

PART X
COMMUNITY ATTRACTION AND INVESTMENT PROGRAMS
CHAPTER 200
REINVESTMENT DISTRICTS PROGRAM

261—200.1(15J) Purpose. The board is authorized by the general assembly and the governor to oversee the implementation and administration of certain provisions of the Iowa reinvestment Act, which was enacted in 2013 Iowa Acts, House File 641, and amended by 2020 Iowa Acts, House File 2641. The purpose of this chapter is to describe the manner in which the authority's part of the program will be administered. The program provides for as much as \$100 million in state hotel and motel and state sales tax revenues generated by new revenue-generating projects in certain districts to be "reinvested" within those districts for districts approved on or before July 1, 2018, and provides as much as \$100 million for districts approved after July 1, 2020. In general, the authority has the responsibility to evaluate projects and make funding decisions while the department of revenue has the responsibility for collecting the tax revenues used to fund projects under the program and making payments to municipalities. To the greatest extent possible, the board will fund projects in districts that are the most likely (1) to improve the quality of life of the municipality, the surrounding region, and the state as a whole; (2) to be unique to the municipality, the surrounding region, and the state as a whole; and (3) to substantially benefit the economy of the municipality, the surrounding region, and the state as a whole.

[ARC 1175C, IAB 11/13/13, effective 12/18/13; ARC 5319C, IAB 12/16/20, effective 1/20/21]

261—200.2(15J) Definitions. For purposes of this chapter unless the context otherwise requires:

"Account" means the district account that is created within the fund for each municipality which has established a district and that holds the new tax revenues deposited by the department under the program. Moneys in each account will be remitted quarterly by the department to the municipality pursuant to the department of revenue's rules in 701—Chapter 237.

"Applicant" means a municipality applying to the board and the authority for approval of a district under the program, including the preapplication process described in rule 261—200.4(15J).

"Appurtenant structure" means any building or other fixture on a piece of real estate other than the main building provided that such a building or fixture is permanent, is wholly or partially above grade, and will be constructed or substantially improved in conjunction with the main building. A structure is appurtenant when the structure is physically connected to a main building such that the connected structures combine to create a single, integrated facility. A structure is not physically connected if the structure has a function or purpose independent of the main building, even if the structures are in close proximity or are incidentally connected by some means such as a common wall, a sidewalk, or recreational trail.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

"Commencement date" means the date established for each district by the board pursuant to rule 261—200.7(15J) upon which the calculation of new state sales tax and new state hotel and motel tax revenue shall begin pursuant to rule 701—237.3(15J) and after which the department will make deposits in the fund pursuant to rule 701—237.4(15J).

"Department" means the department of revenue.

"Director" means the director of the authority.

"District" means the area that is designated a reinvestment district under the program. For purposes of this chapter, a district is designated during the application and approval process but is not created until it has both received the final approval of the board pursuant to rule 261—200.7(15J) and been established by ordinance or resolution of the municipality as described in rule 261—200.8(15J).

"Due diligence committee" means the due diligence committee of the board established pursuant to 261—subrule 1.3(7).

“*Fund*” means the state reinvestment district fund created in Iowa Code section 15J.6, consisting of new tax revenues, and under the control of the department.

“*Governing body*” means the county board of supervisors, city council, or other governing body in which the legislative powers of the municipality are vested.

“*Joint board*” means a legal entity established or designated in an agreement between two or more contiguous counties or incorporated cities pursuant to Iowa Code chapter 28E.

“*Maximum benefit amount*” means the total amount of new tax revenues that may be remitted to a municipality’s reinvestment project fund and used for development in a district. The maximum benefit will be established by the board when a final application to the program is approved pursuant to rule 261—200.7(15J).

“*Municipality*” means a county, an incorporated city, or a joint board.

“*New lessor*” means a lessor, as defined in Iowa Code section 423A.2, operating a business in the district that was not in operation in the area of the district before the effective date of the ordinance or resolution establishing the district, regardless of ownership. “New lessor” also includes any lessor, as defined in Iowa Code section 423A.2, operating a business in the district if the place of business for that business is the subject of a project that was approved by the board.

“*New retail establishment*” means a business operated in the district by a retailer, as defined in Iowa Code section 423.1, that was not in operation in the area of the district before the effective date of the ordinance or resolution establishing the district, regardless of ownership. “New retail establishment” also includes any business operated in the district by a retailer, as defined in Iowa Code section 423.1, if the place of business for that retail establishment is the subject of a project that was approved by the board.

