



## **Tax Abatement Policy & Application**

**Amended:**

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May 2006

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April 2017

City of Elk River  
Economic Development Division  
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## **I. POLICY PURPOSE**

*For the purposes of this document, the term “city” shall include the Elk River City Council, Economic Development Authority, and Housing and Redevelopment Authority.*

The purpose of this policy is to establish the city of Elk River’s position relating to the use of Tax Abatement for private development above and beyond the requirements and limitations set forth by State Law. This policy shall be used as a guide in the processing and review of applications requesting Tax Abatement assistance. The fundamental purpose of providing Tax Abatement in Elk River is to encourage desirable development or redevelopment that would not otherwise occur *but-for* the assistance provided through the Tax Abatement.

The city of Elk River is granted the power to utilize Tax Abatement by Minnesota Statutes, Sections 469.1812 to 469.1815 (the “Minnesota Tax Abatement Act”), as amended. It is the intent of the city to provide the minimum amount of Tax Abatement, as well as other incentives, at the shortest term required for the project to proceed. Preference is given to projects in which the total amount of Tax Abatement request includes participation from the county. The city reserves the right to approve or reject projects on a case by case basis, taking into consideration established policies, project criteria, and demand on city services in relation to the potential benefits from the project. Meeting policy criteria does not guarantee the award of Tax Abatement to the project. Approval or denial of one project is not intended to set precedent for approval or denial of another project.

## **II. DIFFERENCE BETWEEN TAX ABATEMENT AND TAX INCREMENT FINANCING**

The primary difference between Tax Abatement and Tax Increment Financing (TIF) is the way in which the dollars are awarded to the project. When TIF is awarded to a project by the city, the other taxing jurisdictions (the school district and the county) are required to contribute their portion of the increased taxes to the project. Conversely, when Tax Abatement is requested, each political subdivision has the option of granting its portion of the increased taxes to the project. Subsequently, the dollars generated for the project with Tax Abatement are generally less than the dollars generated with TIF.

## **III. OBJECTIVES OF TAX ABATEMENT**

As a matter of adopted policy, the city will consider using Tax Abatement to assist private development projects to achieve one or more of the following objectives:

- To retain local jobs and/or increase the number and diversity of jobs that offer stable employment and/or attractive wages and benefits as defined in the city’s Business Subsidy Policy.
- To enhance and diversify the city of Elk River’s economic base.
- To encourage additional unsubsidized private development in the area, either directly or indirectly through “spin off” development.

- To facilitate the development process and to achieve development on sites which would not be developed without Tax Abatement assistance.
- To remove blight and/or encourage redevelopment of commercial and industrial areas in the city that result in high quality redevelopment and private reinvestment.
- To offset increased costs of redevelopment (i.e. contaminated site clean-up) over and above the costs normally incurred in development.
- To create opportunities for affordable housing.
- To contribute to the implementation of other public policies, as adopted by the city from time to time, such as the promotion of quality urban or architectural design, energy conservation, and decreasing capital and/or operating costs of local government.
- To significantly increase the city of Elk River's tax base.

#### **IV. POLICIES FOR THE USE OF TAX ABATEMENT**

- a. Tax Abatement assistance will generally be provided to the developer upon receipt of taxes by the city, otherwise referred to as the *pay-as-you-go* method. Requests for up front financing will be considered on a case-by-case basis.
- b. Any developer receiving Tax Abatement assistance shall provide a minimum of ten percent (10%) owner cash equity investment in the project.
- c. Tax Abatement will not be used in circumstances where land and/or property price is in excess of fair market value.
- d. Developer shall be able to demonstrate a market demand for a proposed project.
- e. Tax Abatement will not be utilized in cases where it would create an unfair and significant competitive financial advantage over other projects in the area.
- f. Tax Abatement shall not be used for projects that would place extraordinary demands on city services or for projects that would generate significant environmental impacts.
- g. The developer must provide adequate financial guarantees to ensure completion of the project, including, but not limited to: agreements, letters of credit, personal guaranties, etc.
- h. The developer shall adequately demonstrate, to the city's sole satisfaction, an

ability to complete the proposed project based on past development experience, general reputation, and credit history, among other factors, including the size and scope of the proposed project.

