

CHAPTER 26
VARIANCE PROCEDURES FOR TAX INCREMENT
FINANCING (TIF) HOUSING PROJECTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

261—26.1(403) Goals and objectives. These rules implement 1996 Iowa Acts, Senate File 2464, section 24, “Financing Public Improvements Related to Low Income Housing and Residential Development.” The Iowa department of economic development is given the responsibility to rule on requests for variances in the percentage of low- and moderate-income benefit required in certain tax increment financing (TIF) district for residential development, as prescribed in the law. These rules establish procedures and criteria for variances so that the highest possible level of benefit to low- and moderate-income families will be achieved while ensuring the financial feasibility of the project.

261—26.2(403) Definitions.

“*Department*” means the Iowa department of economic development.

“*Eligible applicant*” means any county or incorporated city within the state of Iowa.

“*Housing project*” means a project in an urban renewal area established solely upon findings under Iowa Code section 403.2(3) that is primarily intended to support housing activities. These may include, but are not limited to, the following: public streets and utilities, site preparation, housing rehabilitation, real property acquisition, new housing construction, and conversion of existing structures into housing units.

“*Low- and moderate-income families (LMI)*” means those families earning no more than 80 percent of the median family income of the county as determined by the latest United States Department of Housing and Urban Development, Section 8 income guidelines. This includes single-person households.

“*Tax increment financing district*” means an area in an urban renewal area that the municipality has established by ordinance in an urban renewal area established solely upon findings under Iowa Code section 403.2(3) and has designated by ordinance that taxes levied on taxable property in that area each year by or for the benefit of the state, city, county, school district or other taxing district shall be divided as provided for in Iowa Code section 403.19.

“*TIF-generated financial support*” means the portion of the cost of a housing project which is financed from TIF revenues.

261—26.3(403) Requirements for benefit to low- and moderate-income families. A municipality is required to ensure that a TIF-supported housing project will provide for housing assistance for low- and moderate-income families. Absent a variance, the amount of assistance to be provided is as follows:

26.3(1) In municipalities with a population over 15,000, the amount to be provided for low- and moderate-income family housing by TIF-supported housing projects shall be either equal to or greater than the percentage of low- and moderate-income residents in the county in which the urban renewal area is located times the TIF-generated financial support for the housing project within the urban renewal area. However, the amount of benefit shall not be less than an amount equal to 10 percent of the TIF-generated financial support.

26.3(2) In municipalities with a population of 15,000 or less, the amount to be provided for low-and moderate-income family housing shall be the same as for municipalities in subrule 26.3(1) except that municipalities of 15,000 or less shall not be subject to the minimum low- and moderate-income benefit level of 10 percent of the original project cost.

26.3(3) The percentage of low- and moderate-income persons in a county is provided by the U.S. Department of Housing and Urban Development using the most currently available U.S. Census information.

261—26.4(403) Ability to request a variance. A municipality may request a variance in the low-and moderate-income benefit required (excluding the 10 percent minimum established in subrule 26.3(1)) from the department of economic development when the required low- and moderate-income benefit will make

the TIF-supported housing project financially infeasible. The municipality must prepare a plan for the provision of assistance to low- and moderate-income families that provides the proposed alternate level of low- and moderate-income benefit. The plan shall be adopted by the municipality and approved by the department.

261—26.5(403) Variance request procedure.

26.5(1) A municipality may request a variance at any time.

26.5(2) Requests for a variance shall be submitted on forms prescribed by the department. Requests for the necessary forms may be submitted in writing to: Bureau of Community Financing, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. Information and forms may be received by calling the department at (515)242-4825.

26.5(3) Department staff will review requests for variance on a case-by-case basis.

26.5(4) Each request will be reviewed according to the criteria listed in rule 261—26.6(403).

26.5(5) The department may modify the request in order to maximize the level of benefit to low-and moderate-income families, while preserving the financial feasibility of the TIF-supported housing project.

26.5(6) The department will issue a decision in a letter to the applicant. If the request is approved, the letter will provide the level of the variance and the conditions for compliance with the variance. If the request is denied, the letter will state reasons for the denial.

26.5(7) All requests for variances and related DED file material are available for public inspection. Names of applicants will also be provided to the public upon request.

261—26.6(403) Criteria for review. A municipality must submit the following information and other information as may be required on forms developed by the department:

1. Narrative. A description of the project and explanation of the need for the variance on low-and moderate-income benefit percentage.
2. Total tax levy applied to TIF area, minus debt service levies.
3. Current tax rollback percentage.
4. Total project development cost.
5. Number of lots to be sold.
6. Projected average home value within the housing project area.
7. Value of unimproved lots.
8. Proposed debt structure, including interest rate, term of debt, transaction costs, repayment terms.
9. Projected revenue from a project by year, including amount from tax increment, sale of lots, development fees and other sources.
10. Projected sale of lots by year.
11. Projected number of homes completed by year.
12. Use of five-year extension, if available.
13. Comments solicited or received from parties affected by the variance.
14. Proposed amount of funds and activities to benefit housing needs of LMI persons.

These rules are intended to implement Iowa Code section 403.22.

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