“*New tax revenues*” means all state sales tax revenues and state hotel and motel tax revenues that are collected within a district by new retail establishments and new lessors, provided that such new retail establishments and lessors are included as projects in an approved district plan. New tax revenues are remitted to the department after collection by new retail establishments and new lessors and deposited by the department in a fund for use by a municipality under the program.

“*Program*” means the reinvestment district program established pursuant to this chapter.

“*Project*” means a vertical improvement constructed or substantially improved within a district using new tax revenues. “Project” does not include any of the following:

1. A building, structure, or other facility that is in whole or in part used or intended to be used to conduct gambling games under Iowa Code chapter 99F.
2. A building, structure, or other facility that is in whole or in part used or intended to be used as a hotel or motel if such hotel or motel is connected to or operated in conjunction with a building, structure, or other facility described in paragraph “1” above.

“*Retail business*” means any business engaged in the business of selling tangible personal property or taxable services at retail in this state that is obligated to collect state sales or use tax under Iowa Code chapter 423. However, for the purposes of this chapter, “retail business” does not include a new lessor or a business engaged in an activity subject to tax under Iowa Code section 423.2(3).

“*State hotel and motel tax*” means the state-imposed tax under Iowa Code section 423A.3.

“*State sales tax*” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

“*Substantially improved*” means that the cost of the improvements to a project is equal to or exceeds 50 percent of the assessed value of the property, excluding the land, prior to such improvements.

“*Unique nature*” means a quality or qualities of the projects to be developed in a district which, when considered in the entirety, will substantially distinguish the district’s projects from other existing or proposed developments in the state. For purposes of this chapter, whether a project is of a unique nature is a subjective and contextual determination that will be made by the board. In determining whether a project is of a unique nature, the board will not necessarily require a project to be entirely without precedent or to be the only one of its kind in the state, but rather the board will evaluate whether the projects to be undertaken in a district will either (1) permanently transform the aesthetics or infrastructure of a local community for the better, including by preserving important historical

structures or neighborhoods; or (2) contribute substantially more to the state's economy or quality of life than other similar projects in the state.

“Vertical improvement” means a building that is wholly or partially above grade and all appurtenant structures to the building.

[ARC 1175C, IAB 11/13/13, effective 12/18/13; ARC 5319C, IAB 12/16/20, effective 1/20/21]

261—200.3(15J) Program overview.

200.3(1) General. The reinvestment districts program provides for new tax revenues generated by revenue-generating projects in certain districts to be “reinvested” within those districts. The program allows municipalities to designate areas within their corporate boundaries as reinvestment districts and to use new tax revenues collected within the district to finance the development of projects within the district. The authority and the board will take applications from municipalities for designation as a district and will consider and approve eligible applicants for funding under the program.

200.3(2) Preapplication, provisional decisions, and final approval. Each fiscal year in which funding is available, the authority will accept applications for assistance under the program. The program includes a preapplication process, a scoring process, a provisional funding decision, and a final board approval process.

200.3(3) District establishment and financing.

a. Upon final approval of a plan, a municipality shall establish a district and notify the department that new tax revenues may be deposited in a fund under the program as described in subrule 200.8(1). The collection and deposit of new tax revenues by the department begins only after final approval of the proposed district plan and the establishment of the district's maximum benefit amount and commencement date.

b. For districts established before July 1, 2020, the department will deposit in a fund 4 percent of the amount of retail sales subject to the state sales tax collected by new retail establishments within the district and 5 percent of the amount of sales subject to the state hotel and motel tax collected by new lessors within the district.

c. For districts established after July 1, 2020, the department will deposit in a fund:

(1) Four percent of the remainder of amount of sales subject to the state sales tax in the district during the quarter from new retail establishments minus the sum of the sales from the corresponding quarter of the 12-month period preceding establishment of the district, for new retail establishments identified under subparagraph 200.8(1) “c”(3) that were in operation at the end of the quarter; and

(2) Five percent of the remainder of amount of sales subject to the state hotel and motel tax in the district during the quarter from new lessors minus the sum of the sales from the corresponding quarter of the 12-month period preceding establishment of the district, for new lessors identified under subparagraph 200.8(1) “c”(4) that were in operation at the end of the quarter.

