80] proposed expanding Section 32-23zz of the Connecticut General Statutes to include not only information technology and remediation projects, but also any project for development, as provided in Chapter 130, or any municipal development project, as provided in Chapter 132 (Sections 8-125 to 8-139 and Section 8-192 discussed above, respectively).[81]

S.B. 144 also sought to expand the type of taxes that could be used to fund projects. Under the proposed legislation, funds could be derived from an increase in taxes on real and personal property, as well as sales and income tax.[82] This bill did not propose to expand the collection of tax revenue beyond the project itself.[83] The legislation was proposed for the purpose of helping to finance "building the infrastructure and developing projects to encourage business and institutional growth and job creation."[84]

The bill was sponsored by the Commerce Committee, and was supported by the City of New Haven and the Connecticut Conference of Municipalities ("CCM").[85] Donna Hamzy of CCM testified that the bill was "a reasonable option for municipalities to help stimulate much needed economic development and growth at the local level."[86] The Connecticut Development Authority opposed the bill stating that a project undertaken under this bill would require too much state assistance.[87] The Office of Policy and Management also opposed the bill, citing similar concerns about the decrease in state revenue.[88] The bill passed the Commerce Committee by a vote of twelve to five, but then never made it out of the Committee on Finance, Revenue and Bonding.[89]

3) Senate Bill 1114

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[80] The subtitle of Senate Bill 144 was "An Act Expanding the State's Tax Incremental Financing Programs."
[81] S.B. 144, 2012 Leg., Feb. Sess. (Ct. 2012).
[82] *Id.*
[83] *Id.* (allowing for "taxable sales, taxable personal income or any combination thereof, in a project each year").
[84] *Id.* (purpose of the bill).
[85] Ct. Gen. Assemb., J. Commerce Comm. An Act Expanding the State's Tax Incremental Financing Programs, J. Favorable Rep., Mar. 27, 2012 .
[86] *Id.*
[87] *Id.* (stating bill increase in state assistance for project would "decrease the added state retained revenue as a result of the bill").
[88] *Id.* ("We cannot support a bill that siphons off portions of the state's primary revenue sources for municipal purposes.").
[89]Connecticut Gen. Assemb. S.B. 144, Bill Tracking, *available at* http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=144&which_year=2012&SUBMIT1.x=16&SUBMIT1.y=12&SUBMIT1=Normal.

In 2013, the Senate Bill 1114[90] proposed to expand the collection of incremental revenues to sales and income taxes.[91] These incremental revenues could be used to fund a development project pursuant to Chapter 132, a redevelopment project pursuant to Chapter 130, or a project pursuant to Section 32-23zz of the General Statutes.[92] The proposed legislation allotted seventy-five percent (75%) of the incremental revenues to be attributable to such projects, with twenty-five percent (25%) retained by the state.[93] Again, the legislation did not propose to expand the area producing this incremental revenue beyond that of the project area.[94] The purpose for this proposed legislation was to "allow a municipality to include incremental personal income taxes and sales and use taxes as part of the financing plan for a development or redevelopment project."[95] This Bill was never voted out of the Committee on Finance, Revenue and Bonding.[96]

Each of the proposed pieces of legislation described above is summarized in Figure III below.

Figure III

Bill	Year	Key Provisions	Current Status
Substitute House Bill 6527	2011	Expansion of Sections 32-23zz and 32-285 to allow "corridor zone municipalities to use incremental property tax revenue."	No action since referral by House to Committee on Finance, Revenue and Bonding.
Senate Bill 144	2012	Proposed expanding Section 32-23zz to include any development project. Also sought to expand the type of taxes available.	No action since favorable change of reference from Senate to Committee on Finance, Revenue and Bonding.
Senate Bill 1114	2013	Proposed to expand the collection of incremental revenues to sales and income taxes.	No action since referral by House to Committee on Finance, Revenue and Bonding.

c. Why Current Law Is Not Suited for Connecticut Main Street's Needs

[90] The subtitle of Senate Bill 144 was "An Act Concerning the Governing Board of the Harbor Point District and an Expansion of Tax Incremental Financing."
[91] S.B. 1114, 2013 Leg., Jan. Sess. (Ct. 2013).
[92] *Id.*
[93] *Id.*
[94] *Id.* ("[S]uch project may be financed by incremental revenues from withholding taxes under the personal income tax and sales and use taxes attributable to such project").
[95] *Id.* (Statement of Purpose).
[96] *Id.*

1) Complex and Inconsistent Procedures

Currently, there are five different statutory sources that authorize TIF (described above in Section II of this memorandum), each with a different process for approving financing. Figure IV below summarizes the overlapping requirements of each statute.

Figure IV

Statute	Purpose	Requirements
Section 8-186 to 8-192	Municipal development	Noticed public hearing and subsequent approval by legislature.[97]
Sections 8-140 to 8-145	Urban renewal	Prospective developers must produce an urban renewal plan, which itself requires subsidiary plans. There must also be a noticed public hearing.[98]
Sections 8-125 to 8-139	Redevelopment	Much like urban renewal projects, redevelopment projects require a plan and a noticed public hearing followed by legislative approval. If the bond is issued by Connecticut Innovations, the municipality must also approve.[99]
Section 32-23zz	Remediation	Municipality must first authorize a remediation plan, which is not explicitly defined in the statutes.[100]
Section 32-285	Significant economic projects	Must first apply to Connecticut Innovations ("CI"), which makes a preliminary determination. If CI wishes to make final determination, Senate must be notified. Must also be noticed to several joint standing committees and agencies before approval.[101] *See* Section II of memorandum above.

The varied pieces of legislation and their accompanying approval mechanisms create a number of difficulties for prospective developers seeking TIF funds. First, consider definitional issues.

[97] Conn. Gen. Stat. § 8-192(a) (2014).
[98] *See Id.* § 8-142 (2014) (must be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements and rehabilitation as may be proposed to be carried out in the area of the urban renewal project, zoning and planning changes, if any, land uses, maximum densities, building requirements and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements).
[99] *Id.* § 8-125(3); § 8-127(b) (2014).
[100] *Id.* § 32-23d(gg) (2014).
[101] *See Id.* § 32-23d(dd) (2014); 32-23d(gg) (2014).

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Certain downtown economic development projects may include urban renewal, remediation and redevelopment.

Second, the processes open projects up to discretionary denials at a number of stages, sometimes after completing costly tasks. Consider, for instance, a project seeking funding under Section 32-285. Projects can be denied funding at six different stages: (1) by Connecticut Innovations in its preliminary review; (2) by the Connecticut Innovations Board of Directors after preliminary approval has already been given; (3) by the joint standing committees of the General Assembly after Connecticut Innovations referral; (4) once again by a joint standing committee after receiving a report by an ad hoc committee; (5) once again by Connecticut Innovation after their receive referral from a joint standing committee; and finally (6) by the State Bond Commission. In addition to each of these opportunities for discretionary denial, members of the General Assembly can delay approval at essentially any point in the process.[102] Once more, this process occurs entirely at the state level.

2) Excessive Limitations

The types of projects that are qualified under state statute to receive TIF funding are significant economic projects, urban renewal projects, municipal development projects, information technology projects, remediation projects, and redevelopment projects.[103] As identified above, these projects have definitions and requirements that place further restrictions on what projects will qualify.

1. Project Area Limitations

Connecticut's TIF programs only allow tax revenue to be generated from the increase in a specific project's taxes. The Connecticut model only generates the revenue necessary to back the bonds issued if the particular project generates an increase in taxes. This revenue is limited if the funds are generated only from real or personal property taxes.[104] Section 32-285 may have been the legislature's way of addressing this issue by allowing the increase in hotel, admissions, sales, cabaret, and dues taxes generated by a project to be utilized. However, Section 32-285 is still project limited. Other jurisdictions allow for the creation of a TIF District that includes but is not limited to the financed project. The existence of a TIF District can make the bonds more attractive to investors, since there is a wider source of potential revenue to be accumulated to help finance the bond.

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[102] *See Id.* § 32-285(e)(4)(a) (2014) (can request project be put on hold for thirty days),
[103] *See Id.* § 32-23zz (2014); § 8-192 (2014), C§ 32-285 (2014); §§ 8-140 to 8-145 (2014); Conn. Gen. Stat. §§ 8-125 to 8-139 (2014).
[104] *Tax Increment Financing as a Tool for Affordable Housing in Connecticut* 32 (July 2013).

2. Limited by Real and Personal Property Taxes

With the exception of Section 32-285, Connecticut TIF programs only allow real and personal property to be allocated towards the TIF program. Most states follow this model, with few allowing the increment to be generated from sales and income taxes.[105]

3. Process of Issuing TIF Bonds Often Not Municipality Run

Except under the Redevelopment and Urban Renewal TIF Statutes, found in Sections 8-125 to 8-145, municipalities do not have the authority to issue TIF bonds on their own. Only Connecticut Innovations can issue I.T. and Environmental Remediation Section 32-23zz TIF bonds. Connecticut Innovations also initiates the process of issuing TIF bonds under Significant Economic Projects Section 32-285. What is more, Section 32-285 gives multiple actors the authority to veto the TIF project, including the president pro-tempore and minority leader of the State Senate, the speaker and house leader of the State House of Representatives, the Joint Standing Committees of the General Assembly, and DECD. Finally, though municipalities can initiate TIF projects under Municipal Development Projects, Sections 8-186 to 8-192, such projects are subject to final approval from DECD.

III. TIF in Other Jurisdictions

Connecticut Main Street Center has identified four other jurisdictions that have exemplary records in using TIF funding to revitalize downtown areas: Washington, D.C., Wisconsin, Iowa, and Maine. The following section examines the structure of the TIF programs in these jurisdictions and highlights some of the projects these jurisdictions have completed using TIF funding.

a. Washington, D.C.

There are two main statutes authorizing the issuance of TIF bonds in the District of Columbia ("the District") to finance development and/or redevelopment projects: (1) the 1998 Tax Increment Financing Authorization Act ("DC TIF Act");[106] and (2) the Retail Incentive Act of 2004 ("Retail Incentive Act").[107]

1) Tax Increment Financing Authorization Act of 1998

[105] Rob Kerth & Phineas Baxandall, *Tax Increment Financing: The Need for Increased Transparency and Accountability in Local Economic Development Subsidies* 6 (Fall 2011).
[106] D.C. Code § 2-1217.01 *et seq.*
[107] *Id.* § 2–1217.71

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Under the DC TIF Act, the Council of the District of Columbia ("DC Council") can authorize the issuance of TIF bonds to finance development costs of eligible projects with the aggregate principal amount of TIF bonds capped at $500 million total and $300 million in the Central Business District."[108] The DC TIF Act also provides that "TIF bonds may qualify as tax-exempt enterprise zone facility bonds if the bonds satisfy the applicable requirements of the Internal Revenue Code . . . and applicable laws of the District."[109]

The DC TIF Act (1) defines a priority development area whereby development sponsors whose projects are located within that area may apply for TIF funding and (2) establishes the DC Ballpark TIF Area.[110] While the geographic boundaries between the priority development area and the DC Ballpark TIF Area do not overlap, tax increment revenues (both property and sales) from the DC Ballpark TIF Area are set aside in the Community Benefit Fund and may be used to secure bonds [including TIF bonds] or other evidence of indebtedness."[111] This means that TIF revenues that come from the DC Ballpark can be used for other purposes within the district.

The authority to administer TIF financing and certify eligible projects is vested in the Chief Financial Officer ("CFO") of the District.[112] In addition to certifying eligible projects, the CFO is authorized to "abolish, merge TIF areas or alter the boundaries of a TIF area"[113] and "impose reasonable fees in connection with the issuance of the TIF bonds to defray administrative costs [associated with] the issuance of such TIF bonds."[114]

1. Criteria for selection and process

Under the DC TIF Act, any individual or entity seeking TIF funding for a project located in a priority development area must submit an application to the CFO containing: "(1) a delineation of the proposed TIF area; (2) a description of the proposed land uses of the project; (3) pro forma projections of the revenues and expenses of the project; (4) a financial feasibility description of the project; (5) the timing and phasing of the project; (6) a statement of the compatibility of the project with the Comprehensive Plan; (7) a description of how the project complies with zoning regulations of the District; and (8) an analysis of projected tax revenue and benefits to be

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[108] *Id.* § 2-1217.02(a), (b). $500 million of outstanding principal of TIF bonds is allowed, but only $300 million of TIF bonds allocated to the Central Business District (a downtown area bounded roughly by Massachusetts Avenue NW, 2nd Street NE, D Street SE and SW, 14 Street, and Constitution Avenue NW) is permitted.
[109] *Id.* § 2-1217.02(e).
[110] *Id.* § 2-1217.12(a). The DC Ballpark TIF Area is an area surrounding but not including Nationals Park in southwest D.C.
[111] *Id.* § 2-1217.12(c).
[112] *Id.* § 2-1217.02(c); § 2-1217.03.
[113] *Id.* § 2-1217.03(f).
[114] *Id.*

generated by the project."[115] Once the application is approved, a TIF area is established for that particular project, which is sometimes referred to as the "site specific TIF."[116]

The CFO is empowered to certify a project if it meets the criteria set out in the DC TIF Act, most notably: (1) financial feasibility; (2) "net increase in taxes payable to the District"; (3) consistency with the District's Comprehensive Plan; (4) "whether the project's total anticipated benefits to the District, including public benefits as well as financial benefits, exceed the total anticipated costs to the District"; (5) "whether an allocation of the project's real property tax increment revenues and sales tax increment revenues will compete with or supplant benefits from other sources"; and (6) "whether the project is one of special merits and there is a reasonable probability that the special merits of the project will not be achieved without the TIF allocation."[117] While the DC TIF Act requires the CFO to consider special merits of a project in her determination of a project's eligibility, it is not clear whether a project located outside the priority development area may be eligible based on special merits alone.

Upon certification of a project, the CFO is required to submit certification to the Mayor.[118] If the Mayor determines that the resolution is consistent with requirements of the DC TIF Act, he or she is required to submit a resolution for approval to the Council. The Council in turn has to approve or disapprove the resolution within forty-five days. The Council, upon recommendation from the Mayor, may abolish, expand, merge or create new TIF areas, either project-specific or with broader scope.[119] The CFO is authorized to issue TIF bonds once a project has been approved.[120] The DC TIF Act authorizes the setting aside of incremental property taxes and sales taxes to cover the costs of projects.[121] In the District, the sales taxes available for TIF bonds are

[115] D.C. Code § 2-1217.03(a).
[116] *Id.* § 2-1217.05; *see also* Council of Development Finance Agencies, *2008 TIF State-By-State Report* (December 2008).
[117] *Id.* § 2-1217.02; § 2-1217.03. In addition to the criteria listed above, the CFO must check if the project satisfies requirements applicable to certain geographic areas of the District such as the "Downtown Area" and "Housing Priority Area."
[118] *Id.* § 2-1217.04.
[119] The "Howard Theatre Redevelopment Project TIF Area" (D.C. Code § 2-1217.34c) and the "City Market at O Street TIF Area" (D.C. Code § 2-1217.33c) are the two projects identified so far. Other projects that have been approved for TIF are the Mandarin Oriental Hotel (D.C. Code § 2-1217.32) and the Gallery Place (D.C. Code § 2-1217.31). Although the website of the DC CFO lists the International Spy Museum as "the third project approved by the District to receive tax increment financing", it is not included in Part B of the TIF subchapter in the DC Code that contains a list of identified projects. (D.C. Code D. I, T. 2, Ch. 12, Subch. IX). However, the success of using TIF assistance for the International Spy Museum was cited as justification for adopting new TIF program under the Retail Incentive Act of 2004 by Michael Jasso, Special Assistant, Office of the Deputy Mayor for Planning and Economic Development.
[120] The authority of the D.C. CFO will eventually be transferred, if not already, to the Board of Directors of the National Capital Revitalization Corporation. (D.C. Code § 2-1217.11).
[121] D.C. Code § 2-1217.01(26) and D.C. Code § 2-1217.01(27) respectively. See also D.C. Code § 2-1217.05.