- i. For the purpose of underwriting the proposal, the developer shall provide any requested market, financial, environmental, construction plans or other data requested by the city or its consultants.
- j. Tax Abatement proposals shall not be used to support speculative office projects. Speculative projects are defined as those projects which have pre-leasing agreements or letters of intent for less than 50% of the available space.

In addition, leasable office projects must meet the following guidelines:

1. Evidence of the 50% occupancy must be reported to the Director of Economic Development six months following an issued Certificate of Occupancy.
2. Of the occupants certified at the six month period, 50% of the jobs must be considered “new” jobs to the city of Elk River, meaning jobs not located in the city at any time prior to occupying space in the project.
3. Business retention jobs will be considered on a one-for-one match to job creation only in cases where job loss is specific and demonstrable in accordance with the Minnesota Business Subsidy Law. Evidence may include documentation that the company will have to close involuntarily, or the company has received an attractive offer to move to another state or community.

- k. All Tax Abatement proposals shall optimize the private development potential of a site.

## V. PROJECT QUALIFICATIONS

All Tax Abatement projects considered by the city of Elk River must meet *each* of the following requirements:

- a. The project shall meet at least one of the objectives set forth in Section III of this document.
- b. The use of Tax Abatement will be limited to:
  - Industrial development, expansion, redevelopment, or rehabilitation; or
  - Commercial redevelopment or rehabilitation; or
  - Research and development facilities that satisfy Business Park zoning requirements; or
  - Office facilities with a minimum new construction of 25,000 square feet; or
- c. The developer shall demonstrate that the project is not financially feasible

*but-for* the use of Tax Abatement. Evaluation of the project's financial feasibility without Tax Abatement shall be provided by the city's financial advisor on all requests of over \$25,000 total public investment.

- d. The city will consider the use of Tax Abatement assistance for projects that may not meet the *but-for* and job creation criteria, but rather would be considered as a "location incentive". These projects may result in other public benefits such as a significant tax base increase, the creation of higher paying jobs (at least twice the minimum hourly rate stated in the city's Business Subsidy Policy), and is likely to assist in the marketing and attraction of additional desired developments.
- e. The project shall comply with all provisions set forth in the Minnesota Tax Abatement Law, Minnesota Statutes 469.1812 to 469.1815, as amended.
- f. The project must be consistent with the city's Comprehensive Plan, Land Use Plan, and Zoning Ordinances.
- g. The project shall serve at least two of the following public purposes:
  - Job creation or job retention.
  - Significantly increase the tax base.
  - Enhancement or diversification of the city's economic base.
  - Development or redevelopment that will spur additional private investment in the area.
  - Fulfillment of defined city objectives, such as those identified in the Economic Development Strategic Plan or the city's Comprehensive Plan, among others.
  - Removal of blight or the rehabilitation of a high profile or priority site.

## **VI. SUBSIDY AGREEMENT & REPORTING REQUIREMENTS**

All developers/businesses receiving Tax Abatement assistance from the city of Elk River shall be subject to the provisions and requirements set forth by the city's Business Subsidy Policy as amended and Minnesota Statutes Sections 116J.993 to 116J.995 (the "Minnesota Business Subsidy Law"), if applicable

## VII. APPLICATION PROCESS FOR TAX ABATEMENT

### A. CITY OF ELK RIVER

1. Applicant submits the completed application along with a \$10,000 application deposit, to be refunded for any portions not utilized if the tax increment project does not proceed. The application deposit will be used toward the cost of services provided in the evaluation of financial feasibility and preparation of legal documents and agreements. **Projects that demand professional services in excess of the initial deposit shall be required to reimburse the city for the additional expenses.**
2. City staff reviews the application and completes the Application Review Worksheet.
3. Results of the Worksheet are submitted to the appropriate governing authorities (EDA or HRA) for recommendation to the City Council of approval or denial of the request.
4. If preliminary approval is granted, all necessary notices, resolutions and agreements are prepared by city staff and/or consultants.
5. Public hearing(s) on the proposed request are held.
6. The City Council grants final approval or denial of the request.