200.3(4) Duration of funding and termination of district. The department will deposit new tax revenues in the fund until the maximum benefit is reached or the district is terminated, whichever is earlier. A district shall be terminated as of the date 20 years after the commencement date unless a municipality dissolves the district prior to that date or the board has approved an extension pursuant to subrule 200.10(3).

200.3(5) Use of funds. A municipality may use moneys remitted by the department to the municipality from its account for purposes of funding development in a district according to an approved district plan as described in subrule 200.8(2).

[ARC 1175C, IAB 11/13/13, effective 12/18/13; ARC 5319C, IAB 12/16/20, effective 1/20/21]

261—200.4(15J) Preapplication process.

200.4(1) Purpose. The program includes a preapplication process to assist with the administration and implementation of the program. The purposes of the preapplication process are to provide information related to the requirements of this chapter, to determine the interest of municipalities in establishing districts under this chapter, including the amount of potential funding requests, and to assist municipalities in preparing a proposed district plan. The authority and the board will utilize the preapplication process to gauge the level of demand for funding under the program, accept initial

project plans and requests for funding, make provisional determinations about the amount of maximum benefits, and notify applicants of the board's provisional funding decisions. While all funding decisions made during the preapplication process are provisional and subject to change, the process is intended to indicate the board's willingness to approve future financial assistance for projects that meet the requirements of this chapter.

200.4(2) *Preapplication required.* The board will only approve a proposed district plan if that plan has been submitted during the annual filing window as described in this rule.

200.4(3) *Annual filing window.* Each year that funding is available, the authority will announce an annual filing window to accept preapplications under the program. The purpose of the annual filing window is to enable the competitive scoring of applications and facilitate funding decisions by the board that are within the limitations established for the program by the general assembly. A municipality interested in applying to the program must submit a preapplication during the annual filing window or wait until the next annual filing window.

200.4(4) *Preapplication submission requirements.* Each preapplication submission shall demonstrate compliance with the requirements listed in rule 261—200.5(15J) to the greatest extent possible. While the preapplication process is provisional in nature and is designed to allow applicants to make reasonable changes to the proposed district plan before a final application is considered, the board is more likely to approve funding for proposed districts that meet all requirements of rule 261—200.5(15J) during the preapplication process.

200.4(5) *Provisional funding decisions.*

a. The board, with the assistance of the authority, will evaluate the preapplications and assign them a provisional score based on the criteria described in rule 261—200.6(15J). Based on the results of the scoring, the board will make provisional funding decisions and notify applicants.

b. A provisional funding decision represents an initial judgment by the board about the merits of a proposed district plan and is provided for the convenience of both applicants and the board for the better administration of the program. A provisional funding decision shall not be construed as binding on the board nor will the applicant be required to meet all of the details contained in the preapplication. A provisional funding decision shall not be construed as a final approval by the board. A municipality shall not adopt an ordinance or resolution establishing a district based on a provisional funding decision.

c. The final details of a proposed district plan and a final funding decision, including a maximum benefit amount and a commencement date, shall be contingent upon the receipt of a full, final, and complete application and upon final action by the board to ratify, amend, defer, or rescind its provisional funding decision as provided in rule 261—200.7(15J).

d. The department of revenue will not deposit moneys into a fund until a final application is approved by the board and an ordinance or resolution has been adopted by the municipality.

200.4(6) *Posting of preapplication and materials to Internet site.* After the board makes a provisional funding decision, the proposed district plan, along with all accompanying materials, will be posted on the authority's Internet site for public viewing within ten days of approval by the board and will be available there until the final application is submitted, or for one year.

[ARC 1175C, IAB 11/13/13, effective 12/18/13; ARC 5319C, IAB 12/16/20, effective 1/20/21]

261—200.5(15J) Program eligibility and application requirements. To be eligible for benefits under the program, an applicant shall meet all of the following requirements:

200.5(1) *Area suitable for development.* An applicant must be a municipality and must have an area suitable for development within the boundaries of the municipality, or, in the case of a joint board, the combined boundaries of the incorporated cities or counties that established or designated the joint board, that has been proposed for designation as a reinvestment district under the program. Only areas that meet the following requirements will be approved for designation as a reinvestment district:

a. The area must consist only of parcels of real property that the governing body of the municipality determines will be directly and substantially benefited by development in the proposed district. In order to establish that this criterion is met, a municipality should submit information such

as an estimate of the expected increase in valuation or other data that lends itself to a quantitative assessment of the extent to which the real property will benefit.