5.75% of the regular sales tax (out of 5.75%),[122] 9% of the restaurant sales tax (out of 10%), and 10.05% of the hotel sales tax (out of 14.5%). The real property tax available for TIF bonds is sixty percent (60%) of all real property tax.[123]

The DC TIF Act does not prescribe a general maximum length of time for the life of a TIF area. Instead, the life of the TIF area is negotiated between the Mayor and the development sponsor, which can be a private entity. This practice has the possible benefit of tailoring each agreement to fit the needs of the relevant project.

The DC TIF Act does not restrict the use of TIF revenue to blighted areas. Instead, TIF revenue may be used for almost any type of development or redevelopment activity that meets the stated criteria. Technically, only redevelopment and development projects located within designated "priority development areas" are eligible for TIF funding. However, projects located outside "priority development areas" determined to qualify as "special merits projects" by the CFO may also be eligible. Figure V lists examples of projects that successfully received TIF funding.

Figure V

Project Name	Year	Description
City Market at O Street	2008	District authorized $35 million in TIF bonds toward a mixed-use housing/retail space in the Shaw neighborhood.[124] The total cost of the project is approximately $260 million.
Target/DC USA	2004	District issued $42 million in TIF bonds to build a parking garage to convert a vacant lot into a retail development. The total cost of the project was approximately $140 million.
The International Spy Museum	2002	District issued $6.9 million to fund the $20 million estimated total cost of the International Spy Museum.
The Mandarin Oriental Hotel Project	2002	District issued $46 million in TIF bonds to fund the development of the Mandarin Oriental Hotel. Total cost of the development was approximately $144 million.
Gallery Place Project	1999	District issued $73.6 million in TIF bonds to fund Gallery Place, a mixed-use urban entertainment complex slightly north of the MCI Center. Total cost of the development was approximately $274 million.

122 In other words, 100% of regular sales taxes.
123 *See* http://app.cfo.dc.gov/services/economic/tif_program/tax_rates.shtm.
124 D.C. Code § 2-1217.33c.

2) The Retail Incentive Act of 2004

The Retail Incentive Act of 2004[125] ("Retail Incentive Act") established a TIF program for retail development in the District. The Committee on Finance and Revenue of the Council of the District of Columbia ("Committee") describes the purpose and expected outcomes of the Retail Incentive Act as follows:

> The District currently has the unique opportunity to revive the downtown retail sector, much in the way the Council's previous efforts have spurred the development of housing, entertainment, and other elements which will contribute to the goal of a living downtown. The legislation will utilize tax increment financing to offset some of the cost associated with building out space specifically for retailers. The legislation will also set up a framework so building owners work in a cooperative fashion with the District to plan and manage the composition of the retail district. The program also will focus on attracting anchor tenants and other retailers that will be unique to the downtown market and new to the District, and will encourage "co-location" efforts. In short, the program for downtown will focus on attracting consumer goods retail businesses with an aim of attracting tenants that will in turn attract other retail.[126]

1. Criteria for selection and process

The Retail Incentive Act is narrowly tailored to use in neighborhoods known as "Retail Priority Areas." The Act identifies five such neighborhoods, and gives the Mayor authority to name others. Programs utilizing TIF in these neighborhoods will be designed specifically for each area, as they will likely have goals that are different from the downtown area. In several areas, the program will work in coordination with the various Main Streets programs as well.[127] $5 million in subsidy is available to building owners for retail uses, to a maximum of $25 million over the life of the TIF.

The Retail Incentive Act was enacted to "to eliminate . . . barriers to entry and promote Retail Development Projects"[128] with a special focus on corridor revitalization programs: specifically, "small business retention and attraction; neighborhood branding and marketing; blighted and vacant property mitigation; redevelopment of private property through financial incentives, technical assistance, temporary urbanism initiatives and property acquisition and disposition,

[125] Retail Incentive Act of 2004, 2004 District of Columbia Laws 15-185 (Act 15–435).
[126] District of Columbia Committee Report, B. 15-306, 1.
[127] *Id.* at 1-2.
[128] Retail Incentive Act of 2004, 2004 District of Columbia Laws 15-185 (Act 15–435). D.C. Code § 2–1217.71.

among other mechanisms identified by the Mayor; streetscape and roadway infrastructure improvement to enhance walkability, pedestrian safety, lighting, and transportation; and beautification and greening of the public realm, including public art, landscaping, storm water retention, and litter control."[129] A Retail Development Project is defined as follows:

> [T]he establishment of a business engaged in direct onsite retail sales to consumers or providing a unique entertainment attraction, including the following activities in connection with such business: acquisition, purchase, construction, reconstruction, improvement, renovation, rehabilitation, restoration, remodeling, repair, remediation, expansion, extension, and the furnishing, equipping, and opening for business. In the case of the Downtown Retail Priority Area, Retail Development Projects shall meet the requirements of § 2-1217.73a, shall be limited to restaurants (on a demonstration basis), grocery and specialty food stores and businesses engaged in sales of home furnishings, apparel, and general merchandise goods to specialized customers, or providing a unique entertainment attraction.[130]

Excluded from the scope of the Retail Incentive Act are the following: "liquor stores, nightclubs, hotels, banks, pharmacies, phone stores, service retail outlets and the relocation of a business to the Downtown Retail priority Area from another location within the District, unless the relocation involves a significant expansion of the size of the business."[131]

The Retail Incentive Act authorizes setting aside incremental real property tax[132] and sales tax[133] revenue "to eliminate . . . barriers to entry and promote Retail Development Projects."[134] Accordingly, the CFO is instructed to "establish one or more separate tax increment allocation accounts within the General Fund of the District of Columbia for the deposit and application of Available Sales Tax Revenues and Available Real Property Revenues from each TIF area. [The] monies . . . may be used to (1) pay debt services on Bonds, (2) pay other costs due and payable under the applicable financing documents, and (3) to pay any other costs or expenses permitted by this subchapter." [135] The available revenues are certified annually by the CFO.

The Mayor is empowered to identify areas within the District where there are "barriers to entry that impede Retail Development Projects and the proceeds of Bonds may be used to eliminate

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[129] D.C. Code § 2-1217.73.
[130] Additional TIF areas were designated by Retail Incentive Amendment Act of 2012, 2012 District of Columbia Laws 19-288 (Act 19-655).
[131] D.C. Code § 2-1217.71(8)(A) and (B).
[132] *Id.* § 2-1217.71(2)(1).
[133] *Id.* § 2-1217.71(2)(2).
[134] Retail Incentive Act of 2004, 2004 District of Columbia Laws 15-185 (Act 15–435). D.C. Code § 2–1217.71.
[135] D.C. Code § 2-1217.76 (allocation of tax increment revenues).

these barriers to entry and promote Retail Development Projects."[136] The Mayor is also empowered to designate "additional Retail Development Areas by submitting to the Council for a forty-five-day period of review."[137] The Retail Incentive Act restricts the use of TIF funds with respect to the aggregate principal amount of bonds issued (by specific retail priority area, type of business or tax),[138] type of businesses covered,[139] time (either life of the TIF area or deadline after which bonds may not be issued), geographic area (by street or neighborhood), as well as base year for calculation of allocable taxes and maturity of bonds.[140]

2. TIF Projects Under the Retail Incentive Act[141]

Several apparel shops and entertainment destinations in the District's downtown core have benefitted from the use of TIF bonds from the Retail Investment Act. Subsidies in form of TIF bonds of up to $5 million have been provided to defray the cost of tenant improvements. Neighborhoods that have benefited from the Retail Incentive Act include H Street and Columbia Heights.

b. Wisconsin

Wisconsin enacted its TIF legislation ("Wisconsin TIF Law") in 1975.[142] Al Runde notes that significant changes introduced under 2003 Wisconsin Acts 126, 127 and 194 expanded allowable uses of TIF and permitted extensions of the life of some TIF districts. In addition, "the Acts also provided for some oversight of TIF districts by the Department of Revenue (DOR)."[143]

Over the last four decades, Wisconsin has gradually expanded the authority of municipalities to create Tax Incremental Districts ("TIDs"). Cities and villages in Wisconsin were granted the

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[136] *Id.* § 2-1217.73(a)(1)(A),(B).
[137] *Id.* § 2-1217.73(a)(2).
[138] *Id.* § 2-1217.72. There are also street and neighborhood specific limitations on the amount (value) of bonds that may be issued. For example: a maximum of $25 million for the Downtown Retail Priority Area; a maximum of $15 million (increased from $10 million by a 2007 resolution of the Council – Res. 17-257; 54 D.C.R. 7194) for Pennsylvania Avenue, S.E., Retail priority Area. (D.C. Code § 2-1217.73(b) and (b-1). See also D.C. Code § 2-1217.73a as added Sept. 24, 2010, D.C. Law 18-223, § 7112(d), 57 D.C.R. 6242.
[139] *Id.* § 2-1217.71(8)(A) and (B).
[140] Within this basic template, TIF programs vary enormously in size, tax base, location, and type of development supported. A TIF district can be a few square blocks or most of a city. Richard Briffault, *The Most Popular Tool: Tax Increment Financing and the Political Economy of Local Government*, 77 U. Chi. L. Rev. 65, 68 (2010). See Council of Development Finance Agencies, 2008 TIF State-by-State Report, Richard Briffault, *The Most Popular Tool: Tax Increment Financing and the Political Economy of Local Government*, 77 U. Chi. L. Rev. 65, 95 (2010)
[141] *See* http://app.cfo.dc.gov/services/economic/tif_program/index.shtm.
[142] Wis. Stat. Ann. § 66.1105, (Tax increment law for cities and villages); Wis. Stat. Ann. § 66.1106 (environmental remediation tax incremental financing); and Wis. Stat. Ann. § 60.23 and § 60.85 (Town tax increment law).
[143] Al Runde, Wisconsin Tax Increment Financing, Informational Paper 17 (January 2013), p. 1.

authority to create TIDs in 1975. Environmental remediation TIDs were authorized in 1998. Towns were provided "limited authority" to create TIDs by 2003 Wisconsin Act 231 and 2005 Wisconsin Act 13. The 2005 Wisconsin Act 357 also authorized "certain counties with no cities or villages (Florence and Menominee counties) to create TIF districts."[144] Perhaps unique to Wisconsin, the legislature "allowed two or more cities and villages to enter into an intergovernmental cooperation agreement to jointly create a multijurisdictional TIF district" with the 2011 Wisconsin Act 77.[145]

As a general matter, projects in Wisconsin can only use the incremental tax revenue generated by property taxes.[146] Significantly, the planning, creation, approval, administration (issuance of bonds, payment of debt etc.), and termination of tax incremental districts and allocation of TIF funds fall, primarily, within the power of the municipal governing body. Unlike in the Connecticut, the state government by default has a minimal role in the implementation of TIF legislation in Wisconsin.

The Joint Review Board can, however, involve the Wisconsin state government in the TIF approval process by expressly requesting the Department of Revenue to "review specific facts of documents provided to [the Joint Review Board] by the local legislative body."[147] The Department of Revenue is then required to investigate the issues raised in the request and send its written response to the Board within ten working days.[148] The state government may also become involved in the TIF process after a TID has been approved if the municipal clerk submits an application to the Department of Revenue for base value certification.[149]

According to the Wisconsin Department of Revenue, there are 1,143 TIDs in Wisconsin. [150] In the year 2013 alone, there were a total of 47 new TIDs certified. Fourteen of those were for blight elimination, seven for rehabilitation or conservation, eight for industrial use, and eighteen for mixed-use.[151]

1) TIF Wis. Stat. Ann. § 66.1105: Cities and Villages

[144] *Id.*
[145] *Id.*
[146] Council of Development Finance Agencies, *2008 TIF State-By-State Report*, p. 49 (December 2008).
[147] State of Wisconsin, Department of Revenue, Division of State and Local Finance, *Wisconsin Tax Incremental Financing Manual: 4.2 Department of Revenue Review, available at* http://www.revenue.wi.gov/pubs/slf/tif/4-2.pdf. (last accessed on August 26, 2014).
[148] Wis. Stat. Ann. § 66.1105(m)(b)4.
[149] *Id.* § 66.1105(4)(gm)(2).
[150] State of Wisconsin, Department of Revenue, Division of State and Local Finance, *Wisconsin Tax Incremental Financing Manual: 1.3 Summary Statistics, available at* http://www.dor.state.wi.us/pubs/slf/tif/1-3.pdf. (last accessed on August 26, 2014).
[151] *Id.*

1. Criteria for creating a Tax Incremental District (TID) and approval Procedure

A city or village in Wisconsin may create a TID if "not less than 50 percent, by area, of the real property within the district is"[152]:

- A blighted area;[153]
- In need of rehabilitation or conservation work;
- Suitable for industrial sites and has been zoned for industrial use;[154] or
- Suitable for mixed-use development.

The city or village has to further make a finding that "the improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district [and that] the project costs relate directly to eliminating blight, directly serve to rehabilitate or conserve the area or directly serve to promote industrial development."[155] Finally, a municipality may not create a new TID if, as a result of the new district, the equalized value of the tax increments would exceed twelve percent (12%) of the municipality's total equalized value of taxable property.[156]

Procedurally, a city or village planning to establish a TID must first hold a public hearing with all interested parties and other taxing entities (technical college district, county, school district as well as affected property owners). The planning commission[157] is charged with initiating the process by developing a project plan, conducting public hearings, and making recommendations on the TID boundaries.[158] The municipality can consider the boundaries of a TID *and* the project plan at the same hearing, or at separate hearings. According to the Wisconsin Department of

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[152] Wis. Stat. Ann. § 66.1105(4)(gm)(4). *See* also Wis. Stat. Ann. § 66.1105(4), generally, for detailed requirements for the creation and approval of TIDs and project plans.

[153] Blighted area is a "slum area . . . conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and is detrimental to the public health, safety, morals or welfare [and] an area which is predominantly open and which consists primarily of an abandoned highway corridor … or that consists of land upon which buildings or structures have been demolished … substantially impair[ing] or arrest[ing] the sound growth of the community." *See* Wis. Stat. Ann. § 66.1105(2)(ae)(1)(a) and (b). However, "blighted area does not include predominantly open land area that has been development only for agricultural purposes." Wis. Stat. Ann. § 66.1105(2)(ae)(2).

[154] *See* Wis. Stat. Ann. § 66.1101 for definition, and policy goals of the State of Wisconsin with regard to industrial development.

[155] *Id.* § 66.1105(4)(gm)(4)(a) and (b).

[156] *Id.*. § 66.1105(4)(gm)(4)(c).

[157] *See Id.* § 62.23 (for definition).

[158] *Id.* § 66.1105(4)(a) – (e).

Revenue, "the *combined hearing* . . . is the simpler and most commonly used method."[159] Notice is to be given not less than fifteen days prior to the hearing.[160]

Following the combined hearing method, the planning commission prepares a proposed project plan including the following: (1) the boundaries of each TID; (2) the identification of the specific property to be classified as either blighted or in need of rehabilitation; (3) a list of the kind, number, and location of the proposed public works or improvements within the district; (4) an economic feasibility study; (5) a list of estimated project costs; (6) a description of financing methods and when the costs or obligations are to be incurred; (7) a map showing existing use and conditions of real property in the district; (8) a map showing proposed improvements and uses; and (9) a description of proposed changes in zoning ordinances, the master plan (if any), the map, the building codes and the municipal ordinance.[161] Copy of the hearing notice is then sent to all affected taxing entities and owners of properties within the proposed TID deemed blighted or in need of rehabilitation or conservation. After the public hearing, the planning commission "adopts the plan and designates the recommended boundaries [which] are both submitted to the local legislative body for approval."[162] The city or village council, if it approves the project plan, then adopts a resolution that the project plan is economically feasible and in keeping with the municipality's master plan.[163]

At this point a Joint Review Board composed of representatives of the school district, country, technical college district and the municipality as well as a member of the public is convened.[164] The Joint Review Board reviews the "public record, planning documents and the resolution passed by the legislative body"[165] and makes its determination based on a "but-for" test and cost-benefit analysis. Upon approval by the Joint Review Board, the Wisconsin Department of Revenue certifies the base value of the real property within the newly created TID.[166]

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[159] Wisconsin Department of Revenue, Office of Technical and Assessment, *A Guide to Wisconsin's Tax Increment Law: Creating a District*, p. 3, *available at http://www.dor.state.wi.us/pubs/slf/tif/pe-207.pdf* (last accessed August 26, 2014).