### B. APPLICATIONS TO OTHER JURISDICTIONS

It is recommended that applicants intending to seek Tax Abatement from Sherburne County and/or School District 728 make their applications to those bodies concurrent with their application to the city of Elk River. For more information on applying for Tax Abatement through Sherburne County and/or School District 728, contact:

Sherburne County Administrator  
763-241-2701

School District 728 Superintendent  
763-241-3400



# Financial Incentive Application

## Tax Abatement Financing

### VIII. APPLICATION FOR TAX ABATEMENT

#### **Public Information Notice**

Generally, correspondence to and from Staff is considered public information. Specific data related to a financial assistance request is deemed not public: Financial Information, Financial Statements, Net worth Calculations, Business Plans, Income and Expense projections, Balance Sheets, Customer Lists, Income Tax returns. When public financial assistance is received, only the following remains not public: Business Plans, Income and Expense projections, Customer lists, Income tax returns, design, market, and feasibility studies not paid for with public funds. The city does allow an applicant to submit sensitive financial information directly to the city's financial consultant, for additional security.

#### **A. APPLICANT INFORMATION**

Name of Business Entity's \_\_\_\_\_

Address \_\_\_\_\_

Primary Contact \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

Brief description of the business entity, including history, principal product or service:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Brief description of the proposed project:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attorney Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_



Accountant Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

Contractor Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

Engineer Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

Architect Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

**B. PROJECT INFORMATION**

- 1. The project will be:
  - \_\_\_\_ Industrial: \_\_\_\_ New Construction \_\_\_\_ Expansion \_\_\_\_ Redevelopment / Rehab.
  - \_\_\_\_ Office/research facility that conforms to Business Park zoning standards
  - \_\_\_\_ Commercial Redevelopment/Rehabilitation
  - \_\_\_\_ Other \_\_\_\_\_

- 2. In addition to the city of Elk River, applicant is requesting Tax Abatement from:
  - \_\_\_\_ Sherburne County      \_\_\_\_ School District 728

- 3. The project will be: \_\_\_\_ Owner Occupied      \_\_\_\_ Leased Space

- 4. Project Address \_\_\_\_\_
- Parcel Identification Number(s) \_\_\_\_\_

- 5. Site Plan and Construction Plans Attached:      \_\_\_\_ Yes      \_\_\_\_ No

- 6. Total Amount of Tax Abatement Requested: \$ \_\_\_\_\_ over \_\_\_\_\_ years.
 

City Portion:	Annual \$ _____	Total \$ _____
County Portion:	Annual \$ _____	Total \$ _____
ISD 728 Portion:	Annual \$ _____	Total \$ _____

- 7. Current Real Estate Taxes on Project Site:      \$ \_\_\_\_\_
- Estimated Real Estate Taxes upon Completion: Phase I \$ \_\_\_\_\_
- Phase II \$ \_\_\_\_\_

- 8. Construction Start Date: \_\_\_\_\_
- Construction Completion Date: \_\_\_\_\_
- If Phased Project:      \_\_\_\_\_ Year      \_\_\_\_\_ % Completed
- \_\_\_\_\_ Year      \_\_\_\_\_ % Completed





## E. ADDITIONAL DOCUMENTATION AND CHECKLIST

Applicants will also be required to provide the following documentation:

- \_\_\_\_\_A) Written business plan, including a description of the business, ownership/management, date established, products and services, and future plans
  
  - \_\_\_\_\_B) Financial Statements for Past Two Years
    - \_\_\_\_\_Profit & Loss Statement
    - \_\_\_\_\_Balance Sheet
  