b. The area must be in whole or in part either an economic development enterprise zone designated under 2014 Iowa Code chapter 15E, division XVIII, immediately prior to July 1, 2014, or an urban renewal area established pursuant to Iowa Code chapter 403. In order to establish that this criterion is met, a municipality should submit maps of the proposed area as well as maps of the existing enterprise zone or urban renewal area. A municipality should also submit copies of the local ordinance or resolution establishing the enterprise zone or the urban renewal area.

c. For districts approved before July 1, 2018, the area must consist of contiguous parcels and must not exceed 25 acres in total. For districts approved after July 1, 2020, the area must consist of contiguous parcels and must not exceed 75 acres in total. For purposes of this subrule, “contiguous” means parcels that are physically connected. Parcels connected by streets or other rights-of-way will be considered physically connected for purposes of this rule. In designating an area that includes a right-of-way, an applicant may include an area that is less than the full width of the right-of-way, but the applicant shall not include less than 60 feet of the right-of-way’s width.

d. For a municipality that is a city or for a city that has established or designated a joint board, the area must not include the entire incorporated area of the city.

e. The area must not be located in whole or in part within another district established under this chapter.

200.5(2) Proposed district plan. An applicant must submit a proposed district plan. A proposed district plan must be approved by resolution of the governing body of the municipality and must state the governing body’s intent to establish a district. A copy of this resolution should be submitted with the proposed district plan. The proposed district plan must also include all of the following:

a. A finding by the governing body that the area in the proposed district is an area suitable for development. This finding should be supported by the information required under subrule 200.5(1).

b. A legal description of the real estate forming the boundaries of the area to be included in the proposed district along with a map depicting the existing parcels of real estate located in the proposed district.

c. A list of the names and addresses of the owners of record of the parcels to be included in the proposed district. If, at the time an application is submitted, the parcels are not yet acquired or one or more parcels within the district are under consideration for a project, then the names and addresses of the owners of record of all parcels under consideration shall be submitted with the understanding that final board approval shall be contingent upon all parcels’ being acquired and identified by address prior to final board approval and establishment of the commencement date.

d. A list of all projects proposed to be undertaken within the district, a detailed description of those projects, and a project plan for each proposed project. Each project plan shall clearly state the estimated cost of the proposed project, the anticipated funding sources for the proposed project, the amount of anticipated funding from each such source, and the amount and type of debt, if any, to be incurred by the municipality to fund the proposed project, and shall include a proposed project feasibility study conducted by an independent professional with expertise in economic development and public finance. The project plan for the project that proposes the largest amount of capital investment among all proposed projects within the district shall include an estimate of the date that construction of the project will be completed and of the date that operations will begin at the project. The feasibility study shall include projections and analysis of all of the following:

(1) The amount of gross revenues expected to be collected in the district as a result of the proposed project for each year that the district is in existence.

(2) A detailed explanation of the manner and extent to which the proposed project will contribute to the economic development of the state and the municipality, including an analysis of the proposed project’s economic impact. The analysis shall include the same components and be conducted in the same manner as the economic impact study required under paragraph “e” of this subrule.

(3) An estimate of the number of visitors or customers the proposed project will generate during each year that the district exists.

(4) A description of the unique characteristics of the proposed project. The description should include an explanation of why the unique characteristics of the proposed project cause the project to be of a unique nature, within the meaning of that term as it is defined in rule 261—200.2(15J).

e. An economic impact study for the proposed district conducted by an independent economist retained by the municipality. The economic impact study shall, at a minimum, do all of the following:

(1) Contain a detailed analysis of the financial benefit of the proposed district to the economy of the state and the municipality.

(2) Identify one or more projected market areas in which the district can reasonably be expected to have a substantial economic impact.

(3) Assess the fiscal and financial impact of the proposed district on businesses or on other economic development projects within the projected market area.