[160] In cases where "cash grants [may be] made by the city to owners, lessees, or developers of land that is located within the tax incremental district, the hearing notice shall contain a statement to that effect." Wis. Stat. Ann. § 66.1105(4)(e).

[161] Wisconsin Department of Revenue, Office of Technical and Assessment, *A Guide to Wisconsin's Tax Increment Law: Creating a District*, p. 3, *available at http://www.dor.state.wi.us/pubs/slf/tif/pe-207.pdf* (last accessed August 26, 2014).

[162] *Id.* at 5.

[163] Wis. Stat. Ann. § 66.1105(4)(g).

[164] *Id.* § 66.1105(4m)(a). Note that a standing Joint Review Board may be established and continue to exist for the duration of the life of the specific TID within a given municipality which may range between 20 and 37 years. Wis. Stat. Ann. § 66.1105(3)(g)

[165] *Id.* § 66.1105(4m), (b) and (c).

[166] There are limited instances where the Department of Revenue may refuse to certify base value. For example, the DOR may refuse to certify the incremental base value for mixed-use development TIDs if (1) the lands proposed for newly-platted residential use exceeds 35% of the real property within the TID, or (2) tax increments received by the

2. What TIF may cover:

Under Section 66.1105 TIF may be used to cover project costs, defined as:

> any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city which are listed in a project plan as costs of public works or improvements within a tax incremental district.[167]

Project costs include, but are not limited to the following: (1) capital costs; (2) financing costs; (3) real property assembly costs; (4) professional service costs; (5) imputed administrative costs; (6) relocation costs; (7) organizational costs; and (8) costs related to construction or alteration of sewage treatment plants.[168] Explicitly excluded are the costs "of constructing or expanding administrative buildings, police and fire buildings, libraries, community and recreational buildings and school buildings, unless the administrative buildings, police and fire buildings, libraries and community and recreational buildings were damaged or destroyed before January 1, 1997, by a natural disaster."[169] In addition, cost of inland lake protection and rehabilitation programs or projects may not be paid from TIF funds.[170] Importantly, it should be noted that under Wisconsin TIF law, properties or projects within the TIF district are automatically certified to qualify to receive TIF funding. This is in contrast to the legislation and practice in Connecticut and the District of Columbia where developers have to submit applications to qualify for TIF funding for each project.

3. Change, Duration and Termination of TIDs

A municipality may amend the boundaries of a TID during its life by either adding or subtracting territory from the district.[171] However, there are limitations on the amendments. First, the amendments may not disturb the contiguous nature of a district. Second, they may not result in increasing the equalized taxable property plus the value increment of all existing districts in excess of twelve percent (12%) of the total equalized value of taxable property within the municipality. Finally, a municipality may only amend a TID up to four times, and each amendment must follow the same procedure necessary to create a new TID.

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city or village are used to subsidize residential development. *See*, *See* Al Runde, Wisconsin Tax Increment Financing, Informational Paper 17 (January 2013), p. 2.

[167] Wis. Stat. Ann. § 66.1105.

[168] *Id.*

[169] *Id.* § 66.1105(2)(f2).

[170] *Id.* § 33.18.

[171] *Id.* § 66.1105(4)(h)2.

The duration of a TID's life depends on the timing of its creation as well as type of use. All TIDs created before 1995 have a maximum life of twenty-seven years with no possibility of extension. Blight elimination or rehabilitation TIDs created after October 1995 have a 27-year maximum life with the possibility for extension by amendment. Industrial TIDs created after October 1995 but before October 2004 have a 23-year maximum life with possible extension. Finally, industrial or mixed-use TIDs created after October 2004 are valid for twenty years with a possible extension by amendment. Alternatively, a TID may be terminated by resolution of the city council if the total project costs have been paid, or the city council dissolves the district by a resolution and assumes the debts of the TID.[172]

Figure VI

Project Name	Year	Description
Grand Avenue Redevelopment	2000	Project aimed at revitalizing downtown retail and commercial districts. The TID is authorized until 2025. The district was first used to fund a $2 million loan to assist the Courtyard Marriott with their $13,250,000 development cost.[173]
New Covenant Housing	1992	TID set up to fund the development seventy-two townhouse and apartment units for low- and moderate-income residents.[174] Funding was used to provide $650,000 for street improvement related to the project and later $50,000 for pavement work.[175]
Curry/Pierce Project	1992	TID created with an authorized expenditure of $750,000 with a life ending in 2019 unless extended by amendment. The TID funded $73,800 for the redevelopment of the long vacant Currie Pierce Office Building at 400 East Wisconsin Avenue.[176]

[172] *Id.* § 66.1105(7).
[173] The district was later used to assist renovation of "the former Marshal Fields building" with $9.4 million, including $6.4 million in City loans, to convert the project to hotel, office and retail uses as well as to restore its exterior.[173] Again in November 2000 the district "provide[d] $5 million for the renovation of the Boston Store building, upgrading the retail space and the regional offices of Boston Store's owner, Saks, Inc."
[174] TID 18 – New Covenant Housing Periodic Report (December 31, 2013) *available at* http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/business/TIF/2013-Reports/TID18.pdf (last accessed on August 27, 2014).
[175] *Id.* It should be noted that whenever a TIF district aims to provide for work that was not included in the initial project plan, the district has to be amended before any expenditure may be approved.
[176] The Period Report for this project dated December 31, 2013 credits the redevelopment project with stimulating "additional renovations and private investment along, what was then, a severely declining Milwaukee Street commercial district. This project proved to be the first step in redevelopment efforts that featured such projects as

2) Wis. Stat. Ann. § 66.1106 Environmental Remediation

Under Section 66.1106, a town, city, village, or county is authorized to "use an environmental remediation tax increment to pay the eligible costs of remediating environmental pollution on contiguous parcels of property that are located in an environmental remediation tax incremental district within the political subdivision and that are not part of a tax incremental district created under Section 66.1105."[177]

Environmental remediation tax increments may be used "to pay the cost of remediating environmental pollution of ground water without regard to whether the property above the groundwater is owned by the [same] political subdivision."[178] Any political subdivision desiring to use an environmental remediation tax increment has to first prepare a written proposal to be reviewed and approved by a Joint Review Board.[179]

When reviewing the proposal, the Joint Review Board considers the following: (1) whether the remediation will take place without the TIF; (2) whether "the economic benefits of remediated property as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of improvements"; and (3) "whether the benefits of the proposal outweigh the anticipated environmental remediation tax increments to be paid by the owners of property in the overlying taxing districts."[180] If the Joint Review Board approves the proposal, it is then submitted to the Department of Revenue for certification.[181]

The tax increment collected under the provisions of Section 66.1106 may be used to cover eligible costs including: "capital costs, financing costs, and administrative and professional service costs, incurred or estimated by the political subdivision" for activities enumerated in Section 66.1106(1)(c). The legislative body of the respective political subdivision is required to adopt a resolution describing the boundaries and creating the TID.[182]

Hotel Metro, the Grain Exchange Condominiums, office renovations for the Metropolitan Milwaukee Association of Commerce (MMAC), and numerous entertainment and dining venues." TID 17 – Curry/Pierce Project Periodic Report (December 31, 2013), *available at* http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/business/TIF/2013-Reports/TID17.pdf (last accessed on August 27, 2014).

177 Wis. Stat. Ann. § 66.1106
178 *Id.* § 66.1106(2).
179 *Id.* § 66.1106(2)(a).
180 *Id.* § 66.1106(3)(b)(2).
181 *Id.* § 66.1106(2)(a).
182 *Id.* § 66.1106(1m).

The TID created for environmental remediation expires fifteen years after being certified by the Department of Revenue.[183] However, a TID it may donate its excess tax increment to another TID created by the same governing body (e.g., Milwaukee City council).

3) Wis. Stat. Ann. § 60.23 and § 60.85 (Town tax increment law)

1. Criteria for Creation and Approval Procedure

a. Section 60.23

Section 60.23 gives Wisconsin towns the right to exercise all the powers cities have to create TIDs and issue TIFs under Section 66.1105, discussed above. Towns creating TIDs and issuing TIFs under Section 60.23 are subject to the duties and limitations as cities exercising those powers under Section 66.1105. There are, however, three additional requirements that a town has to meet before it can create a TID:

- The equalized value of all taxable property in the two previous years must be at least $500 million;
- The previous year's population must be at least 3,500;
- Sewer service must be currently provided or will be provided to the proposed TID.[184]

b. Town TIDs Section 60.85

Under the provisions of Section 60.85, a town may create a TID and define its boundaries and undertake all the necessary actions to commit to obligations, as it deems necessary to effectuate the purpose of the TID.[185] However, towns may only spend money or incur monetary obligations as a project cost for the following reasons:

> 1. "Agricultural projects
> 2. Forestry projects
> 3. Manufacturing projects
> 4. Tourism project
> 5. Residential development, but only to the extent that it has a necessary and incidental relationship to a project listed in subds. 1. to 4
> 6. Retail development that is limited to the retail sale of products that are produced due to a project that is developed under subd. 1, 2. or 3 . . .

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[183] *Id.* § 66.1106(2)(b).
[184] All the substantive and procedural requirements relating to cities and villages discussed apply to towns in this category *mutatis mutandis.*
[185] Wis. Stat. Ann. § 60.85, (2)(a)1 to 4.

> 7. A project that is related either to retail purposes, or to a purpose for which a city may create a district under Section 66.1105, except that this subdivision applies only to the town of Brookfield in Waukesha County, and the town may create only one district to which this subdivision applies."[186]

The procedural requirements and conditions for approval by the Join Review Board as well as certification by the Department of Revenue are the same as those applicable for cities and villages discussed above.[187]

c. Iowa

Iowa first enacted its TIF legislation by amending its Urban Renewal Law in 1969.[188] The Iowa TIF statute permits cities, towns, and to a limited extent counties to use incremental property tax revenues "to finance public improvements such as streets, sewers, sidewalks, and other infrastructure related to residential, commercial, or industrial development; to develop slum or blighted areas; to fund private economic development; and to finance construction of low and moderate income housing."[189] The Urban Renewal Law authorizes the establishment of an urban renewal in slum areas, blighted areas, and economic development areas.[190]

1. Criteria for establishment and approval procedure

A municipality may approve an urban renewal project only after the local governing body has determined that a proposed area is "a slum area, blighted area, economic development area or a combination of those areas" and "designated the area as appropriate for an urban renewal project.[191] (Generally, economic development areas refer to areas that are designated to receive government assistance.) This finding must state the reasons why an area is appropriate for designation. But it should be noted that the Urban Renewal Law gives broad powers to municipalities in determining what constitutes a slum, blighted, or economic development area.[192]

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[186] *Id.*
[187] *See also Id.* § 60.85, (2)
[188] Iowa Code § 403.19 *cum* Iowa Code § 403.1. *See also*, generally, Susan Cowley, Legislative *Guide to Urban Renewal and Tax Increment Financing* (Legislative Services Agency, December 2013), *available at* https://www.legis.iowa.gov/DOCS/Central/Guides/urbannew.pdf (last accessed on August 27, 2014).
[189] Susan Cowley, *Legislative Guide to Urban Renewal and Tax Increment Financing*, p. 1 (Legislative Services Agency, December 2013), *available at* https://www.legis.iowa.gov/DOCS/Central/Guides/urbannew.pdf (last accessed on August 27, 2014).
[190] Iowa Code § 403.5 (Urban renewal plan).
[191] *Id.* § 403.5 (1).
[192] Susan Cowley, *Legislative Guide to Urban Renewal and Tax Increment Financing*, p. 2, note 12 (Legislative Services Agency, December 2013).

After determining the boundaries and description of the proposed area, the municipality must prepare an urban renewal plan that includes the objectives of the area. The urban renewal plan should also include an assessment of the base value of the property in the designated district. Finally, it must provide notice of the proposed plan to affected taxing entities such as community colleges and school districts.[193]

This notice serves to solicit input from the affected taxing entities. Those entities may submit recommended modifications to the proposed plan, including the division of revenue from the tax increment.[194] After receiving consultations from affected entities, the municipality must hold a public hearing. The local legislative body can then approve the plan.

Iowa law provides great flexibility for amending the TID area. There are only three limitations. First, if the urban renewal is an economic development area, the maximum duration of the TID is twenty years.[195] Second, a slum or blighted urban renewal area "may not include real property assessed as agricultural property for tax purposes."[196] Third, TIF proceeds may not be used to relocate businesses within municipalities.[197]

In general the Iowa TIF legislation gives broad powers to municipalities in the planning, implementation, and termination of urban renewal areas as well as in determining how tax increment revenues may be used. After a TID has been established, developers whose property is located within the district may apply to the municipality for TIF funding by showing "a public benefit to the project financial gap" that can be filled only by city funding.[198]

While there are no restrictions on how tax increment revenues may be used in slum or blighted urban renewal areas, the Iowa TIF statute does place an important restriction on those established for economic development. Specifically, it requires that a certain percentage of the funds be used to "provide assistance related to housing for families whose incomes do not exceed 80% of the median income in the county." The statute does not indicate exactly what percentage of the funds are to be designated for housing assistance. [199]

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193 Iowa Code § 403.5(2).
194 *Id. See also* Susan Cowley, *Legislative Guide to Urban Renewal and Tax Increment Financing*, p. 3 (Legislative Services Agency, December 2003).
195 There is no comparable limit on slum or blighted area. This limitation on economic development areas was introduced in 1994; Iowa Code § 403.17(10).
196 Iowa Code § 403.17(5) and (22).
197 *Id.* at § 403(19).
198 City of Iowa City, *Understanding Iowa City's due diligence process for gap financing with TIF, available at* http://www.icgov.org/site/CMSv2/file/planning/econDev/EcDevPolicies/2_UnderstandinggapanalysisTIF.pdf.
199 Anthony G. Girardi, Iowa Tax Increment Financing: Tax Credits Program Evaluation Study, p. 5 (December 2013); *see also* Robert E. Josten, What is Tax Increment Financing?: Questions and Answers About TIF, p. 3, *available at* https://www.pdiowa.com/media/13133/559c4what_is_tif_q__a.pdf (last accessed August 27, 2014).

Figure VII

Project Name	Year	Description
Chauncey Tower	2014	Iowa City approved a "request for $14.1 million in financial assistance for the $49 million Chauncey tower."[200] $12.1 million of this amount was TIF.[201]
Northgate Corp Park Urban Renewal Area	2004	Created "to facilitate urban renewal program using private and public resources to develop the area for office, research, production and/or assembly uses."[202] This is an economic development urban renewal area (as opposed to blighted or slum).
Plaza Towers	2002	High-rise residential, office, hotel and grocery mixed-use property. Received $6 million in TIF financing.[203]
Park@201	2002	Also high-rise residential, office, hotel, and grocery mixed-use property. Received $2.8 million in TIF financing.[204]
Sheraton Walkway	1999	Public access improvement to mall and 118 E College Street for renovating former Vito's building for office and retail. Received $250,000 in TIF financing.[205]

d. Maine

Maine first introduced TIF in 1977.[206] Under the Maine TIF statute, cities and plantations[207] are authorized to establish tax increment financing districts (TIF districts) "to provide financial assistance to local development projects – from infrastructure improvements to business expansions – by using new property taxes that result from commercial investment and

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[200] Mitchell Schmidt, *Iowa City Press-Citizen*, Committee Approves Chauncey funding model, (July 14, 2014).
[201] *Id.*
[202] Iowa City, Annual Urban Renewal Report, Fiscal Year 2011-2012, pp. 17–19, *available at* http://www.icgov.org/site/CMSv2/file/planning/econDev/URA2012Report.pdf
[203] *Id.* at 22–24.
[204] *Id.*
[205] Mitchell Schmidt, *Iowa City Press-Citizen*, Committee Approves Chauncey funding model, *(July 14, 2014).*
[206] 30-A M.R.S.A. § 5221 - 30-A M.R.S.A. § 5235 (Municipal Development Districts), and 30-A M.R.S.A. § 5241 - 30-A M.R.S.A. § 5244 (State Tax Increment Financing).
[207] Previously, the Maine statute allowed "unorganized territories" as well to establish tax increment financing districts. The provisions, however, have been repealed. 30-A MRSA §5251–5261. However, the Maine TIF Manual does not indicate the repeal of the sections dealing with TIF for unorganized territories.

corresponding increase in property value."[208] Accordingly, "a municipality or plantation may retain all or part of the tax increment revenues generated from increased assessed value of a tax increment financing district [captured assessed value] for the purpose of financing the [municipal] development program."[209] The respective legislative body in the municipality "may authorize, issue and sell bonds, including but not limited to, general obligation or revenue bonds or notes, that mature within 30 years from the date of issue to finance all project costs needed to carry out the development program within the district."[210] The TIF revenues generated may be used to cover the following:

- capital costs (acquisition or construction of land, improvements, buildings, structures; demolition, alteration, repair, reconstruction; site preparation and finishing work; fees and expenses)
- financial costs (interest, premiums)
- real property assembly costs
- professional services
- reasonable administrative expenses
- relocation costs
- organizational costs related to the establishment of the [TIF] district, such as environmental impact and other studies, and costs to inform the public about the district.[211]

The TIF revenues may also be used to cover costs that are outside of the district, but are directly related or become necessary because of the establishment or operation of the TIF district, and "costs for economic development, environmental improvements or employment training within the municipality."[212] However, TIF revenues may not be used to cover costs "for facilities, buildings or portions of buildings used predominantly for the general conduct of government, or for public recreational purposes. Examples include city halls and other headquarters of government where the governing body meets regularly, courthouses, jails, police stations and other state and local government office buildings, recreation centers, athletic fields and swimming pools."[213] In addition to the municipal TIF program, Maine has also had a state-level TIF program.

