



TAX INCREMENT FINANCING DISTRICTS DEFINITIONS OF TERMS

For the purposes of Tax Increment Financing Districts in Vermont approved under 24 VSA Chapter 53, Subchapter V, §§ 1891 – 19010, and 32 VSA, Chapter 135, §5404a, the Vermont Economic Progress Council will apply the following definitions:

Format of these definitions:

[Section in which defined term is utilized]: [**“term being defined”**]: [Definition]

Throughout statute and program information: “**Council**” means the Vermont Economic Progress Council.

32 VSA, Chapter 135, §5404a:

§5404a(h)(1): "**new real property development**": The development or redevelopment expected to occur through private or public investment in real property improvements within the TIF District, not including the public infrastructure improvements financed with TIF District debt.

§5404a(h)(1): "**significantly different and less desirable**": The expected real property development or redevelopment would occur in a manner that:

- provides less positive impacts such as less net revenues to the State
- results in fewer new jobs;
- results in more undesirable growth or growth in an area that is less desirable;
- would require a longer time to accomplish the desired development or redevelopment;
- would require a longer time to encourage private investment;
- would result in more public than private investment;
- would result in the development of fewer public amenities;
- would result in an overall project that is smaller in scope; or
- results in another similar different and less desirable comparison to the desired development outcome.

32 VSA, Chapter 135, §5404a (Cont.):

§5404a(h)(1): "**utilization of the incremental tax revenues**": Setting aside of incremental municipal and education fund revenues generated by new development and redevelopment occurring within a TIF District to finance TIF District debt incurred to finance public infrastructure improvements and to pay for TIF "related costs."

§5404a(h)(1)(A): "**additional cost**": Monetary costs, such as additional planning and financing costs or non-monetary costs that might occur if project is not financed in part with incremental education tax revenue, such as undesirable land use.

§5404a(h)(1)(B): "**size**": refers to the appropriate measurement of scope for the individual components of the development, i.e. number of housing units, square feet of commercial space, square feet of public space, etc. "Size" in this case does not refer to the overall square footage of the TIF District.

§5404a(h)(1): "**Designated growth center**": An area designated for certain growth and approved for certain benefits under 24 VSA §2793c.

§5404a(h)(2)(A): "**public hearings**": Hearings held when appropriate prior legal warning is provided and at which the public is provided the opportunity to provide comment on the proposed TIF district plan.

§5404a(h)(3)(A): "**compact, high density**": Refers to the individual development and redevelopment projects that are expected to occur, not the overall District. New construction is predominately vertical rather than horizontal, and configured to make efficient use of land and resources, is consistent with neighboring characteristics and scale and preserves green space. Densities are greater than existing and allowed densities in comparable areas of the municipality that are outside the TIF District, or, in cases of municipalities characterized predominately by areas of existing dense urban settlement, in-fill development and redevelopment of historic districts is encouraged. (Note that the statute does not define the type of development or redevelopment that is to occur near the existing industrial area; the new development is not limited to industrial development).

§5404a(h)(3)(A): "**in or near**": "In" means within the geographical limits of the existing industrial area. "Near" means contiguous to the existing industrial area. In situations where contiguity is precluded by natural or physical constraints, adjacent areas may include lands lying close to and not widely separated from the majority of the existing industrial area.

§5404a(h)(3)(A): "**industrial**": The existing development is characterized by facilities and uses considered commercial or manufacturing in nature and is zoned for industrial purposes.

32 VSA, Chapter 135, §5404a (Cont.):

§5404a(h)(3)(B): **“within”**: The defined boundaries of the Tax Increment Financing District are completely inside the boundaries defined by an approved growth center, designated downtown, designated village center, or new town center.

§5404a(h)(3)(B): **“approved growth center, designated downtown, designated village center, or new town center”**: Designations and approvals defined by 24 VSA, Chapter 76A, sections 2793, 2793a, 2793b, or 2793c.

§5404a(h)(3)(C): **“Economically distressed”**: The TIF District includes an area that has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values. The Council will examine Vermont Department of Labor and Department of Taxes, PVR data for the municipality, county, and LMA at the level for which the most recent data are available for each indicator. A "pattern of increasing unemployment" will be indicated if the data shows a continual period or several periods of increasing unemployment over the past five years. A "drop in average wages" will be indicated if the data shows that the most current average wages are lower than the average wage five years earlier. A "decline in real property values" will be indicated if the average value of the real property for the area has declined over the past five years for which data are available. All five-year data may be adjusted if data that is more recent than available, published data indicates a significant negative change in unemployment, average wages, or real property values when compared to the five-year data trend. An area may still be considered "economically distressed" if unemployment, a drop in average wages or decline in real property values has occurred during a shorter period of time as a result of a more recent economic event such as a major plant closing or a catastrophic event.