200.5(3) Additional conditions. In addition to the requirements described in subrules 200.5(1) and 200.5(2), a municipality shall demonstrate to the board's satisfaction that all of the following additional conditions are met:

a. The area of the municipality proposed to be included in the district must meet the requirements of subrule 200.5(1).

b. The projects proposed to be undertaken in the district must be of a unique nature and must be likely to have a substantial beneficial impact on the economy of the state and the economy of the municipality. If, in the judgment of the board, an applicant's proposed district plan is not of a unique nature or will not result in benefits claimed, the board may decline to approve a proposed district plan or may defer a proposed district plan until amendments are made.

c. The proposed funding sources for each proposed project must be feasible.

d. At least one of the projects proposed to be undertaken in the district must include a capital investment of at least \$10 million.

e. The total amount of proposed funding from new tax revenues to be remitted to the municipality from the fund for all proposed projects in the proposed district plan must not exceed 35 percent of the total cost of all proposed projects in the proposed district plan.

f. The amount of proposed capital investment within the proposed district related to retail businesses in the proposed district must not exceed 50 percent of the total capital investment for all proposed projects in the proposed district plan.

g. The applicant must have submitted an application under the preapplication process described in rule 261—200.4(15J) and, as part of a provisional funding decision by the board, must have been approved for a provisional maximum benefit amount.

h. The proposed district plan must meet a minimum score under the criteria described in rule 261—200.6(15J).

i. While multiple districts within a single municipality are not prohibited under the program, the size of any one district is limited by paragraph 200.5(1) "c" and overlapping districts are prohibited by paragraph 200.5(1) "e." Therefore, the board will consider whether the approval of an additional district is appropriate given the particulars of the proposed additional district and the goals of the program. If a municipality proposes an additional district, the board, at its discretion, may accept the application and score it, or if the board determines that approval of an additional district would not serve the goals of the program, the board may reject the application without scoring it.

j. The applicant is not requesting a plan amendment to increase the maximum benefit amount for an already approved district. While it is within the discretion of the board to increase the maximum benefit amount of an approved district, the board will carefully scrutinize whether an increase is justified by circumstances such as greater investment or improved projects within the district and whether any change in the maximum benefit amount serves the goals of the program.

200.5(4) Application materials and submission.

a. A municipality interested in applying for funding under the program shall submit a preapplication and a final application to the board for approval and, when applying, shall provide the information described in this chapter or any other information the board or the authority may reasonably require in order to process the application.

b. Information on submitting an application under the program may be obtained by contacting the economic development authority. The contact information is:

Iowa Economic Development Authority

Business Finance Team

businessfinance@iowaeda.com

www.iowaeda.com

[ARC 1175C, IAB 11/13/13, effective 12/18/13; ARC 5319C, IAB 12/16/20, effective 1/20/21]

261—200.6(15J) Application scoring and determination of benefits. For each applicant that meets the requirements of rule 261—200.5(15J) and that has submitted an application during the annual filing window as described in subrule 200.4(3), the board will evaluate and score the proposed district plan according to the criteria and process described in this rule.

200.6(1) Scoring criteria and plan evaluation. Each proposed district plan will be given a numerical score between 0 and 100. The higher the numerical score, the more likely the proposed district will be approved for designation and funding under the program. The scoring process will necessarily involve a subjective assessment of the quality of each proposed district plan as well as a consideration of how each proposed district plan compares to the plans proposed by other applicants. The criteria used to score each application and the maximum number of points that may be attributed to each criterion are as follows:

a. Uniqueness: 25 points. The program requires that the projects proposed to be undertaken must be of a unique nature. Therefore, the proposed district plan will be evaluated on this criterion in order to quantify the extent to which the projects in the proposed district plan are of a unique nature. The more unique the projects are, the more points will be received under this criterion.

b. Economic impact: 25 points. The program requires that the projects proposed to be undertaken must have a substantial beneficial impact on the economy of the state and the economy of the municipality. Therefore, the proposed district plan will be evaluated on this criterion in order to quantify the extent to which the projects in the proposed district plan will benefit the economy. The greater the economic impact of the proposed district plan, the more points will be received under this criterion.

c. Project feasibility: 10 points. The program requires that funding sources for projects must be feasible. Therefore, the proposed district plan will be evaluated on this criterion in order to quantify the extent to which the funding sources of the proposed projects are feasible. The more feasible the funding sources for the proposed projects are, the more points will be received under this criterion.

d. Capital investment: 10 points. The program requires that at least one project with a capital investment of \$10 million or more be proposed. To the extent that the proposed district plan exceeds this minimum level of capital investment, more points will be received under this criterion.

e. Funding leverage: 10 points. The program limits the amount of new tax revenues that can be received to 35 percent of the total cost of all proposed projects in the proposed district plan. To the extent that a proposed district plan includes a financing plan in which the percentage of new tax revenues to be received is less than 35 percent of the total cost, more points will be received under this criterion.

f. Nonretail focus: 10 points. The program limits the amount of proposed capital investment in the district related to retail businesses to 50 percent of the total capital investment for all proposed projects in the proposed district. To the extent that a proposed district plan includes projects that provide cultural amenities, tourist attractions and accommodations, infrastructure, or quality of life improvements, more points will be received under this criterion.

g. Additional factors: 10 points. The program allows the board to establish additional criteria for the program. Therefore, in addition to the other criteria listed in this subrule, the board will consider the following additional factors:

(1) Readiness for development. The closer a municipality is to beginning development on a proposed district plan, the more points may be received under the additional factors criterion.