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[208] Maine TIF Manual 2011, p. 1.
[209] 30-A M.R.S.A. § 5227(1). The *captured assessed value* is defined as "the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the [municipal] development program." *see* 30-A M.R.S.A. § 5222(2).
[210] *Id.* § 5231.
[211] Summary is taken from Maine TIF Manual (2011), p. 3. *See* also, 30-A M.R.S.A. § 5225.
[212] *Id. See* also, 30-A M.R.S.A. § 5225(B) and (C).
[213] *See* 30-A M.R.S.A. § 5225(2); Maine TIF Manual (2011), p. 4.

1. Criteria for establishment and approval procedure (Municipal TIF districts) 30-A M.R.S.A. § 5221 - 5235.

A municipality may establish a TIF district if at least twenty-five percent (25%) of the proposed district is blighted or in need of rehabilitation, redevelopment, or conservation, or is suitable for industrial and commercial use.[214] A TIF district may be established in one of two ways: the first approach is initiated by a potential developer or business entity whereby the business or developer presents "a proposal for investment in which a TIF district would provide financing."[215] Alternatively, "a town might take advantage of an already-planned and financed project and create a TIF district around it, capturing a portion of new property tax revenue for specific uses."[216] However, there may be variations from one municipality to another.

The legislative body of the municipality desiring to establish a TIF district has to "consider whether the proposed district or program will contribute to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation."[217] In addition, the legislative body of the city or plantation must provide a reasonable opportunity to interested parties to present their testimony at a public hearing. If any interested party presents evidence that the proposed TIF district or development program will present "substantial detriment to that party's existing business," then the legislative body is required to consider whether "adverse economic effects of the proposed district or program on that interested party's existing business in the municipality or plantation is outweighed by the contribution made by the district or program to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation" in making its determination.[218]

Decisions of the local legislative body are made by majority vote and are subject to approval by the Maine Department of Economic and Community Development's Commissioner.[219] In the case of a downtown TIF district, the Maine Department of Agriculture, Conservation and Forestry and the Department of Transportation shall review the proposal and provide advice to assist the commissioner in making a decision under this subsection.[220] Alteration of any TIF district must be done in accordance with the provisions of the statute following the same

[214] *See id.* § 5223(3).
[215] Maine Department of Economic and Community Development, *Municipal Tax Increment Financing, available at* https://www.maine.gov/decd/start-grow/tax-incentives/tax_increment_financing.shtml (last accessed September 3, 2014).
[216] *Id.*
[217] *See* 30-A M.R.S.A. § 5223(2).
[218] *Id.*; *see also* § 5226(1) (Notice and hearing).
[219] *Id.* § 5226(2).
[220] *Id.* § 5226(2).

procedure as for the original creation. The Maine TIF statute places the following limitations on the creation and administration of TIF districts:

- *Maximum acreage*: no single district may exceed two percent (2%) of the total acreage of the municipality and the total of TIF districts may not exceed five percent (5%) of the total acreage of the municipality;[221]
- *Maximum value*: the value of all taxable property within the proposed district, plus the value of all existing TIF districts may not exceed five-percent (5%) of the municipality's total value of taxable property;[222] and
- *Maximum indebtedness*: a ceiling of $50 million within any one county.[223]

2. Sample TIF District and Included Projects: Town of Fairfield, Maine (Thomas M. Teague Technology Park)

TIF is used extensively in Maine. The Department of Economic and Community Development reports that "hundreds of Maine communities have TIF districts, from Caribou to Biddeford, Rumford to Machias."[224] The Town of Fairfield's amended Municipal Development and TIF Districts (as amended in 2011) is selected as an example. By a resolution adopted by the town council, the Town of Fairfield, Maine decided to "capture and retain <u>100%</u> of the increased assessed value from the Teague Districts and 201 Districts and allocate such funds between the Town's TIF Projects . . . and to the particular developer on an *ad hoc* basis."[225] According to the Town's resolution, "[any] allocation to a developer will be in the form of a credit enhancement agreement between the Town and such developer and will be evaluated and negotiated as each District is developed."[226] According to the Financial Plan contained in the resolution, the Town "will retain <u>100%</u> of the increased assessed value from all real and personal property within each of the Teague Districts and within each of the 201 districts for a term of <u>30 years</u> commencing with the Town's <u>2005-2006</u> fiscal year and ending with the Town's <u>2034-2035</u> fiscal year."[227]

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[221] *Id.* § 5223(3)(B).
[222] *Id.* § 5223(3)(C).
[223] Maine TIF Manual (2011), p. 6.
[224] Maine Department of Economic and Community Development, *Municipal Tax Increment Financing*, https://www.maine.gov/decd/start-grow/tax-incentives/tax_increment_financing.shtml (last accessed September 3, 2014).
[225] Town of Fairfield, Maine, Omnibus Development Program, *Thomas M. Teague Technology Park Municipal Development and TIF Districts, Amended and Restated*, p. 4 (May 9, 2011) (underlining in original).
[226] *Id.*
[227] For detailed description and financial breakdown of the TIF Districts and individual projects, *see generally* the attachments *in* Town of Fairfield, Maine, Omnibus Development Program, *Thomas M. Teague Technology Park*

3. Other Tax Increment Financing Programs: State Tax Increment Financing 30-A M.R.S.A. §§ 5242-5244; Maine Employment Tax Increment Financing Act. 36-M.R.S.A. § 6751-6761.

A state-level TIF program was introduced to allow Maine TIF districts to be designated as "state TIF districts." According to Section 5242 of the Maine statute, only TIF districts whose captured assessed value is created after July 30, 1991 and before June 30, 1996 are eligible to be designated state TIF districts. The state TIF district may relate to the whole or a portion of an existing TIF district within a municipality.[228] These provisions introduced the option of using sales tax increment revenues in addition to property tax increment revenue.[229] Accordingly, the state tax increment may be used to cover project costs as defined in 30-A M.R.S.A. § 5225 of the statute.[230]

In addition to the now-defunct state-level TIF program, the currently operating Employment Tax Increment Financing program was introduced "to encourage the creation of new quality jobs in [Maine], improve and broaden the tax base and improve the general economy of the State."[231] Administered by the State, the Employment TIF program "helps new and established Maine businesses to hire new employees by refunding from 30-80% of the state withholding taxes paid by the business for up to ten years."[232] The Department of Economic and Community Development reports that "in 2010 the program helped almost 100 Maine companies claim $8 million in reimbursements for more 6,000 new, well-paid jobs with retirement and health care benefits."[233]

Municipal Development and TIF Districts, Amended and Restated p. 13 *et seq.* (May 9, 2011) (underlining in original).
[228] 30-A M.R.S.A. § 5241(16) *cum* 30-A M.R.S.A. § 5242.
[229] *Id.* § 5242(4).
[230] *Id.* § 5241(14) and (15) *cum* 30-A M.R.S.A. § 5225.
[231] *Id.* § 6752.
[232] Maine Department of Economic and Community Development, *Employment Tax Increment Financing, available at* https://www.maine.gov/decd/start-grow/tax-incentives/employment_tax_increment_financing.shtml.
[233] *Id.*

Substitute Senate Bill No. 677

Public Act No. 15-57

AN ACT ESTABLISHING TAX INCREMENT FINANCING DISTRICTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2015*) As used in sections 1 to 9, inclusive, of this act unless the context otherwise requires:

(1) "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance project costs pursuant to the district master plan.

(2) "Current assessed value" means the assessed value of all taxable real property within a tax increment district as of October first of each year that the tax increment district remains in effect.

(3) "District master plan" means a statement of means and objectives prepared by the municipality relating to a tax increment district designed to provide new employment opportunities, retain existing employment, provide housing opportunities, improve or broaden the tax base or construct or improve the physical facilities and structures through the development of industrial, commercial, residential, retail and mixed use, transit-oriented development, downtown development or any combination thereof, as described in section 4 of this act.

(4) "Downtown" means a central business district or other commercial neighborhood area of a community that serves as a center of socioeconomic interaction in the community, characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, that are typically arranged along a main street and intersecting side streets and served by public infrastructure.

(5) "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the district master plan.

(6) "Increased assessed value" means the valuation amount by which the current assessed value of a tax increment district exceeds the original assessed value of the tax increment district. If the current assessed value is equal to or less than the original assessed value, there is no increased assessed value.

(7) "Maintenance and operation" means all activities necessary to maintain facilities after they have been developed and all activities necessary to operate such facilities, including, but not limited to, informational, promotional and educational programs and safety and surveillance activities.

(8) "Original assessed value" means the assessed value of all taxable real property within a tax increment district as of October first of the tax year preceding the year in which the tax increment

district was established by the legislative body of a municipality.

(9) "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 6 of this act and included in a district master plan.

(10) "Tax increment" means real property taxes assessed by a municipality upon the increased assessed value of property in the tax increment district.

(11) "Tax increment district" means that area wholly within the corporate limits of a municipality that has been established and designated as such pursuant to section 2 of this act and that is to be developed under a district master plan.

(12) "Tax year" means the period of time beginning on July first and ending on the succeeding June thirtieth.

(13) "Transit" means transportation systems in which people are conveyed by means other than their own vehicles, including, but not limited to, bus systems, street cars, ferries, light rail and other rail systems.

(14) "Transit facility" means a place providing access to transit services, including, but not limited to, bus stops, bus stations, interchanges on a highway used by one or more transit providers, ferry landings, train stations, shuttle terminals and bus rapid transit stops.

(15) "Transit-oriented development" means the development of residential, commercial and employment centers within one-half mile or walking distance of a transit facility, including rail and bus rapid transit and services that meet transit supportive standards for land uses, built environment densities and walkable environments, in order to facilitate and encourage the use of those services. Transit-oriented development includes, but is not limited to, transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; pedestrian improvements such as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments and the industrial, commercial, residential, retail and mixed-use portions of transit-oriented development projects.

Sec. 2. (NEW) (*Effective October 1, 2015*) (a) A municipal legislative body may establish a tax increment district located wholly within the boundaries of such municipality in accordance with the requirements of sections 1 to 9, inclusive, of this act. If the municipality has a charter, the establishment of such tax increment district may not be in conflict with the provisions of such charter. Establishment of a tax increment district is effective upon approval by the municipal legislative body and upon adoption of a district master plan pursuant to section 4 of this act.

(b) Within tax increment districts and consistent with the district master plan, the municipality, in addition to powers granted to it under the Constitution, the general statutes, any special act or sections 1 to 9, inclusive, of this act shall have the following powers:

(1) To acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the district master plan. The municipality may acquire property, land or easements through negotiation or by other means authorized for municipalities under the general statutes;

(2) To execute and deliver contracts, agreements and other documents relating to the operation and maintenance of the tax increment district;

(3) To issue bonds and other obligations of the municipality in accordance with the provisions set forth in section 8 of this act;

(4) Acting through its board of selectmen, town council or other governing body, to enter into written agreements with a taxpayer fixing the assessment of real estate within a tax increment district, provided (A) the term of such agreement shall not exceed fifteen years from the date of the agreement; and (B) the assessment agreed on for the real estate plus future improvements shall not be less than the assessment of the real estate as of the last regular assessment date without such future improvements. Any such agreement shall be recorded on the land records in the municipality. Recording of the agreement constitutes notice of the agreement to a subsequent purchaser or encumbrancer of the property or any part of it, whether voluntary or involuntary, and is binding upon a subsequent purchaser or encumbrancer. If the municipality claims that the taxpayer is not complying with the terms of such agreement, the municipality may bring an action in the superior court for the judicial district in which the municipality is located to force compliance with such agreement;

(5) Accept grants, advances, loans or other financial assistance from the federal government, the state, private entities or any other source, and do any and all things necessary or desirable to secure such financial aid; and

(6) Upon such terms as the municipality determines, furnish service or facilities, provide property, lend, grant or contribute funds, and take any other action of a character that it is authorized to perform for other purposes.

(c) The tax increment district may be dissolved, at any time, and the boundaries of such district may be changed, at any time, by a vote of the municipality's legislative body, except that the tax increment district may not be dissolved nor may the boundaries of the tax increment district be changed so long as any bonds or other indebtedness authorized and issued under sections 1 to 9, inclusive, of this act, except for general obligation bonds of the municipality secured solely by the full faith and credit of the municipality, or any other obligations authorized and incurred under sections 1 to 9, inclusive, of this act remain outstanding.

Sec. 3. (NEW) (*Effective October 1, 2015*) Prior to the establishment of a tax increment district and approval of a district master plan for such tax increment district, the municipal legislative body or the board of selectmen in the case of a municipality in which the legislative body is a town meeting shall (1) consider whether the proposed tax increment district and district master plan will contribute to the economic growth or well-being of the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality; (2) at least ninety days prior to establishing a tax increment district and approving the district master plan for such tax increment district, transmit the district master plan to the planning commission of the municipality, if any, requesting a study of the district master plan and a written advisory opinion. Such written advisory opinion shall include a determination on whether the plan is consistent with the plan of conservation and development of the municipality adopted under section 8-23 of the general statutes; (3) hold at least one public hearing on the proposal to establish a tax increment district. Notice of the hearing shall be published at least ten days prior to the hearing in a newspaper having general circulation within the municipality and shall include (A) the date, time and place of such hearing, and (B) the boundaries of the proposed tax increment district by legal description; and (4) determine whether the proposed tax increment district meets the following conditions:

(A) A portion of the real property within a tax increment district shall meet at least one of the following criteria: (i) Be a substandard, insanitary, deteriorated, deteriorating or blighted area; (ii) be in need of rehabilitation, redevelopment or conservation work; or (iii) be suitable for industrial, commercial, residential, mixed-use or retail uses, downtown development or transit-oriented development; and

(B) The original assessed value of a proposed tax increment district plus the original assessed value of all existing tax increment districts within the municipality may not exceed ten per cent of the total value of taxable property within the municipality as of October first of the year immediately preceding the establishment of the tax increment district. Excluded from the calculation in this subdivision is any tax increment district established on or after the effective date of sections 1 to 9, inclusive, of this act that consists entirely of contiguous property owned by a single taxpayer. For the purpose of this subdivision, "contiguous property" includes a parcel or parcels of land divided by a road, power line, railroad line or right-of-way. A municipality may not establish a tax increment district if the conditions in this subdivision are not met.

Sec. 4. (NEW) (*Effective October 1, 2015*) (a) In connection with the establishment of a tax increment district, the legislative body of a municipality shall adopt a district master plan for each tax increment district and a statement of the percentage or stated sum of increased assessed value to be designated as captured assessed value in accordance with such plan. The district master plan shall be adopted at the same time that the tax increment district is established, as part of the tax increment district adoption proceedings set forth in sections 1 to 9, inclusive, of this act.