  - \_\_\_\_\_C) Current Financial Statements
    - \_\_\_\_\_Profit & Loss Statement to Date
    - \_\_\_\_\_Balance Sheet to Date
  
  - \_\_\_\_\_D) Two Year Financial Projections
  
  - \_\_\_\_\_E) Personal Financial Statements & Current Tax Return of all Major Shareholders
  
  - \_\_\_\_\_F) Letter of Commitment from Applicant Pledging to Complete During the Proposed Project Duration
  
  - \_\_\_\_\_G) Letter of Commitment from the Other Sources of Financing, Stating Terms and Conditions of their Participation in the Project
  
  - \_\_\_\_\_H) Application deposit of \$10,000, with any unused portion to be refunded if project does not proceed
  
  - \_\_\_\_\_I) Construction Plans and Itemized Project Construction Statement
  
  - \_\_\_\_\_J) Attach the following documentation as Exhibits
    - \_\_\_\_\_ Exhibit A – Corporation/Partnership Description
    - \_\_\_\_\_ Exhibit B – Description of Project
    - \_\_\_\_\_ Exhibit C – List of Shareholders/Partners
    - \_\_\_\_\_ Exhibit D – *But-For* Analysis
    - \_\_\_\_\_ Exhibit E – List of Prospective Lessees
    - \_\_\_\_\_ Exhibit F – Legal Description and PID Number(s)
- I. **Note:** All owners with ownership interests greater than 20% will be required to sign personal guarantees if up front financing of the project is required.

The undersigned certifies that all information provided in this application is true and correct to the best of the undersigned's knowledge. The undersigned authorizes the city of Elk River to check credit references, verify financial and other information, and share this information with other political subdivisions as needed. The undersigned also agrees to provide any additional information as may be requested by the city after the filing of this application.

The undersigned has received the city's policy regarding the payment of costs of review, understands that reimbursement to the city of costs incurred in reviewing the application will be required, agrees to reimburse the city as required in the policy and make payment when billed by the city, and agrees that the application may be denied for failure to reimburse the city for costs as provided in the policy.

Applicant Name \_\_\_\_\_ Date \_\_\_\_\_



## IX. SAMPLE BUT-FOR ANALYSIS

	WITH NO TAX ABATEMENT			WITH TAX ABATEMENT		
	SOURCES AND USES			SOURCES AND USES		
	SOURCES			SOURCES		
Mortgage	9,600,000			8,667,000		
Equity	2,400,000			2,400,000		
Tax Abatement	0			933,000		
<b>TOTAL SOURCES</b>	<b>12,000,000</b>			<b>12,000,000</b>		
USES			USES			
Land	1,500,000			1,500,000		
Site Work	300,000			300,000		
Soil Correction	468,000			468,000		
Demolition	100,000			100,000		
Relocation	65,000			65,000		
Subtotal Land Costs	2,433,000			2,433,000		
Construction	6,750,000			6,750,000		
Finish Manufacturing	250,000			250,000		
Subtotal Construction Costs	7,000,000			7,000,000		
Soft Costs	350,000			350,000		
Taxes	35,000			35,000		
Finance Fees	850,000			850,000		
Project Manager	542,000			542,000		
Developer Fee	540,000			540,000		
Contingency	250,000			250,000		
Subtotal Soft Costs	2,567,000			2,567,000		
<b>TOTAL USES</b>	<b>12,000,000</b>			<b>12,000,000</b>		
Income Statement			Income Statement			
	100,000	Sq. Ft. \$8.00	Per Sq. Ft. 800,000	100,000	Sq. Ft. \$8.00	Per Sq. Ft. 800,000
Rent-Space 1	25,000	\$8.50	212,500	25,000	\$8.50	212,500
Rent-Space 2	25,000	\$9.00	225,000	25,000	\$9.00	225,000
Rent-Space 3	0	\$0.00	0	0	\$0.00	0
Other	1,237,500			1,237,500		
Mortgage	20 Term 9.00% Interest		1,051,646	20 Term 9.00% Interest		949,439
	9,600,000 Principal			8,667,000 Principal		
Net Income	185,854			288,061		
Total Return on Equity	7.74%			12.00%		