(2) Geographic diversity. To the extent that a proposed district is located in a region of the state not already funded under the program, more points may be received under the additional factors criterion. A proposed district plan that would create an additional district within a municipality or a request to

increase the maximum benefit amount of an already approved district will not be viewed as enhancing geographic diversity and may receive fewer points under the additional factors criterion.

(3) Funding need. To the extent that a funding gap exists in the proposed district plan's financing, more points may be received under the additional factors criterion.

200.6(2) *Scoring process and funding recommendations.* Proposed district plans will be scored by an evaluation committee consisting of members appointed by the director. Members of the committee will include authority staff and not more than five members of the board. Each member of the evaluation committee will judge the proposed district plan according to the scoring criteria, and then the scores of all members of the committee will be averaged together to reflect one numerical score between 0 and 100. The evaluation committee will not make a funding recommendation.

After all applications are scored, a copy of the proposed district plan and the results of the scoring will be referred to the due diligence committee, which will consider the quality of the proposed district plans and make funding recommendations to the board. The due diligence committee will take into account the requested funding levels, but will also attempt to establish maximum benefit amounts that seem most appropriate to both the quality of the proposed district plans and the total demand for program funding.

The scoring results will not be negotiated and, while both the board and the due diligence committee will consider the scoring results of the evaluation committee, those results are not binding on either the due diligence committee or the board.

200.6(3) *Minimum score required.* To receive funding under the program, a proposed district plan must receive an average score of 70 or more points under the criteria listed in subrule 200.6(1).

200.6(4) *Funding not guaranteed.* The program is subject to a total aggregate limit on the amount of new tax revenues that may be approved. Therefore, a proposed district plan that meets the required minimum score is not guaranteed funding if the board's funding decisions for other, higher scoring proposed district plans cause the program's total aggregate limit to be reached.

200.6(5) *Final action taken by board.* The final decision on whether to approve the designation of a proposed reinvestment district and the determination of the amount of maximum benefit to award an applicant rest entirely with the board. The recommendations of the evaluation committee and the due diligence committee with respect to the proposed district plans are of an advisory nature only.

200.6(6) *Availability of scoring results.* The board and the authority will keep records of the scoring process and make those records available to applicants.

200.6(7) *Denial of plans and resubmission.* If a proposed district plan is denied, the board will state the reasons for the denial. Reasons for denial may include a failure to meet filing deadlines, a failure to meet the basic requirements for eligibility, a failure to meet the required minimum score, or a lack of available funding. A municipality whose application is denied may resubmit the application at the next annual filing window provided there is funding available, but a resubmission must be rescored with all other applicants that apply during that filing window.

200.6(8) *Provisional nature of preapplication process.* The preapplication process described in rule 261—200.4(15J) will result in provisional scores and provisional funding decisions for applicants. However, these provisional scores and funding decisions are subject to change pending the final approval process described in rule 261—200.7(15J).

[ARC 1175C, IAB 11/13/13, effective 12/18/13]

261—200.7(15J) Final application and approval process.

200.7(1) *Final application required.*

a. An applicant that receives a provisional funding decision must submit a final application to the board within one year of the submission of the preapplication. An applicant that does not file a final application within that time will be scored again with all other applicants who file in the next annual filing window.

b. A final application shall meet all the requirements described in rule 261—200.5(15J).

200.7(2) *Amendments to preapplications and rescoring of plans.* An applicant may amend any part of the preapplication when submitting the final application and must amend the application if any part

of the proposed district plan will be materially different from the plan that was proposed during the preapplication process. If the board determines that a final application is substantially different from the related preapplication, then the board may rescore the application and reevaluate the provisional funding decision prior to taking final action. If the board elects to rescore and reevaluate an application, the application will be rescored and reevaluated in the same manner and according to the same criteria used initially.