(b) The district master plan shall include: (1) The boundaries of the tax increment district by legal description; (2) a list of the tax identification numbers for all lots or parcels within the tax increment district; (3) a description of the present condition and uses of all land and buildings within the tax increment district; (4) a description of the public facilities, improvements or programs within the tax increment district anticipated to be added and financed in whole or in part; (5) a description of the industrial, commercial, residential, mixed-use or retail improvements, downtown development or transit-oriented development within the tax increment district anticipated to be financed in whole or in part; (6) a financial plan in accordance with subsection (c) of this section; (7) a plan for the proposed maintenance and operation of the tax increment district after the planned capital improvements are completed; and (8) the maximum duration of the tax increment district, which may not exceed a total of fifty tax years beginning with the tax year in which the tax increment district is established.

(c) The financial plan for a district master plan shall include: (1) Cost estimates for the public improvements and developments anticipated in the district master plan; (2) the maximum amount of indebtedness to be incurred to implement the district master plan; (3) sources of anticipated revenues; (4) a description of the terms and conditions of any agreements, including any anticipated assessment agreements, contracts or other obligations related to the district master plan; (5) estimates of increased assessed values of the tax increment district; and (6) the portion of the increased assessed values to be applied to the district master plan as captured assessed values and resulting tax increments in each year of the plan.

(d) The district master plan may be amended from time to time by the legislative body of the municipality. Such legislative body shall review the district master plan at least once every ten years after the initial approval of the tax increment district and the district master plan in order for the tax increment district and the district master plan to remain in effect. With respect to any district master plan that includes development that is funded in whole or in part by federal funds, the provisions of this subsection shall not apply to the extent that such provisions are prohibited by federal law.

Sec. 5. (NEW) (*Effective October 1, 2015*) (a) In the district master plan, the municipality may designate all or part of the tax increment revenues generated from the increased assessed value of a tax increment district for the purpose of financing all or part of the district master plan. The amount of tax increment revenues to be designated is determined by designating the captured assessed value, subject to any assessment agreements.

(b) On or after the establishment of a tax increment district and the adoption of a district master plan, the assessor of the municipality in which it is located shall certify the original assessed value of the taxable real property within the boundaries of the tax increment district. Each year after the establishment of a tax increment district, the municipal assessor shall certify the amount of (1) the current assessed value; (2) the amount by which the current assessed value has increased or decreased from the original assessed value, subject to any assessment agreements; and (3) the amount of the captured assessed value. Nothing in this subsection allows for unequal apportionment or assessment of the taxes to be paid on real property in the municipality. Subject to any assessment agreements, an owner of real property within the tax increment district shall pay real property taxes apportioned equally with property taxes paid elsewhere in the municipality.

(c) If a municipality has designated captured assessed value under subsection (a) of section 4 of this act:

(1) The municipality shall establish a district master plan fund that consists of: (A) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan, including the reimbursement of project cost expenditures incurred by a public body, including the municipality, a developer, any property owner or any other third-party entity, and are paid in a manner other than as described in subparagraph (B) of this subdivision; and (B) in instances of indebtedness issued by the municipality in accordance with section 8 of this act to finance or refinance project costs, a development sinking fund account that is pledged to and charged with the (i) payment of the interest and principal as the interest and principal fall due, including any redemption premium; (ii) payment of the costs of providing or reimbursing any provider of any guarantee, letter of credit, policy of bond insurance or other credit enhancement device used to secure payment of debt service on any such indebtedness; and (iii) funding any required reserve fund;

(2) The municipality shall annually set aside all tax increment revenues on captured assessed values and deposit all such revenues to the appropriate district master plan fund account established under subdivision (1) of this subsection in the following order of priority: (A) To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on the indebtedness issued in accordance with section 8 of this act and the financial plan, except for general obligation bonds of the municipality secured solely by the full faith and credit of the municipality; and (B) to the project cost account, all such remaining tax increment revenues on captured assessed values;

(3) The municipality shall make transfers between district master plan fund accounts established under subdivision (1) of this subsection, provided the transfers do not result in a balance in either account that is insufficient to cover the annual obligations of that account;

(4) The municipality may, at any time during the term of the tax increment district, by vote of the municipal legislative body, return to the municipal general fund any tax increment revenues remaining in either account established under subdivision (1) of this subsection in excess of those estimated to be required to satisfy the obligations of the account after taking into account any transfer made under subdivision (3) of this subsection; and

(5) Any account or fund established pursuant to subdivision (1) of this subsection shall be audited annually by an independent auditor who is a public accountant licensed to practice in this state and who meets the independence standards included in generally accepted government auditing standards. A report of such audit shall be open to public inspection. Certified copies of such audit shall be provided to the State Auditors of Public Accounts.

Sec. 6. (NEW) (*Effective October 1, 2015*) Costs authorized for payment from a district master plan fund, established pursuant to section 5 of this act are limited to:

(1) Costs of improvements made within the tax increment district, including, but not limited to, (A) capital costs, including, but not limited to, (i) the acquisition or construction of land, improvements, infrastructure, public ways, parks, buildings, structures, railings, street furniture, signs, landscaping, plantings, benches, trash receptacles, curbs, sidewalks, turnouts, recreational facilities, structured parking, transportation improvements, pedestrian improvements and other related improvements, fixtures and equipment for public use, (ii) the acquisition or construction of land, improvements, infrastructure, buildings, structures, including facades and signage, fixtures and equipment for industrial, commercial, residential, mixed-use or retail use or transit-oriented development, (iii) the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures; (iv) environmental remediation; (v) site preparation and finishing work; and (vi) all fees and expenses associated with the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses; (B) financing costs, including, but not limited to, closing costs, issuance costs, reserve funds and capitalized interest; (C) real property assembly costs; (D) costs of technical and marketing assistance programs; (E) professional service costs, including, but not limited to, licensing, architectural, planning, engineering, development and legal expenses; (F) maintenance and operation costs; (G) administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees, other agencies or third-party entities in connection with the implementation of a district master plan; and (H) organizational costs relating to the planning and the establishment of the tax increment district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of tax increment districts and the implementation of the district master plan;

(2) Costs of improvements that are made outside the tax increment district but are directly related to or are made necessary by the establishment or operation of the tax increment district, including, but not limited to, (A) that portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the tax increment district that are required due to improvements or activities within the tax increment district, including, but not limited to, roadways, traffic signalization, easements, sewage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, electrical lines, improvements to fire stations, and street signs; (B) costs of public safety and public school improvements made necessary by the establishment of the tax increment district; and (C) costs of funding to mitigate any adverse impact of the tax increment district upon the municipality and its constituents; and

(3) Costs related to economic development, environmental improvements or employment training associated with the tax increment district, including, but not limited to, (A) economic development programs or events related to the tax increment district; (B) environmental improvement projects developed by the municipality related to the tax increment district; (C) the establishment of permanent economic development revolving loan funds, investment funds and grants; and (D) services and equipment necessary for employment skills development and training, including scholarships to in-state educational institutions for jobs created or retained in the tax increment district.

Sec. 7. (NEW) (*Effective October 1, 2015*) (a) (1) Notwithstanding any provision of the general statutes, whenever the municipality constructs, improves, extends, equips, rehabilitates, repairs, acquires or provides a grant for any public improvements within a tax increment district or finances the cost of such public improvements, the proportion of such cost or estimated cost of such public improvements and financing thereof as determined by the municipality may be assessed by the municipality, as a benefit assessment, in the manner prescribed by such municipality, upon the real property within the tax increment district that is benefited by such public improvements. The municipality may provide for the payment of such benefit assessments in annual installments, not exceeding thirty years, and may forgive such benefit assessments in any given year without causing the remainder of installments of benefit assessments to be forgiven. Benefit assessments on real property where buildings or structures are constructed or expanded after the initial benefit assessment may be assessed as if the new or expanded buildings or structures on such real property had existed at the time of the original benefit assessment.

(2) The benefit assessments shall be adopted and revised by the municipality at least annually not more than sixty days before the beginning of the fiscal year. If the benefit assessments are assessed and levied prior to the acquisition or construction of the public improvements, the amount of the benefit assessments may be adjusted to reflect the actual cost of such public improvements, including all financing costs, once such public improvements are complete, if the actual cost is greater than or less than the estimated costs.

(b) Before estimating and making a benefit assessment under subsection (a) of this section, the municipality shall hold at least one public hearing on its schedule of benefit assessments or any revision thereof. Notice of such hearing shall be published at least ten days before such hearing in a newspaper having general circulation within the municipality. The notice shall include (1) the date, time and place of hearing; (2) the boundaries of the tax increment district by legal description; (3) a statement that all interested persons owning real estate or taxable property located within the tax increment district will be given an opportunity to be heard at the hearing and an opportunity to file objections to the amount of the assessment; (4) the maximum rate of assessments to be extended in any one year; and (5) a statement indicating that the proposed list of properties to be assessed and the estimated assessments against those properties are available at the city or town office or at the office of the assessor. The notice may include a maximum number of years the assessments will be levied. Not later than the date of the publication, the municipality shall make available to any member of the public, upon request, the proposed schedule of benefit assessments. The procedures for public hearing and appeal set forth in section 7-250 of the general statutes, shall apply for all benefit assessments made by a municipality pursuant to this section, except that the board of finance, or the municipality's legislative body if no board of finance exists, shall be substituted for the water pollution control authority.

(c) A municipality may adopt ordinances apportioning the value of improvements within a tax increment district according to a formula that reflects actual benefits that accrue to the various properties because of the development and maintenance.

(d) A municipality may increase assessments or extend the maximum number of years the assessments will be levied after notice and public hearing is held pursuant to subsection (b) of this section.

(e) (1) Benefit assessments made under this section shall be collected in the same manner as municipal taxes. Municipalities are granted all the powers and privileges with respect thereto as provided to municipalities in the general statutes for the enforcement and collection of assessments and tax liens, or as otherwise provided in sections 1 to 9, inclusive, of this act. Benefit assessments shall be due and payable at such times as are fixed by the municipality, provided the municipality shall give notice of such due date not less than thirty days prior to such due date by publication in a newspaper of general circulation in the municipality and by mailing such notice to the owners of the real property assessed at their last-known address. All revenues from assessments under this section shall be paid into the appropriate district master plan fund account established under subsection (c) of section 5 of this act.

(2) If any property owner fails to pay any assessment or part of an assessment on or before the date on which such assessment or part of such assessment is due, the municipality has all the authority and powers to collect the delinquent assessments vested in the municipality by law to collect delinquent municipal taxes. Benefit assessments, if not paid when due, shall constitute a lien upon the real property served and a charge against the owners thereof, which lien and charge shall bear interest at the same rate as delinquent property taxes. Each such lien may be continued, recorded and released in the manner provided for property tax liens and shall take precedence over all other liens or encumbrances except a lien for property taxes of the municipality.

Sec. 8. (NEW) (*Effective October 1, 2015*) (a) For the purpose of carrying out or administering a district master plan or other functions authorized under sections 1 to 9, inclusive, of this act a municipality is authorized, subject to the limitations and procedures set forth in this section, to issue from time to time bonds and other obligations of the municipality that are payable solely from and secured by (1) the full faith and credit pledge of the municipality; (2) a pledge of and lien upon any or all of the income, proceeds, revenues and property of the projects within the tax increment district, including the proceeds of grants, loans, advances or contributions from the federal government, the state or other source; (3) all revenues derived under sections 5 and 7 of this act received by the municipality; or (4) any combination of the methods in subdivisions (1), (2) and (3) of this subsection. Except for bonds secured by the full faith credit pledge of the municipality, bonds authorized by this section shall not be included in computing the aggregate indebtedness of the municipality.

(b) Notwithstanding the provisions of any other statute, municipal ordinance or charter provision governing the authorization and issuance of bonds generally by the municipality, any bonds payable and secured as provided in this section shall be authorized by a resolution adopted by the legislative body of the municipality. Such bonds shall, as determined by the legislative body of the municipality or the municipal officers who are designated such authority by such body, (1) be issued and sold; (2) bear interest at the rate or rates determined by the legislative body or its designee, including variable rates; (3) provide for the payment of interest on the dates determined by the legislative body or its designee, whether before or at maturity; (4) be issued at, above or below par; (5) mature at such time or times not exceeding thirty years; (6) have rank or priority; (7) be payable in such medium of payment; (8) be issued in such form, including, without limitation, registered or book-entry form, carry such registration and transfer privileges and be made subject to purchase or redemption before maturity at such price or prices and under such terms and conditions, including the condition that such bonds be subject to purchase or redemption on the demand of the owner thereof; and (9) contain such other terms and particulars.

(c) The municipality may require that the bonds issued hereunder be secured by a trust agreement by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state. The trust agreement may contain covenants or provisions for protecting and enforcing the rights and remedies of the bondholders as may be necessary, reasonable or appropriate and not in violation of law or other provisions or covenants which are consistent with sections 1 to 9, inclusive, of this act and which the municipality determines in such proceedings are necessary, convenient or desirable in order to better secure the bonds, or will tend to make the bonds more marketable, and which are in the best interests of the municipality. The pledge by any trust agreement shall be valid and binding from time to time when the pledge is made. The revenues or other moneys so pledged and then held or thereafter received by the municipality shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the board, irrespective of whether the parties have notice thereof. All expenses incurred in carrying out such trust agreement may be treated as project costs. In case any municipal officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before the delivery of the obligations, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery. Notwithstanding any provision of the Uniform Commercial Code, neither this section, the resolution of the municipality approving the bonds or any trust agreement by which a pledge is created need be filed or recorded, and no filing need be made under title 42a of the general statutes.

(d) While any bonds issued hereunder remain outstanding, the existence of the tax increment district and the powers and duties of the municipality with respect to such tax increment district shall not be diminished or impaired in any way that will affect adversely the interests and rights of the holders of the bonds. Any bonds issued by a municipality pursuant to this section, except for general obligation bonds of the municipality secured by the full faith and credit pledge of the municipality, shall contain on their face a statement to the effect that neither the state nor the municipality shall be obliged to pay the principal of or the interest thereon, and that neither the full faith and credit or taxing power of the state or the municipality is pledged to the payment of the bonds. All bonds issued under this section shall have and are hereby declared to have all the qualities and incidents of negotiable instruments, as provided in title 42a of the general statutes.

(e) Any pledge made by a municipality pursuant to this section shall be valid and binding from the time when the pledge is made, and any revenues or other receipts, funds or moneys so pledged and thereafter received by the municipality shall be subject immediately to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the municipality, irrespective of whether such parties have notice of such lien.

(f) Bonds issued under this section are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control and belonging to them and such bonds shall be securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds of the state is now or may hereafter be authorized by law. Bonds may be issued under this section without obtaining the consent of the state and without any proceedings or the happening of any other conditions or things other than those proceedings, conditions or things that are specifically required thereof by this section.

(g) Nothing in this section restricts the ability of the municipality to raise revenue for the payment of project costs in any manner otherwise authorized by law.

(h) As used in this section, "bonds" means any bonds, including refunding bonds, notes, interim certificates, debentures or other obligations.

Sec. 9. (NEW) (*Effective October 1, 2015*) The legislative body of a municipality is encouraged to create an advisory board, whose members include owners or occupants of real property located in or adjacent to the tax increment district they serve. The advisory board may advise the legislative body and any designated administrative entity on the planning, construction and implementation of the district master plan and maintenance and operation of the tax increment district after the district master plan has been completed.

Approved June 19, 2015

Department of Chief of Staff

Chapter ___: Department of the Chief of Staff

§ __-I Office Established.

On and after the effective date hereof, there shall be a Chief of Staff of the City of Norwalk, who shall have all of the powers, duties and responsibilities hereinafter set forth in the ordinance and in the position description for the Chief of Staff of the City of Norwalk as adopted and amended from time to time.

§ ___-2 Appointment.

The Mayor of the City is hereby authorized to appoint and hire a Chief of Staff. The Chief of Staff shall serve at the pleasure of the Mayor and may be removed at any time by the Mayor at his/her discretion. The compensation and benefits of the Chief of Staff shall be detailed in the position description as adopted and amended from time to time.