§5404a(h)(4)(B): **“new housing”**: Any housing units that are newly constructed or a substantial renovation of existing housing units that are resold after redevelopment.

§5404a(h)(4)(B): **“affordable”**: Same as the meaning in 10 VSA Section 6001(29)

§5404a(h)(4)(B): **“higher density than at the time of application”**: There will be more overall units of housing within the TIF District boundaries after the development and redevelopment occurs than there were before the TIF District was established

§5404a(h)(4)(D): **“new business or business operation”**: A business that does not operate in Vermont at the time the District infrastructure is developed and will not operate in Vermont until the infrastructure is provided within the TIF District, or a new operation of a business that exists within Vermont at the time the TIF District infrastructure is developed, or the addition of new jobs by a business that does operate within the TIF District prior to the infrastructure development. Moving an existing business from other locations in Vermont to the TIF District does not constitute a “new business.” Satisfaction of the criteria is reliant on the creation of new jobs whether by a new business to Vermont, a start-up, or the addition of a new division, subsidiary or location of an existing business without the reduction of employment at the business operations within Vermont at the time the infrastructure is developed.

32 VSA, Chapter 135, §5404a (Cont.):

§5404a(h)(4)(D): "**provide new, quality, full-time jobs**": The new business or the expansion of the existing business will generate new jobs at which the employees work at least 37 hours per week and will not be temporary or seasonal.

§5404a(h)(4)(D): "**prevailing wage for the region as reported by the department of labor**": The wages for the full-time jobs created must meet or exceed the prevailing wage as reported by the Vermont Department of Labor in their QCEW data as the "Annual Average Wage" for the county in which the TIF District is located and for the NAICS code for the business involved.

§5404a(h)(4)(E): "**enhance transportation**": Activities that enhance transportation include: (1) enhancing and promoting the use of bicycles and walking as viable forms of transportation by providing safe public facilities, including multi-use trails, bicycle routes, bicycle lanes, and sidewalks; (2) enhance transportation options and provide facilities that allow passengers to transfer easily and safely from one mode of transportation to another (e.g., biking to bus service); (3) Provide affordable and accessible public transportation to important destinations among outlying nodes; or (4) promote a transportation system that supports nodal, compact development patterns and reduces negative environmental impacts. Enhancing transportation also includes any activity for which "Transportation Enhancement Grants" are available through the Vermont Agency of Transportation that will result in improved traffic patterns and flow or create or improve public transportation systems in the municipality in which the TIF District is located.

24 VSA Chapter 53, Subchapter V:

§1891. **Definitions:** For the purposes of Tax Increment Financing Districts as authorized under 32 VSA §5404a and 24 VSA §§ 1891 – 1901 and for the purposes of the program information and rules to implement that program, the following terms are defined as provided in VSA 24 §1891 and further clarified here, if necessary:

(1): "**Municipality**" means a city, town, or incorporated village.

(2) "**District**" or "**TIF**" means a Tax Increment Financing District.

(3) "**Legislative body**" means the mayor and alder board, the city council, the select board, and the president and trustees of an incorporated village, as appropriate.

(4) "**Improvements**" means the installation, new construction, or reconstruction of streets, utilities, and other public infrastructure needed for transportation, telecommunications, wastewater treatment, and water supply, parks, playgrounds, land acquisition, parking facilities, brownfield remediation, and other public improvements necessary for carrying out the objectives of the TIF District statute.

24 VSA Chapter 53, Subchapter V:

(5) "**Original taxable property**" means all taxable real property located within the district on the day the district is created.

(6) "**Related costs**" means expenses, exclusive of the actual cost of constructing and financing infrastructure improvements that are directly related to the creation of the TIF District. Also included is the reimbursement of sums previously advanced by the municipality for those purposes, and attaining the purposes and goals for which the TIF District was created, as approved by the Council. Related costs does *not* mean the direct costs of public infrastructure construction or any financing or debt costs or costs related to financing, nor do related costs include any of the following:

- Acquisition of land (this is a statutorily allowed cost included under "Improvements" and therefore can be paid for with TIF revenues, but cannot be defined as a "related cost.")
- Construction of, extension of, additions to, or remodeling of buildings.
- Furnishings, equipment, or apparatus.
- Capitalized interest, underwriter's discounts, funding of reserves.
- Time or services provided by employees of the municipality in the normal course of their municipal duties.