200.7(3) *Final funding decision and establishment of commencement date.* After submission of all information required for the final application, the board will make a final funding decision, establish a final maximum benefit amount, and establish a commencement date for the district. The commencement date established by the board will be the first day of the first calendar quarter beginning after the later of the two dates identified for the project that proposed the largest amount of capital investment among all proposed projects in the district as described in subrule 200.5(2).

200.7(4) *Provisional funding decisions not determinative of final funding decision.* The board's final funding decision may be different from its provisional funding decision. The board may ratify, amend, defer, or rescind the provisional funding decision. If the board's final funding decision causes additional funding to become available, the board may amend a funding decision for another proposed district plan made during the same annual filing window or may reserve the additional funding capacity for the next annual filing window.

200.7(5) *Posting of application and materials to Internet site.* Upon final approval by the board, the district plan, along with the municipality's resolution and all accompanying materials, will be posted on the authority's Internet site for public viewing within ten days of approval by the board and will be maintained there for a period of three years.

[ARC 1175C, IAB 11/13/13, effective 12/18/13; ARC 5319C, IAB 12/16/20, effective 1/20/21]

261—200.8(15J) Adoption of ordinance and use of funds.

200.8(1) *Adoption of ordinance establishing a district and notice to department.*

a. Upon receiving approval by the board of the final application pursuant to rule 261—200.7(15J), the municipality shall adopt an ordinance, or, in the case of a joint board, a resolution, establishing the district.

b. For each district approved by the board before July 1, 2018, the ordinance or resolution adopted by the municipality shall include:

(1) The district's commencement date; and

(2) A detailed statement of the manner in which the approved projects to be undertaken in the district will be financed, including but not limited to the financial information included in the project plan.

c. For each district approved by the board after July 1, 2020, the ordinance or resolution shall include:

(1) The district's commencement date;

(2) A detailed statement of the manner in which the approved projects to be undertaken in the district will be financed, including but not limited to the financial information included in the project plan;

(3) For each new retail establishment that was in operation before the establishment of the district, the monthly amount of sales subject to the state sales tax from the most recently available 12-month period preceding adoption of the ordinance or resolution; and

(4) For each new lessor that was in operation before the establishment of the district, the monthly amount of sales subject to the state hotel and motel tax from the most recently available 12-month period preceding adoption of the ordinance or resolution.

d. For each district approved by the board before July 1, 2018, the municipality shall notify the director of revenue of the district's commencement date established by the board no later than 30 days after adoption of the ordinance or resolution establishing the district. For each district approved by the

board after July 1, 2020, the municipality shall provide a copy of the ordinance or resolution establishing the district to the director of revenue no later than 30 days after adoption of the ordinance or resolution.

200.8(2) Use of funds.

a. Following establishment of the district, a municipality may use the moneys deposited in the municipality's reinvestment project fund created pursuant to Iowa Code section 15J.7 to fund the development of those projects included within the district plan. For purposes of this subrule, "development" means all costs reasonably related to a project provided that such costs are described in a final application approved by the board. Development costs may include project planning, professional services, land acquisition, construction, maintenance, and operational expenses. A municipality shall enter into development agreements for the expenditure of program funds and submit copies of such agreements to the authority within 30 days of execution.

b. Moneys deposited in such a fund shall only be used to fund projects approved by the board as part of a proposed district plan. Moneys deposited in such a fund may be used for projects that do not generate new tax revenues provided such projects are part of an approved plan. A municipality shall maintain records documenting the use of funds under the program and make them available to the board or the department upon request.

c. Moneys from any source deposited into the fund shall not be expended for or otherwise used in connection with a project that includes the relocation of a commercial or industrial enterprise not presently located within the municipality. For the purposes of this subrule, "relocation" means the closure or substantial reduction of an enterprise's existing operations in one area of the state and the initiation of substantially the same operation in the same county or a contiguous county in the state. However, if the initiation of operations includes an expanded scope or nature of the enterprise's existing operations, the new operation shall not be considered to be substantially the same operation. "Relocation" does not include an enterprise expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

d. Moneys from new tax revenues collected within a district and expended by a municipality under the program are subject to audit by the department of revenue or the auditor of state.

[ARC 1175C, IAB 11/13/13, effective 12/18/13; ARC 5319C, IAB 12/16/20, effective 1/20/21]

261—200.9(15J) Plan amendments and reporting.