§ ___-3 Duties, supervision and qualifications.

A. Generally, advises the Mayor and provides extensive professional assistance and recommendations on City issues to the Mayor and Department Chiefs and performs highly responsible administrative work covering a broad range of municipal activities. This is a professional position requiring extensive experience in government and business and exceptional analytical and communication skills.

B. The Chief of Staff shall serve under the direction of the Mayor and perform all duties assigned by the Mayor, including those outlined in the position description entitled "Chief of Staff", as maintained by the Human Resources and Personnel Department, which is incorporated by reference as if fully set forth herein, including any additional terms and conditions of employment or duties negotiated or required from time to time when not inconsistent with this ordinance and reasonably necessary to carry out its purposes.

Chapter ___: Department of the Chief of Staff

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On and after the effective date hereof, there shall be a Chief of Staff of the City of Norwalk, who shall have all of the powers, duties and responsibilities hereinafter set forth in the ordinance and in the position description for the Chief of Staff of the City of Norwalk as adopted and amended from time to time.

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The Mayor of the City is hereby authorized to appoint and hire a Chief of Staff. The Chief of Staff shall serve at the pleasure of the Mayor and may be removed at any time by the Mayor at his/her discretion. The compensation and benefits of the Chief of Staff shall be detailed in the position description as adopted and amended from time to time.

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A. Generally, advises the Mayor and provides extensive professional assistance and recommendations on City issues to the Mayor and Department Chiefs and performs highly responsible administrative work covering a broad range of municipal activities. This is a professional position requiring extensive experience in government and business and exceptional analytical and communication skills.

~~A.~~B. The Chief of Staff shall serve under the direction of the Mayor and perform all duties assigned by the Mayor, including those outlined in the position description entitled "Chief of Staff", as maintained by the Human Resources and Personnel Department, which is incorporated by reference as if fully set forth herein, including any additional terms and conditions of employment or duties negotiated or required from time to time when not inconsistent with this ordinance and reasonably necessary to carry out its purposes.

Economic and Community Development Department

Chapter _____: Economic and Community Development Department

§ ___-1 Office Established.

On and after the effective date hereof, there shall be a Chief of Economic and Community Development of the City of Norwalk, who shall have all of the powers, duties and responsibilities hereinafter set forth in the ordinance and in the position description for the Chief of Economic and Community Development of the City of Norwalk as adopted and amended from time to time.

§ ___-2 Appointment.

The head of the department shall be the Chief of Economic and Community Development. The Mayor is hereby authorized to appoint and hire a Chief of Economic and Community Development who shall be subject to confirmation by the Common Council. The Chief of Economic and Community Development shall serve at the pleasure of the Mayor and may be removed at any time by the Mayor at his/her discretion. The compensation and benefits of the Chief of Economic and Community Development shall be detailed in the position description as adopted and amended from time to time.

§ ___-3 Duties.

A. The Chief of Economic and Community Development shall be responsible for neighborhood, community and economic development planning and programs; planning and zoning; code enforcement; blight enforcement; business development and tourism, transportation, mobility and parking as well as a liaison to state and federal agencies dealing with these areas; such other related activities as may be assigned to the Chief from time to time by the Mayor or the Common Council; and those outlined in the position description entitled "Chief of Economic and Community Development".

B. The Chief of Economic and Community Development shall have the general supervision of the operation and management of the several units of the department. The Chief shall be responsible for the presentation of a consolidated budget to the Common Council; the supervision of all employees of the department and the preparation of an annual report of the activities of the entire department of Economic and Community Development.

Chapter ___: ~~Community and~~ Economic and Community Development Department

§ ___-1 Office Established.

On and after the effective date hereof, there shall be a Chief of Economic and Community Development of the City of Norwalk, who shall have all of the powers, duties and responsibilities hereinafter set forth in the ordinance and in the position description for the Chief of Economic and Community Development of the City of Norwalk as adopted and amended from time to time.

§ ___-2 Appointment.

The head of the department shall be the Chief of Economic and Community Development. The Mayor is hereby authorized to appoint and hire a Chief of Economic and Community Development who shall be subject to confirmation by the Common Council. The Chief of Economic and Community Development shall serve at the pleasure of the Mayor and may be removed at any time by the Mayor at his/her discretion. The compensation and benefits of the Chief of Economic and Community Development shall be detailed in the position description as adopted and amended from time to time.

§ ___-3 Duties.

A. The Chief of Economic and Community Development shall be responsible for neighborhood, community and economic development planning and programs; planning and zoning; code enforcement; blight enforcement; business development and tourism, transportation, mobility and parking as well as a liaison to state and federal agencies dealing with these areas; such other related activities as may be assigned to the Chief from time to time by the Mayor or the Common Council; and those outlined in the position description entitled "Chief of Economic and Community Development".

~~A.~~B. The Chief of Economic and Community Development shall have the general supervision of the operation and management of the several units of the department. The Chief shall be responsible for the presentation of a consolidated budget to the Common Council; the supervision of all employees of the department and the preparation of an annual report of the activities of the entire department of Economic and Community Development.

~~§ ___-3.~~

~~§ ___-4.~~

Proposed revisions/amendments to Article III: Department of Recreation and Parks

Article III: Department of Recreation and Parks

[Adopted 8-28-1979[1]]

[1] *Editor's Note: This ordinance also repealed former Art. III, Recreation and Park Commission, adopted 6-20-1961, effective 9-1-1961, as amended.*

§ 74-23 Establishment; powers and duties.

There is hereby established in the City of Norwalk a Department of Recreation and Parks.

A. The Department shall be charged with the control, development, management, operation and maintenance of a system of public parks and recreational areas and facilities now in existence or that may hereafter be acquired, except narrow parkways, boulevard strips and small areas along streets which shall be under the jurisdiction of the Department of Public Works; and the control, development, management, operation and maintenance of the Oak Hills Park and all other matters relating thereto shall be under a separate department, as provided by ordinance. Said Department shall be charged with the construction, protection, repair, furnishing, cleaning, heating, lighting and general care of all public buildings, except school buildings and structures under the jurisdiction of the Board of Education, and the water pollution control plants, pump stations and the solid waste transfer station.
[Amended 7-27-1982]

B. The Department shall be charged with the supervision and maintenance of playgrounds, playfields, bathing beaches, swimming pools, recreation centers and other recreation and park activities, areas and facilities.

C. The Department shall have the authority to conduct outdoor and indoor recreation activities and facilities on public school grounds and in public school buildings, provided that planned school activities under the jurisdiction of the Board of Education shall have priority.

D. The Department, with the approval of the Common Council, shall have the authority to conduct, at reasonable charges, such facilities for amusement, entertainment, refreshment or transportation of the public as are suitable for park and recreation purposes.

E. The Department may plan, set up or place and protect and care for flowers, vines, shrubs and trees to adorn and improve public squares, grounds, boulevards, streets, avenues or spaces within the city.

F. The Department shall recommend to the Common Council the institution of condemnation proceedings whenever, in its judgment, private property should be taken in the name of the city for the purposes of the Department.

G. The Department shall have the right to call upon any other department of the city government for assistance in performing its duties, and it shall be the duty of such other departments to comply with a proper request of said Department. Any questions as to what shall constitute a proper request for assistance shall be decided by the Mayor.

H. The Department shall exercise such other duties as are conferred on it by ordinance and shall perform such special functions and assignments as the Mayor and Council may from time to time direct.

§ 74-24 Director.

A. The head of the Department of Recreation and Parks shall be the Director of Recreation and Parks, who shall be in charge of and responsible for the operation of the Department in carrying out its functions and duties as set forth in this ordinance. He/She shall be appointed by the Mayor, subject to confirmation by the Common Council, for a term of four years and may at the beginning of a term be made subject to a probationary period of service, after which he/she may be removed during the term only for good cause. The Director reports to the Chief of Operations and Public Works. The Director so appointed upon the adoption of this ordinance shall serve until January 1, 1982; thereafter the term of the

Director shall expire on January 1 at intervals of four years.

B. The Director of Recreation and Parks shall have substantial training and experience in recreation and park management and qualifications conforming to such formal job description as may be adopted by the Common Council. His/Her compensation shall be fixed by ordinance. He/She shall not, without the express consent of the Mayor, engage in any business or hold any office, public or private, for which a salary or emolument is paid.
[Amended 10-22-1985]

C. [1]The Director shall recommend such personnel positions as are required to carry out the duties and responsibilities assigned to the Department pursuant to this ordinance. The number, duties, responsibilities and salaries of such personnel positions shall be set forth in written job specifications, approved by the Common Council, and shall further be subject to such other approval of the Board of Estimate as may be required by law. The Director may appoint and may remove individual assistants and employees of the Department in accordance with city policies and procedures. The Mayor shall have the authority to make temporary reassignments of Department employees to duties in other city departments during seasonal periods when the Department workload shall warrant such reassignment.

[1] *Editor's Note: Former Subsection C was repealed 10-22-1985. This legislation also provided for the redesignation of former Subsection D as the present Subsection C.*

§ 74-25 Adoption of additional regulations; violations and penalties. [1]

[Amended 10-22-1985]

The Common Council may from time to time adopt such additional rules and regulations as it shall deem necessary for the proper administration of beaches, parks and recreational programs within the City in the following manner:

Prior to adopting any such rules and regulations, the Common Council, or a committee thereof, shall conduct a public hearing for the

A. Prior to adopting any such rules and regulations, the Common Council, or a committee thereof, shall conduct a public hearing for the purpose of considering their adoption. Notice of the time and place of such public hearing, which notice shall include the rules or regulations proposed, shall be published twice in a local newspaper having substantial circulation in the City of Norwalk at least five days, but not more than 15 days, prior to the date of said hearing.

B. Following such public hearing, the Council shall act upon such rules and may make such changes or alterations in the form or content of the proposed rules and regulations as seem appropriate or necessary as a result of the public hearing held in connection therewith. Such changes, additions or alterations shall not require further public notice.

C. Such rules shall become effective after publication once in a local newspaper having substantial circulation in the City of Norwalk within 21 days following Council approval.

D. Any person who shall violate any of the rules and regulations adopted by the Common Council, as above provided, shall be fined not more than $100; and the Department shall also proceed against any violator, as provided by law, for reimbursement for damage to city property from his/her violation.

[1] *Editor's Note: Former § 74-25, Commission, was repealed 10-22-1985. This legislation also provided for the renumbering of the remaining sections in the chapter.*

§ 74-26 Fees.

[Amended 10-22-1985]

A. The Director shall, with the concurrence of the Council and after a public hearing, set fees as may be appropriated for the use of city parks and recreational facilities. Said public hearing shall be held upon no less than five nor more than 15 days' notice of the time and place of such hearing, and said notice shall be published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the City of Norwalk. All fees shall be deposited with the general fund of the City of Norwalk. Fees set by the Director for participation in individual programs and events shall not be subject to the provisions of this section.

B. The Director may, with the concurrence of the Council, establish such regulations as are appropriate for the administration of the provisions of this section.

§ 74-27 Severability; when effective.

A. The provisions of this ordinance shall supersede all ordinances or parts thereof inconsistent herewith. If any part of this ordinance shall be declared invalid by a court of competent jurisdiction, all other parts shall remain in effect.

B. This ordinance shall take effect upon adoption and compliance with the provisions of § 1-193 of the Code of the City of Norwalk.

Article III: Department of Recreation and Parks

[Adopted 8-28-1979[1]]

[1] *Editor's Note: This ordinance also repealed former Art. III, Recreation and Park Commission, adopted 6-20-1961, effective 9-1-1961, as amended.*

§ 74-23 Establishment; powers and duties.

There is hereby established in the City of Norwalk a Department of Recreation and Parks.

A. The Department shall be charged with the control, development, management, operation and maintenance of a system of public parks and recreational areas and facilities now in existence or that may hereafter be acquired, except narrow parkways, boulevard strips and small areas along streets which shall be under the jurisdiction of the Department of Public Works; and the control, development, management, operation and maintenance of the Oak Hills Park and all other matters relating thereto shall be under a separate department, as provided by ordinance. Said Department shall be charged with the construction, protection, repair, furnishing, cleaning, heating, lighting and general care of all public buildings, except school buildings and structures under the jurisdiction of the Board of Education, and the water pollution control plants, pump stations and the solid waste transfer station.
[Amended 7-27-1982]

B. The Department shall be charged with the supervision and maintenance of playgrounds, playfields, bathing beaches, swimming pools, recreation centers and other recreation and park activities, areas and facilities.

C. The Department shall have the authority to conduct outdoor and indoor recreation activities and facilities on public school grounds and in public school buildings, provided that planned school activities under the jurisdiction of the Board of Education shall have priority.

D. The Department, with the approval of the Common Council, shall have the authority to conduct, at reasonable charges, such facilities for amusement, entertainment, refreshment or transportation of the public as are suitable for park and recreation purposes.

E. The Department may plan, set up or place and protect and care for flowers, vines, shrubs and trees to adorn and improve public squares, grounds, boulevards, streets, avenues or spaces within the city.

F. The Department shall recommend to the Common Council the institution of condemnation proceedings whenever, in its judgment, private property should be taken in the name of the city for the purposes of the Department.

G. The Department shall have the right to call upon any other department of the city government for assistance in performing its duties, and it shall be the duty of such other departments to comply with a proper request of said Department. Any questions as to what shall constitute a proper request for assistance shall be decided by the Mayor.

H. The Department shall exercise such other duties as are conferred on it by ordinance and shall perform such special functions and assignments as the Mayor and Council may from time to time direct.

§ 74-24 Director.

A. The head of the Department of Recreation and Parks shall be the Director of Recreation and Parks, who shall be in charge of and responsible for the operation of the Department in carrying out its functions and duties as set forth in this ordinance. He/She shall be appointed by the Mayor, subject to confirmation by the Common Council, for a term of four years and may at the beginning of a term be made subject to a probationary period of service, after which he/she may be removed during the term only for good cause. The Director reports to the Chief of Operations and Public Works. The Director so appointed upon the adoption of this ordinance shall serve until January 1, 1982; thereafter the term of the

Director shall expire on January 1 at intervals of four years.

B. The Director of Recreation and Parks shall have substantial training and experience in recreation and park management and qualifications conforming to such formal job description as may be adopted by the Common Council. His/Her compensation shall be fixed by ordinance. He/She shall not, without the express consent of the Mayor, engage in any business or hold any office ~~elee~~, public or private, for which a salary or emolument is paid.
[Amended 10-22-1985]

C. [1]The Director shall recommend such personnel positions as are required to carry out the duties and responsibilities assigned to the Department pursuant to this ordinance. The number, duties, responsibilities and salaries of such personnel positions shall be set forth in written job specifications, approved by the Common Council, and shall further be subject to such other approval of the Board of Estimate as may be required by law. The Director may appoint and may remove individual assistants and employees of the Department in accordance with city policies and procedures. The Mayor shall have the authority to make temporary reassignments of Department employees to duties in other city departments during seasonal periods when the Department workload shall warrant such reassignment.

[1] *Editor's Note: Former Subsection C was repealed 10-22-1985. This legislation also provided for the redesignation of former Subsection D as the present Subsection C.*

§ 74-25 Adoption of additional regulations; violations and penalties. [1]

[Amended 10-22-1985]

The Common Council may from time to time adopt such additional rules and regulations as it shall deem necessary for the proper administration of beaches, parks and recreational programs within the City ~~and parks~~ in the following manner:

A. Prior to adopting any such rules and regulations, the Common Council, or a committee thereof, shall conduct a public hearing for the purpose of considering their adoption. Notice of the time and place of such public hearing, which notice shall include the rules or regulations proposed, shall be published twice in a local newspaper having substantial circulation in the City of Norwalk at least five days, but not more than 15 days, prior to the date of said hearing.

B. Following such public hearing, the Council shall act upon such rules and may make such changes or alterations in the form or content of the proposed rules and regulations as seem appropriate or necessary as a result of the public hearing held in connection therewith. Such changes, additions or alterations shall not require further public notice.

C. Such rules shall become effective after publication once in a local newspaper having substantial circulation in the City of Norwalk within 21 days following Council approval.