# X. TAX ABATEMENT APPLICATION REVIEW WORKSHEET

**TO BE COMPLETED BY CITY STAFF**

**1. The project meets the criteria set forth in Section V of the Tax Abatement policy.**

- \_\_\_\_\_ a) Meets at least one of the objectives in Section III.
- \_\_\_\_\_ b) Demonstrates need for Tax Abatement with the *but-for* analysis.
- \_\_\_\_\_ c) Consistent with all city plans and ordinances.
- \_\_\_\_\_ d) Serves at least two public purposes as defined in Section V(g).

<b>2. Ratio of Private to All Public Investment in Project:</b>		<b>Points:</b> _____
\$ _____ Private Investment	5:1	5
\$ _____ Public Investment	4:1	4
_____ <b>Ratio Private: Public Financing</b>	3:1	3
	2:1	2
Less than	2:1	1

<b>3. Job Creation in the city of Elk River:</b>		<b>Points:</b> _____
_____ Number of new jobs as a result of the project.	25+	5
_____ Number of existing/retained jobs	20+	4
_____ <b>Total</b>	15+	3
	10+	2
Less than	10	1

<b>4. Ratio of Public Investment to Job Creation:</b>		<b>Points:</b> _____
\$ _____ Public Investment	\$8,000 or less	5
_____ Number of <i>new</i> jobs created/retained	\$10,000 or less	4
\$ _____ <b>of Public Investment per <i>new</i> job</b>	\$12,000 or less	3
	\$15,000 or less	2
	Over \$15,000	1

<b>5. Wage Level of <i>new</i> jobs created/retained</b>		<b>Points:</b> _____
Minimum hourly wage	Over \$21/ hour	5
of jobs created/retained: _____	\$18-21 / hour	4
	\$14-17 / hour	3
	\$10-13 / hour	2
	Under \$10/ hour	1

<b>6. Project size:</b>		<b>Points:</b> _____
The project will result in the construction	40,000+	5
of square feet _____	30,000+	4
	20,000+	3
	10,000+	2
	10,000 or less	1



**7. Market Value/Tax Base Generation:**

The project will result in a per square foot estimated market value (land and building) of \_\_\_\_\_

	<u>Industrial</u>	<u>Commercial</u>	
	\$80/sf+	\$110/sf+	5
	\$70/sf+	\$100/sf+	4
	\$60/sf+	\$90/sf+	3
	\$50/sf+	\$80/sf+	2
	\$40/sf+	\$70/sf+	1

**Points:** \_\_\_\_\_

**8. Type of Project:**

_____ 100% Owner Occupied	5
_____ Mix Owner Occupied & Investment	4
_____ Investment Property	3

**Points:** \_\_\_\_\_

**9. Use:**

_____ Industrial or Business Park Project	5
_____ Commercial Rehabilitation/Redevelopment	4

**Points:** \_\_\_\_\_

**10. Likelihood that the project will result in unsubsidized, spin-off development.**

_____ High	5
_____ Moderate	3
_____ Low	1

**Points:** \_\_\_\_\_

**Sub - Total Points:** \_\_\_\_\_ of a possible 45 points.

**11. Bonus Adjustments**

**Bonus Adjustments:** \_\_\_\_\_

- \_\_\_\_\_ The project will be 100% *Pay-as-you-go* Tax Abatement 3 points
- \_\_\_\_\_ The project contributes to the goals of *Energy City*. 2 points
  - Product promotes sensible use of energy, OR
  - Project utilizes significant energy efficient design &/or materials in construction.

<b>Total Points:</b> _____	<b>Rating</b>	<b>Points</b>	<b>Max Eligibility</b>
Overall project desirability:	High	45-38 points	100%
	Moderate	37-29 points	75%
	Low	28-20 points	50%
	Not Eligible	19-0 points	0%