Related costs can include, but are not limited to:

- Consulting, engineering, accounting, and legal fees specific to the TIF District.
- Other professional services specific to the TIF District.
- Administration fees charged by a coordinating agency designated by the municipality.
- Administrative and organizational costs such as appropriate studies and public notification.
- Application fee charged by VEPC for third party application analysis.

(7) "Financing" means the following types of debt incurred or used by a municipality to pay for improvements in a tax increment financing district:

- (A) Bonds. Includes general obligation, revenue, or short term municipal bonds.
- (B) Housing and Urban Development Section 108 financing instruments.
- (C) Inter-fund loans within a municipality.
- (D) State of Vermont revolving loan funds. Includes the State Infrastructure Bank (VEDA), the Brownfields Revitalization Revolving Loan Fund (VEDA/ANR), and the Public Water, Water Source, and Municipal Pollution Control loan funds at ANR.
- (E) United States Department of Agriculture loans.

§1893. Purpose: "**that serve the district**": To be paid for, in whole or in part, by TIF District incremental revenues, the built or improved public infrastructure, regardless of its physical location, must have nexus with the real property development or redevelopment that is expected to occur within the confines of the TIF District boundaries. Applicant municipalities are responsible for explaining and providing evidence to support a connection or link between the public infrastructure to be paid for by TIF District incremental revenue and the real property development that is expected to occur within the District.

24 VSA Chapter 53, Subchapter V (Cont.):

§1894. Power and life of district: **“indebtedness”**: Means the same as “financing” as defined by 24 VSA § 1891(7).

§1894. Power and life of district: **“incurred”**: Means the proper and appropriate execution of the debt instrument.

§1894(c). Power and life of district: **“viability”**: A determination by VEPC, based on information and evidence provided by the applicant municipality and third party analysis, of the feasibility and ability of the municipality to service the alternative (non-bonded) infrastructure debt based on the cost the debt financing compared to the projected incremental property taxes that will be generated by the expected real property development and redevelopment to occur within the TIF District during the time period that the debt instrument must be serviced.

§1894(c). Power and life of district: **“reasonableness”**: A determination by VEPC, based on information and evidence provided by the applicant municipality and third party analysis, that an alternative debt instrument (debt other than bonding, but only debt allowed by statute) is a common sense alternative to bonding for reasons such as lower overall cost or shortened payback period.

§1897(a).Tax Increment Financing: **“in the same proportion”**: Regardless of the physical location of the public infrastructure that must be built or improved to stimulate development or redevelopment within the TIF District, the portion of the costs of that infrastructure and related costs that can be paid for with TIF District revenues must bear a relationship to the proportion by which the infrastructure or related costs serves the District.

§1897(a).Tax Increment Financing: **“serve the district”**: To be paid for, in whole or in part, by TIF District incremental revenues, the built or improved public infrastructure, regardless of its physical location, must have nexus with the real property development or redevelopment that is expected to occur within the confines of the TIF District boundaries. Applicant municipalities must explain, and provide evidence to support, a connection or link between the public infrastructure to be paid for by TIF District incremental revenue and the real property development that is expected to occur within the District.

§1897(a).Tax Increment Financing: **“proportionality formula”**: If possible, the Council, in consultation with a third party analyst, will apply a formula to determine the proportion of the public infrastructure costs and related costs that can be paid by incremental TIF District revenues. The formula will be calculated using the total costs of the infrastructure or related costs and the data provided by the municipality indicating how the infrastructure and related costs serves the District (i.e. wastewater flows, water flows, traffic flows, etc.)

24 VSA Chapter 53, Subchapter V (Cont.):

§1897(a). Tax Increment Financing: **“rough proportionality and rational nexus”**: In cases for which a proportionality formula cannot be determined, the Council will use available data from comparable situations to make a proportionality determination. The determination will utilize a matrix of factors including location, impact on TIF District, impact on real property development, whether it is required for a real property development to occur; whether it is required for the broad TIF outcomes, and whether there are other potential sources of revenue available.

§ 1898(e). Powers supplemental; construction: **“coordinating agency”**: Any public or private entity designated by the municipality to administer and coordinate the TIF District creation, public input process, approval process, and administration during the life of the District, including overseeing the bond process, infrastructure development, and real property development and redevelopment. The costs of the “coordinating agency” are considered “related costs” and may be covered by TIF proceeds if the costs are included in the TIF plan approved by the municipality and VEPC.