D. Any person who shall violate any of the rules and regulations adopted by the Common Council, as above provided, shall be fined not more than $100; and the Department shall also proceed against any violator, as provided by law, for reimbursement for damage to city property from his/her violation.

[1] *Editor's Note: Former § 74-25, Commission, was repealed 10-22-1985. This legislation also provided for the renumbering of the remaining sections in the chapter.*

§ 74-26 Fees.

[Amended 10-22-1985]

A. The Director shall, with the concurrence of the Council and after a public hearing, set fees as may be appropriated for the use of city parks and recreational facilities. Said public hearing shall be held upon no less than five nor more than 15 days' notice of the time and place of such hearing, and said notice shall be published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the City of Norwalk. All fees shall be deposited with the general fund of the City of Norwalk. Fees set by the Director for participation in individual programs and events shall not be subject to the provisions of this section.

B. The Director may, with the concurrence of the Council, establish such regulations as are appropriate for the administration of the provisions of this section.

§ 74-27 Severability; when effective.

A. The provisions of this ordinance shall supersede all ordinances or parts thereof inconsistent herewith. If any part of this ordinance shall be declared invalid by a court of competent jurisdiction, all other parts shall remain in effect.

B. This ordinance shall take effect upon adoption and compliance with the provisions of § 1-193 of the Code of the City of Norwalk.

Proposed revisions/amendments to Department of Public Works

Chapter 90: Department of Operations and Public Works

[HISTORY: Adopted by the City of Norwalk Common Council 11-9-1993;[1] amended in its entirety 12-12-2006. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Parking Authority — See Ch. **73A**.
Public sewers — See Ch. **91**.
Septage disposal — See Ch. **92**.
Collection and disposal of solid waste — See Ch. **94**.
Streets and sidewalks — See Ch. **95**.
Excavations and encroachments — See Ch. **96**.
Excavating and filling of land — See Ch. **97**.
Vehicles and traffic — See Ch. **98**.
Snow emergency — See Ch. **99**.
Water Pollution Control Authority — See Ch. **113**.

[1] *Editor's Note: This ordinance superseded former Ch. 90, Public Works, Department of, adopted 12-12-2006 5-10-1988.*

§ 90-1 Establishment and functions.

There is established a Department of Operations and Public Works which was formerly known as the Department of Public Works.

The functions of which shall include:

A. The maintenance and repair of all accepted streets and appurtenances and of public ways and public grounds not under the supervision of others.

B. The collection and disposal of solid waste in accordance with state statutes.

C. The management and operation of the wastewater treatment plant and collection system. The Chief of Operations and Public Works, which was formerly known as the Director of Public Works, shall have responsible charge, jurisdiction, rights and powers to perform all duties relating to the supervision, operation, repair, maintenance and upkeep of the wastewater system of the City. He/She shall, subject to the orders and directions of the Water Pollution Control Authority, have charge of the sewer system of the Fourth Taxing District and of the care and maintenance thereof and of the construction of all new sewers.

D. The preparation, or assistance in the preparation, of plans and specifications for bidding the construction, demolition, repair, renovation or rehabilitation of municipal improvements and all manner of public works projects carried out by the City.

E. The supervision and coordination of public improvements carried out by contract to the City of Norwalk and the performance, direction or inspection of actual conduct of all construction work by or on behalf of the City.

F. **These functions were moved to Transporation, Mobility and Parking.**

G. **These functions were moved to Transporation, Mobility and Parking.**

H. The prevention of encroachment and excavations in the public streets and highways, except in accordance with duly adopted law and regulation.

I. **These functions were moved to Transporation, Mobility and Parking.**

J. **These functions were moved to Transporation, Mobility and Parking.**

K. The development and administration of a comprehensive program of fleet maintenance services for all City departments, agencies and commissions, with the exception of the Fire Department. The program shall include the acquisition, assignment, disposition, sale and modification of all equipment and related parts and supplies. Acquisition and assignment of police vehicles shall be the responsibility of the Police Department. Acquisition and assignment of parks maintenance vehicles and equipment shall be the responsibility of this Department.

L. The control, development, operation and maintenance of a system of public parks and recreational areas and facilities, including narrow parkways, boulevard strips and small areas along streets, now in existence or that may hereafter be acquired; and the control, development, management, operation and maintenance of the Oak Hills Park and all other matters relating thereto shall be under a separate department, as provided by ordinance. Said Department shall be charged with the construction, protection, repair, furnishing, cleaning, heating, lighting and general care of all public buildings, except school buildings and structures under the jurisdiction of the Board of Education, and the water pollution control plants, pump stations and the solid waste transfer station.

M. The maintenance of playgrounds, playfields, bathing beaches, swimming pools, recreation centers and other recreation and park activities, areas and facilities.

N. May plan, set up or place and protect and care for flowers, vines, shrubs and trees to adorn and improve public squares, grounds, boulevards, streets, avenues or spaces within the City.

O. Shall recommend to the Common Council the institution of condemnation proceedings whenever, in its judgment, private property should be taken in the name of the City for the purposes of the Department.

P. Shall have the right to call upon any other department of the City government for assistance in performing its duties, and it shall be the duty of such other departments to comply with a proper request of said Department. Any questions as to what shall constitute a proper request for assistance shall be decided by the Mayor.

§ 90-2 Chief of Operations and Public Works.

The head of the Department of Operations and Public Works shall be the Chief of Operations and Public Works , who shall be appointed by the Mayor, subject to confirmation by the Common Council, and may be removed by the Mayor at his/her discretion. The Chief shall have had at least five years of applicable executive or administrative experience prior to appointment. His/her compensation shall be fixed by ordinance. He/She shall be licensed to practice professional engineering in the State of Connecticut or shall become certified to do so within six months of assuming the position of Chief of Operations and Public Works. He/She shall have all the powers and duties hitherto conferred or imposed by law, ordinance or Charter provision on the Commissioner of Operations and Public Works and such other duties as may be required of him/her by ordinance.

§ 90-3 Staff.

The Chief is authorized to employ, in compliance with all existing procedures, all necessary assistants and staff for the carrying out of the duties imposed upon him/her by this Code.

§ 90-4 Approval of rates and fees.

A. The Chief shall, with the concurrence of the Common Council, make and alter, from time to time, rates, fines, penalties and fees with respect to operations of the Department. The Chief shall establish rates, fines, penalties and fees to be charged for the various departmental services and functions and shall submit same, hereinafter referred to as the "Fee Schedule," to the Public Works Committee, which shall hold a public hearing thereon within 30 days. Said public hearing shall be held upon no less than seven nor more than 14 days' notice of the time and place of such hearing, published in the form of a legal advertisement appearing in a newspaper having substantial circulation in the City. Within 30 days of receipt by the City Clerk of notice of the action taken by the Public Works Committee subsequent to such public hearing, the Common Council shall act upon the Fee Schedule. If the Council takes no action within such 30 days, the Fee Schedule shall be deemed approved, and the City Clerk shall issue a notice so stating, which shall be maintained with the records of the Common Council. If the Council votes to disapprove all or a portion of the Fee Schedule, it may itself establish any of such rates, fees, charges or penalties, or may ask the Chief to submit revised proposals to the Common Council.

B. The Chief shall recommend to the Water Pollution Control Authority rates, fines, penalties and fees, or alterations to same, with respect to operations of the wastewater collection and treatment system. The Chief shall organize proposed rates, fines, penalties and fees to be charged for the various system services and functions, or alterations to same, into the Fee Schedule and submit to the Water Pollution Control Authority, which shall hold a public hearing thereon within 30 days. Said public hearing shall be held upon no less than seven nor more than 14 days' notice of the time and place of such hearing, published in the form of a legal advertisement appearing in a newspaper having substantial circulation in the City. If the Water Pollution Control Authority votes to disapprove all or a portion of the Fee Schedule, it may itself establish any of such rates, fees, charges or penalties, or may ask the Chief to submit revised proposals to the Common Council. The Chief shall implement the approved Fee Schedule.

C. **These functions were moved to Transporation, Mobility and Parking.**

D. The approved Fee Schedules, as they may be modified from time to time in accordance with the procedure set forth in this section, shall be posted at the City website and in the offices of the City Clerk and the Department of Operations and Public Works at all times and shall be made available for distribution to persons requesting same.

§ 90-5 Principal Engineer.

The Chief shall employ and maintain, as a regular employee, a Principal Engineer of the Department, who shall be a qualified professional civil engineer with at least five years of experience with the design or construction of public works, highways, public utilities and municipal improvements. He/She shall be licensed to practice in the State of Connecticut or shall become certified to do so within six months of assuming the position of Principal Engineer. Said Engineer shall provide professional assistance to the Chief concerning engineering projects and shall supervise the Department's engineering and construction administration staff at the direction of the Chief.

§ 90-6 Duties and responsibilities of Chief.

A. The Chief shall cause to be made and prepared all surveys, maps, profiles, calculations, construction documents, drawings and specifications required for the use of the City and shall cause to be performed all surveying and engineering services which may be required of him/her by the Common Council and by each and every department, authority, commission or agency of the City government.

B. The Chief shall have the care and custody of all maps and plans of the public works and improvements of the City.

C. It shall be the duty of the Chief to record, and keep in such manner that they can easily be examined, all surveys and layouts of streets, sewers and public works for which a manuscript, survey or layout is adopted by the Common Council.

D. It shall be the responsibility of the Chief to establish and prepare the necessary standard construction specifications, design standards and manuals required for the operations of the Department, the wastewater collection and treatment system and the parking system, subject to the concurrence of the Public Works Committee of the Common Council, the Water Pollution Control Authority or the Parking Authority.

E. The Chief shall be charged with the control, development, operation and maintenance of a system of public parks and recreational areas and facilities now in existence or that may hereafter be acquired as further explained in § 90-1 and § 74-23 through § 74-27.

§ 90-7 Recordkeeping requirements.

A. The Chief shall keep a written record of all permits and licenses granted under Chapters **90** through **99** of the Code, and such written record shall at all times be open to inspection.

B. The Chief shall keep a detailed and properly classified account of all expenses in his/her Department, which shall at all times be open to inspection.

C. The Chief shall at the end of each fiscal year complete a report in writing to the Common Council of all work done and money expended under his/her direction during such period.

D. The Chief shall keep a record of complaints made by the public, and shall enter therein all complaints made to him/her concerning streets, highways, sidewalks, gutters, parking facilities, wastewater collection and treatment facilities and public places, and any breach of Chapters **90** through **99** of this Code, together with the action taken by him/her with respect thereto.

§ 90-8 (Reserved)

§ 90-9 Effect on taxing districts.

Nothing in §§ **90-1** through 90-8 shall be construed to affect the buildings, structures and properties belonging to the First, Second, Third or Sixth Taxing Districts of said City or their management and operation. When, in the judgment of the Chief, public safety is or may be adversely affected by work to be performed by the taxing districts, the Chief may at his/her discretion make the requirements of this chapter and any other appropriate chapter applicable to such taxing district.

§ 90-10 Interference with personnel.

No person shall resist, molest, interfere with or disobey the Chief or his/her assistants while engaged in the duty of keeping the streets, sidewalks and public places of the City open and free from obstruction by vehicles, crowds, groups of persons or otherwise.

§ 90-11 Severability.

If any provision, clause or phrase of this Chapter **90** is adjudged by any court of competent jurisdiction to be invalid or if the applicability thereof to any persons or circumstances is held invalid, such judgment shall not invalidate the remainder, and the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 90-12 Repealer.

Any provisions of the Code of the City of Norwalk inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency.

Chapter 90: ~~Public Works,~~ Department of Operations and Public Works

[HISTORY: Adopted by the City of Norwalk Common Council 11-9-1993;[1] amended in its entirety 12-12-2006. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

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B. The collection and disposal of solid waste in accordance with state statutes.

C. The management and operation of the wastewater treatment plant and collection system. The Chief of Operations and Public Works, which was formerly known as the Director of Public Works, ~~Director of Public Works~~ shall have responsible charge, jurisdiction, rights and powers to perform all duties relating to the supervision, operation, repair, maintenance and upkeep of the wastewater system of the City. He/She shall, subject to the orders and directions of the Water Pollution Control Authority, have charge of the sewer system of the Fourth Taxing District and of the care and maintenance thereof and of the construction of all new sewers.

D. The preparation, or assistance in the preparation, of plans and specifications for bidding the construction, demolition, repair, renovation or rehabilitation of municipal improvements and all manner of public works projects carried out by the City.

E. The supervision and coordination of public improvements carried out by contract to the City of Norwalk and the performance, direction or inspection of actual conduct of all construction work by or on behalf of the City.

~~**F.** The analysis, planning, recommendations, execution and furnishing of other assistance to the Traic Authority with respect to traic safety and control, on-street parking facilities, installation and maintenance of traic control devices, street and safety signage, and roadway safety markings and related aspects of the above functions assigned to the Department by ordinance.~~ **These functions were moved to Transporation, Mobility and Parking.**

~~**G.**~~**F.** ~~The analysis, planning, recommendations, execution and furnishing of other assistance to the Parking Authority with respect to all City parking facilities and operations.~~ **These functions were moved to Transporation, Mobility and Parking.**

~~**H.**~~**G.** The prevention of encroachment and excavations in the public streets and highways, except in accordance with duly adopted law and regulation.

~~**I.** The acceptance and abandonment of streets and highways.~~ **These functions were moved to Transporation, Mobility and Parking.**

~~J.~~H. ~~The establishment of snow emergency routes and rules for parking thereon during declared snow emergencies.~~ **These functions were moved to Transporation, Mobility and Parking.**

~~K.~~I. The development and administration of a comprehensive program of fleet maintenance services for all City departments, agencies and commissions, with the exception of the Fire Department. The program shall include the acquisition, assignment, disposition, sale and modification of all equipment and related parts and supplies. Acquisition and assignment of police vehicles shall be the responsibility of the Police Department. Acquisition and assignment of parks maintenance vehicles and equipment shall be the responsibility of ~~the Parks and Recreation Department.~~ this Department.

L. The control, development, operation and maintenance of a system of public parks and recreational areas and facilities, including narrow parkways, boulevard strips and small areas along streets, now in existence or that may hereafter be acquired; and the control, development, management, operation and maintenance of the Oak Hills Park and all other matters relating thereto shall be under a separate department, as provided by ordinance. Said Department shall be charged with the construction, protection, repair, furnishing, cleaning, heating, lighting and general care of all public buildings, except school buildings and structures under the jurisdiction of the Board of Education, and the water pollution control plants, pump stations and the solid waste transfer station.

M. The maintenance of playgrounds, playfields, bathing beaches, swimming pools, recreation centers and other recreation and park activities, areas and facilities.

N. May plan, set up or place and protect and care for flowers, vines, shrubs and trees to adorn and improve public squares, grounds, boulevards, streets, avenues or spaces within the City.

O. Shall recommend to the Common Council the institution of condemnation proceedings whenever, in its judgment, private property should be taken in the name of the City for the purposes of the Department.

P. Shall have the right to call upon any other department of the City government for assistance in performing its duties, and it shall be the duty of such other departments to comply with a proper request of said Department. Any questions as to what shall constitute a proper request for assistance shall be decided by the Mayor.

§ 90-2 ~~Director~~ Chief of Operations and Public Works.

The head of the Department of Operations and Public Works -shall be the Chief of Operations and -Public Works ~~Director~~, who shall be appointed by the Mayor, subject to confirmation by the Common Council, and may be removed by the Mayor at his/her discretion. The Chief ~~Director~~ shall have had at least five years of applicable executive or administrative experience prior to appointment. His/her compensation shall be fixed by ordinance. He/She shall be licensed to practice professional engineering in the State of Connecticut or shall become certified to do so within six months of assuming the position of Chief ~~Director~~ of Operations and Public Works. He/She shall have all the powers and duties hitherto conferred or imposed by law, ordinance or Charter provision on the Commissioner of Operations and Public Works and such other duties as may be required of him/her by ordinance.

§ 90-3 Staff.

The Chief ~~Director~~ is authorized to employ, in compliance with all existing procedures, all necessary assistants and staff for the carrying out of the duties imposed upon him/her by this Code.

§ 90-4 Approval of rates and fees.