200.9(1) Plan amendments.

a. A municipality may request an amendment to an approved district plan to add or modify projects. However, a proposed modification to a project, and each project proposed to be added, must first be approved by the board in the same manner as provided for the original plan, including updated or amended feasibility and economic impact studies as necessary. An applicant requesting a plan amendment is not required to file a preapplication pursuant to rule 261—200.4(15J) unless the amendment would increase the maximum benefit amount. A plan amendment request that does not increase the maximum benefit amount may be requested at any time.

b. There is no circumstance in which the board will approve an amendment to a district plan if that amendment would result in the extension of the final commencement date established by the board. A request to extend a district's established commencement date will be rejected.

c. If a district plan is amended to add or modify a project, the municipality shall, if necessary, amend the ordinance or resolution, as applicable, to reflect any changes to the financial information required to be included under the program.

d. If, after final approval and establishment of the district, a municipality is unable to carry out development of all the projects proposed to be undertaken in a district, the municipality shall seek a modification to the plan. If a requested plan amendment would reduce capital investment in a district or remove one or more of the projects originally approved for the district, the board in its discretion may reduce, rescind, or otherwise modify the maximum benefit amount accordingly.

200.9(2) Reports required. Following establishment of a district, the municipality shall on or before October 1 of each year submit a report to the board detailing all of the following:

a. The status of each project undertaken within the district in the previous 12 months.

b. An itemized list of expenditures from the municipality's reinvestment project fund in the previous 12 months that have been made related to each project being undertaken within the district.

c. The amount of the total project cost remaining for each project being undertaken within the district as of the date the report is submitted.

d. The amounts, types, and sources of funding used for each project described in paragraph "a."

e. The amount of bonds issued or other indebtedness incurred for each project described in paragraph "a," including information related to the rate of interest, length of term, costs of issuance, and net proceeds. The report shall also include the amounts and types of moneys to be used for payment of such bonds or indebtedness.

200.9(3) Reports posted to Internet site and submitted to governor and general assembly. All reports received by the board under subrule 200.9(2) will be posted on the authority's Internet site as soon as practicable following receipt of the report. The board will submit a written report to the governor and the general assembly on or before January 15 of each year that summarizes and analyzes the information submitted by municipalities under subrule 200.9(2).

[ARC 1175C, IAB 11/13/13, effective 12/18/13; ARC 5319C, IAB 12/16/20, effective 1/20/21]

261—200.10(15J) Cessation of deposits, district dissolution, and requests for extension.

200.10(1) Cessation of deposits. As of the date 20 years after the district's commencement date, the department will cease to deposit new tax revenues into the district's account unless the municipality dissolves the district by ordinance or resolution prior to that date or the board has approved an extension pursuant to subrule 200.10(3). Once the maximum benefit amount approved by the board for the district has been reached, the department will cease to deposit new tax revenues into the district's account. If a district reaches the maximum benefit amount, the department will notify the municipality within a reasonable amount of time.

200.10(2) District dissolution. If a municipality dissolves a district by ordinance or resolution prior to the expiration of the 20-year period, the municipality shall notify the director of revenue of the dissolution as soon as practicable after adoption of the ordinance or resolution, and the department shall, as of the effective date of dissolution, cease to deposit state sales tax revenues and state hotel and motel tax revenues into the district's account within the fund. If a municipality is notified that its maximum benefit amount has been reached, the municipality shall dissolve the district by ordinance or resolution as soon as practicable after notification.

200.10(3) Requests for extension. Upon request of the municipality prior to the dissolution of the district, and following a determination by the board that the amounts of new state sales tax revenue and new state hotel and motel tax revenue deposited in the municipality's reinvestment project fund are substantially lower than the maximum benefit amount, the board may extend the district's 20-year period of time for depositing and receiving revenues by up to five additional years if such an extension is in the best interest of the public.

[ARC 1175C, IAB 11/13/13, effective 12/18/13; ARC 5319C, IAB 12/16/20, effective 1/20/21]

261—200.11(15J) Cross reference to department rules. The department has adopted rules for the administration and deposit of moneys into the fund. See 701—Chapter 237.

[ARC 5319C, IAB 12/16/20, effective 1/20/21]

These rules are intended to implement 2013 Iowa Acts, House File 641.

[Filed ARC 1175C (Notice ARC 0947C, IAB 8/21/13), IAB 11/13/13, effective 12/18/13]

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