A. The Chief ~~Director~~ shall, with the concurrence of the Common Council, make and alter, from time to time, rates, fines, penalties and fees with respect to operations of the Department. The Chief ~~Director~~ shall establish rates, fines, penalties and fees to be charged for the various departmental services and functions and shall submit same, hereinafter referred to as the "Fee Schedule," to the Public Works Committee, which shall hold a public hearing thereon within 30 days. Said public hearing shall be held upon no less than seven nor more than 14 days' notice of the time and place of such hearing, published in the form of a legal advertisement appearing in a newspaper having substantial circulation in the City. Within 30 days of receipt by the City Clerk of notice of the action taken by the Public Works Committee subsequent to such public hearing, the Common Council shall act upon the Fee Schedule. If the Council takes no action within such 30 days, the Fee Schedule shall be deemed approved, and the City Clerk shall issue a notice so stating, which shall be maintained with the records of the Common Council. If the Council votes to disapprove all or a portion of the Fee Schedule, it may itself establish any of such rates, fees, charges or penalties, or may ask the Chief ~~Director~~ to submit revised proposals to the Common Council.

§ 90-5 Principal Engineer.

B. The Chief ~~Director~~ shall recommend to the Water Pollution Control Authority rates, fines, penalties and fees, or alterations to same, with respect to operations of the wastewater collection and treatment system. The Chief ~~Director~~ shall organize proposed rates, fines, penalties and fees to be charged for the various system services and functions, or alterations to same, into the Fee Schedule and submit to the Water Pollution Control Authority, which shall hold a public hearing thereon within 30 days. Said public hearing shall be held upon no less than seven nor more than 14 days' notice of the time and place of such hearing, published in the form of a legal advertisement appearing in a newspaper having substantial circulation in the City. If the Water Pollution Control Authority votes to disapprove all or a portion of the Fee Schedule, it may itself establish any of such rates, fees, charges or penalties, or may ask the Chief ~~Director~~ to submit revised proposals to the Common Council. The Chief ~~Director~~ shall implement the approved Fee Schedule.

C. ~~The Director shall recommend to the Parking Authority rates, fines, penalties and fees, or alterations to same, with respect to operations of the parking system. The Director shall organize proposed rates, fines, penalties and fees to be charged for the various system services and functions, or alterations to same, into the Fee Schedule and submit to the Parking Authority, which shall hold a public hearing thereon within 30 days. Said public hearing shall be held upon no less than seven nor more than 14 days' notice of the time and place of such hearing, published in the form of a legal advertisement appearing in a newspaper having substantial circulation in the City. If the Parking Authority votes to disapprove all or a portion of the Fee Schedule, it may itself establish any of such rates, fees, charges or penalties, or may ask the Director to submit revised proposals to the Common Council. The Director shall implement the approved Fee Schedule.~~ **These functions were moved to Transporation, Mobility and Parking.**

D. The approved Fee Schedules, as they may be modified from time to time in accordance with the procedure set forth in this section, shall be posted at the City website and in the offices ~~oices~~ of the City Clerk and the Department of Operations and -Public Works -at all times and shall be made available for distribution to persons requesting same.

§ 90-5. Principal Engineer.

§ 90-5 Principal Engineer.

The Chief ~~Director~~ shall employ and maintain, as a regular employee, a Principal Engineer of the Department, who shall be a qualified professional civil engineer with at least five years of experience with the design or construction of public works, highways, public utilities and municipal improvements. He/She shall be licensed to practice in the State of Connecticut or shall become certified to do so within six months of assuming the position of Principal Engineer. Said Engineer shall provide professional assistance to the Chief ~~Director~~ concerning engineering projects and shall supervise the Department's engineering and construction administration staff at the direction of the Chief ~~Director~~.

§ 90-6 Duties and responsibilities ~~responsibilities~~ of Chief ~~Director~~.

A. The Chief ~~Director~~ shall cause to be made and prepared all surveys, maps, profiles, calculations, construction documents, drawings and specifications required for the use of the City and shall cause to be performed all surveying and engineering services which may be required of him/her by the Common Council and by each and every department, authority, commission or agency of the City government.

B. The Chief ~~Director~~ shall have the care and custody of all maps and plans of the public works and improvements of the City.

C. It shall be the duty of the Chief ~~Director~~ to record, and keep in such manner that they can easily be examined, all surveys and layouts of streets, sewers and public works for which a manuscript, survey or layout is adopted by the Common Council.

D. It shall be the responsibility of the Chief ~~Director~~ to establish and prepare the necessary standard construction specifications, design standards and manuals required for the operations of the Department, the wastewater collection and treatment system and the parking system, subject to the concurrence of the Public Works Committee of the Common Council, the Water Pollution Control Authority or the Parking Authority.

~~D~~.E. The Chief shall be charged with the control, development, operation and maintenance of a system of public parks and recreational areas and facilities now in existence or that may hereafter be acquired as further explained in § 90-1 and § 74-23 through § 74-27.

§ 90-7 Recordkeeping requirements.

A. The Chief ~~Director~~ shall keep a written record of all permits and licenses granted under Chapters **90** through **99** of the Code, and such written record shall at all times be open to inspection.

B. The Chief ~~Director~~ shall keep a detailed and properly classified account of all expenses in his/her Department, which shall at all times be open to inspection.

C. The Chief ~~Director~~ shall at the end of each fiscal year complete a report in writing to the Common Council of all work done and money expended under his/her direction during such period.

D. The Chief ~~Director~~ shall keep a record of complaints made by the public, and shall enter therein all complaints made to him/her concerning streets, highways, sidewalks, gutters, parking facilities, wastewater collection and treatment facilities and public places, and any breach of Chapters **90** through **99** of this Code, together with the action taken by him/her with respect thereto.

§ 90-8 (Reserved)

§ 90-9 Effect on taxing districts.

Nothing in §§ **90-1** through 90-8 shall be construed to affect the buildings, structures and properties belonging to the First, Second, Third or Sixth Taxing Districts of said City or their management and operation. When, in the judgment of the Chief ~~Director~~, public safety is or may be adversely affected by work to be performed by the taxing districts, the Chief ~~Director~~ may at his/her discretion make the requirements of this chapter and any other appropriate chapter applicable to such taxing district.

§ 90-11 Severability.

§ 90-10 Interference with personnel.

No person shall resist, molest, interfere with or disobey the Chief ~~Director~~ or his/her assistants while engaged in the duty of keeping the streets, sidewalks and public places of the City open and free from obstruction by vehicles, crowds, groups of persons or otherwise.

§ 90-11 Severability.

If any provision, clause or phrase of this Chapter **90** is adjudged by any court of competent jurisdiction to be invalid or if the applicability thereof to any persons or circumstances is held invalid, such judgment shall not invalidate the remainder, and the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 90-12 Repealer.

Any provisions of the Code of the City of Norwalk inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency.

Draft Meeting Minutes from 8/21/2018 Ordinance Committee Meeting

CITY OF NORWALK
ORDINANCE COMMITTEE
AUGUST 21, 2018

ATTENDANCE: Eloisa Melendez, Chair; Douglas Hempstead; Thomas Livingston; Barbara Siegelbaum; Douglas Stern; Chris Yerinides

STAFF: Mario Coppola, Brian Candela, Corporation Counsel; Ray Burney, Director of Personnel; Timothy Sheehan, Executive Director Norwalk Redevelopment Agency

1. ROLL CALL

Ms. Melendez called the meeting to order at 7:13 p.m. and called the Roll.

2. PUBLIC HEARING

Mr. Coppola read a statement recommending the public hearing be rescheduled because the legal notices did not provide a description of the ordinance. He said that while it has been the practice of the City to not publish a copy of the ordinance, out of an abundance of caution, he recommends rescheduling the public hearing.

** **MR. LIVINGSTON MOVED TO RESCHEDULE THE PUBLIC HEARING ON THE FOLLOWING ITEMS TO TUESDAY, SEPTEMBER 4, 2018 AT 7:00 IN A ROOM TO BE DETERMINED**

• VOTE ON PROPOSED ORDINANCE - INNOVATION DISTRICT
• DISCUSS AND VOTE ON PROPOSED ORDINANCE - DEPARTMENT OF CHIEF OF STAFF
• DISCUSS AND VOTE ON PROPOSED ORDINANCE - ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT,
• DISCUSS AND VOTE ON PROPOSED REVISIONS/AMENDMENTS TO ARTICLE III: DEPARTMENT OF RECREATION AND PARKS ORDINANCE
• DISCUSS AND VOTE ON PROPOSED REVISIONS/AMENDMENTS TO DEPARTMENT OF PUBLIC WORKS ORDINANCE

Mr. Stern said he looked forward to hearing from all who want to speak. Mr. Hempstead thanked the Law Department. He noted if they did not properly act tonight, they could incur a fine and jail time.

** **MOTION PASSED UNANIMOUSLY**

3. PUBLIC HEARING DISCUSSION

There was no discussion this evening.

4. PUBLIC COMMENT

Public participation comments are not verbatim and represent a summarization of statements unless otherwise noted.

Ms. Nancy Rosett, spoke in support of the reorganization and said she looks forward to working with the Transportation Planner.

Mr. Jud Ally spoke in support of the reorganization and in particular the Chief of Economic and Community Development.

Mr. Richard Bonenfant, said he had 10 arguments why the public hearing was illegal, but that was addressed. He spoke against the Innovation District and said it was one of the worst ideas to come down the pike in a long time. He also addressed the reorganization and said he wondered if Ms. L. King came to work every day crafting her new powers. He asked to keep the term of Chief of Staff and the Mayor concurrent.

Ms. Lisa Brinton Thomson, said this is August and a lot of people are on vacation. It is unfortunate to hold a public hearing at this time. She said this is a major reorganization and in the spirit of transparency, the Ordinances should have been published. She said there must be checks and balances in the Mayor's office. She said that Norwalk is in a fiscal crisis and giving money to some through the Innovation District smacks of cronyism.

Ms. Deborah Goldstein strongly recommended that the developer put their money where their mouth is. She said the developer should agree that they would not seek amendments once they receive their approval and that they will only propose a viable project. She said that the reorganization starts and ends with a faulty premise. This proposal is a solution in search of a problem. She urged all to get back to run the City. Ms. Goldstein said the schools are underfunded and children are not getting the proper services they need and now people from apartments who do not pay taxes are being added.

Ms. Donna Smirniotopoulos said when she attended a Planning Committee meeting where they discussed the Innovation District, Mr. Sheehan described it as a tool for the Common Council. She said a lot could go wrong and the tool is only as good as the people administering the tool. She talked about the process used to appoint people to commissions.

Mr. John spoke against the reorganization. He said there were so many conflicts of interest and so many problems. He said the reorganization and the Innovation District are bad ideas.

Mr. Tod Bryant, said he had questions about the Innovation District and understood it is being created to incentivize the development of Wall Street. He said he believed there is a Federal program that would provide similar incentives and asked if that has been taken into consideration. He said the Innovation District did not address existing businesses and noted they have to be taken into consideration. Mr. Bryant added that the incentive for the preservation of historical buildings should be in line with new development.

Mr. Bryant talked about the reorganization and said the City is working under the 1913 government system. It is time for a change.

Ms. Marija Bryant said that as far as the Innovation District, POCO has to be in place first and in terms of existing businesses, things are bubbling up on Wall Street. She said the way the ordinance is drafted is not fair to the people there now. There needs to be an incentive for them. It needs to be fair and balanced.

Mr. Adolph Neiderland said it is obvious the Redevelopment Agency did not acknowledge POCO at all. He said they advocate for mixed use/residential, when the consultants for POCO suggested that Norwalk should look at light industrial and high tech. He said the number one recommendation of the consultants was to be more transparent. He said a one day notice for a 30 page meeting is far from transparency.

Mr. Neiderland said Norwalk's grand list only grew 3% since 2014. He asked the Committee to think of the money invested in multi-story housing. He said it did not help Norwalk. He said Norwalk needs a strong city-wide economic leadership. He said neither of the plans should be approved.

Ms. Diane Lauricella said the Innovation District is not just about apartments being built. She said the ordinance as written lacks an in-depth discussion. Ms. Lauricella suggested going back to the drawing board and wait until the Chief of Economic and Community Development is hired. In addition, she suggested waiting until POCO was completed.

Ms. Lauricella said it is premature to reorganize; some departments have a silo way of thinking and the efficiency of any reorganization is how it is managed. She said if it is truly a reorganization, they are not looking at the pros and cons.

Mr. John Romano said he owns a number of properties in Norwalk and built and maintained those without any incentives. He asked the Committee to put the brakes on these items and bring in stakeholders. Mr. Romano said Norwalk does a great job of chasing small businesses out of town. He asked the Committee to think it out.

No other members of the public wished to speak.

5. **ACCEPTANCE OF MINUTES**

July 17,2018

**** MR. YERINIDES MOVED TO ACCEPT THE MINUTES AS PRESENTED**
**** MOTION PASSED WITH ONE (1) ABSTENTION (MR. HEMPSTEAD)**

Mr. Sheehan discussed the Innovation District and said he received a lot of good feedback. He said the Planning Committee spent a year on this and the Ordinance Committee spent four to five months on this. He noted the area is the second least populated tract in Norwalk. He said he understood the concern about housing, but for businesses to be successful there has to be on going demand for people to live in that area. Mr. Sheehan said they have to populate the census tract.

Mr. Sheehan explained that the initiative for the Innovation District came from the Mayor's office. The Redevelopment Agency did not just bring this forward it was a Mayor's initiative. One of the big constraints is that the City has to have an enabling statute to structure a tax.

Mr. Sheehan said he would be happy to submit answers to questions he took down this evening and post them on their website. Mr. Hempstead asked Mr. Sheehan what was available for small retail space and what was the occupancy rate wherever there are incentives.

Mr. Burney gave a summary of the Mayor's proposed reorganization plan. He said they are 2/3 of the way through the process.

6. **OLD BUSINESS**

Chapter 12, Article I, Section 12-1 of the
Ordinances of the City of Norwalk

Mr. Livingston said if thee were no changes to the policy it holds. The Committee members discussed Sunday Hours. Mr. Candela said he would research what other communities are doing. Mr. Livingston said he was concerned about Washington Street at 1:45 a.m. Mr. Candela said he could ask the Police Chief about closing time on Washington Street.

7. NEW BUSINESS

No new business was discussed.

8. DISCUSSION ITEM

9. ADJOURNMENT

**** MR. YERINIDES MOVED TO ADJOURN**
**** MOTION PASSED UNANIMOUSLY**

There was no further business and the meeting was unanimously adjourned at 8:43 p.m.

Respectfully submitted,

Rosemarie Lombardi
Telesco Secretarial Services

DRAFT

Chapter 12, Article I, Section 12-1 of the Norwalk City Code

Chapter 12 Alcoholic Beverages

Article I. ~~Sunday~~ Hours of Sale ~~for Hotels, Restaurants and Clubs~~

§ 12-1. Hours.

The sale, dispensing and consumption of alcoholic beverages, ~~The sale or the dispensing or consumption, or the presence in glasses or other receptacles suitable to permit the consumption of liquor by an individual, of alcoholic liquor in places operating under hotel permits, restaurant permits and club permits~~ shall be allowed in the time and manner authorized in ~~be permitted within the City on Sunday~~ Section 30-91 of the General Statutes, as amended. ~~between the hours of 12:00 noon and 9:00 p.m., in accordance with the provisions of Section 4296 of the General Statutes, as amended. [1]~~

~~[1] *Editor's Note: See Sec. 30-91 of the General Statutes of Connecticut.*~~

Chapter 12 Alcoholic Beverages

Article I: Sunday Hours for Hotels, Restaurants and Clubs

[Adopted 5-14-1957, effective 5-25-1957]

§ 12-1 **Hours.**

The sale or the dispensing or consumption, or the presence in glasses or other receptacles suitable to permit the consumption of liquor by an individual, of alcoholic liquor in places operating under hotel permits, restaurant permits and club permits shall be permitted within the City on Sunday between the hours of 12:00 noon and 9:00 p.m., in accordance with the provisions of Section 4296 of the General Statutes, as amended.[1]

[1] *Editor's Note: See Sec. 30-91 of the General Statutes of Connecticut.*