

Chapter 15

Community development and redevelopment

This chapter describes the requirements for a city to establish criteria for awarding business subsidies, addresses the various development agencies cities may create, and provides a brief overview of state and federally sponsored programs for encouraging development and redevelopment. Most economic development tools can be applied to any size city. These tools are interrelated, and a city may use several for one project.

I. Business subsidies or financial assistance

A. Business subsidies

[Minn. Stat. §§ 116J.993 to 116J.995.](#)

[Minn. Stat. § 116J.993, subd. 3.](#)

State law defines “business subsidy” or “subsidy” as a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business in an amount greater than \$150,000.

[Minn. Stat. § 116J.994, subds. 5, 11.](#)

[Minnesota Department of Employment and Economic Development \(DEED\).](#)

Prior to awarding a business subsidy of more than \$150,000 (and as defined by law) to any business, a city and any Housing and Redevelopment Authority (HRA), Economic Development Authority (EDA), port authority, and nonprofit created by a local government must hold a public hearing and adopt criteria for awarding business subsidies. The public hearing notice must include a statement that either a resident or a city property owner may file a written complaint with the city if the city does not follow the business subsidy law. Written complaints must be filed within specified timelines. The criteria must include a policy regarding the wages to be paid for any jobs created. Copies of the criteria adopted by cities are found on the Minnesota Department of Employment and Economic Development (DEED) web site

[Minn. Stat. § 116J.994, subd. 3.](#)

Once the criteria are established, the grantor and the recipient must enter into subsidy agreements that meet the statutory requirements. The agreement must include an obligation to repay part or the entire subsidy if the recipient does not meet its obligations.

Minn. Stat. § 116J.993, subd. 3.
Minn. Stat. § 469.185.

Types of assistance meeting the definition of a business subsidy include: grants; contributions of real or personal property or infrastructure; the principal amount of a loan at rates below those commercially available to the recipient; any reduction or deferral of any tax or any fee; any guarantee of any payment under any loan, lease or other obligation; or any preferential use of government facilities given to a business.

Minn. Stat. § 116J.994, subd. 11.

The law imposes a 180-day statute of limitations on actions to challenge a city after approval of a business subsidy agreement. Citizens or owners of taxable property in a city may bring a civil action against the city for failure to comply with the business subsidy laws. Cities should therefore consult closely with the city attorney before awarding a business subsidy.

Minn. Stat. § 116J.993, subd. 3.

There are several exceptions to this definition, including a subsidy of less than \$150,000; subsidies for redevelopment, pollution control and land clean up, housing, industrial revenue bonds, utility property tax abatements and other similar programs.

Minn. Stat. § 116J.994, subds. 4, 7, 8.

Recipients must provide grantors with information on their progress toward the goals outlined in the agreement. The goals for increasing jobs or retaining jobs must result in local job creation and job retention. Grantors must submit the annual Minnesota Business Assistance Form (MBAF) to the Department of Employment and Economic Development (DEED) by April 1 each year for each business subsidy agreement. Local government agencies in cities with a population of 2,500 or more must submit an MBAF, regardless of whether they have awarded business subsidies. Local government agencies in cities with a population of 2,500 or less are exempt from filing the MBAF if they have not awarded a subsidy in the past five years.

B. Financial assistance

Minn. Stat. § 116J.994, subd. 2.
Minn. Stat. § 116J.994, subd. 8.

Cities may offer “financial assistance” in the form of a business loan of more than \$25,000 or a guarantee of \$75,000 or more, but less than \$150,000 required to constitute a business subsidy. If a city offers such financial assistance it must develop criteria and set minimum wage floor levels as prescribed in business subsidy law. Cities granting such financial assistance must submit business assistance reports to the Department of Employment and Economic Development (DEED) within one year of granting the assistance.

II. City development tools

A. General city development powers

Minn. Stat. § 469.041.

Cities have authority to aid and cooperate in the planning, construction, or operation of economic development, and housing and redevelopment projects. The following is a partial list of actions cities may take, with or without compensation:

- Dedicate, sell, convey, or lease any of its interests in any property or grant easements, licenses, or any other rights or privileges to an HRA.
- Furnish parks, playgrounds, recreational, community education, water, sewer, and drainage facilities or other works adjacent to or in connection with housing and redevelopment projects.
- Grant a partial tax exemption of up to 50 percent of all local taxes for housing projects in a redevelopment district.

Minn. Stat. § 469.043, subd. 2.

Minn. Stat. § 469.192.

A statutory city, home rule charter city, economic development authority, housing and redevelopment authority, or port authority may make a loan to a business, a for-profit or nonprofit organization, or an individual for any purpose the entity is otherwise authorized to carry out under any of the laws cited.

Judd Supply Co. v. Merchants & Mfgs. Ins. Co., 448 N.W.2d 895 (Minn. Ct. App. 1989).

Private development projects that receive public financial or other assistance will not necessarily become public projects that trigger competitive bidding or other state laws applicable to public works.

B. Housing and redevelopment authorities

The predominant method of delivering and administering housing and redevelopment programs in Minnesota is through a legal public agency, accountable to city government. A city may establish this public agency, which is often the HRA. There are more than 230 HRAs in Minnesota.

1. Elements of an HRA

Minn. Stat. §§ 469.001 to 469.047. Minn. Stat. § 469.003.

An HRA is a public corporation with power to undertake certain types of housing and redevelopment or renewal activities. While state legislation conveys authority for housing and redevelopment in each city, it is up to the city council to formally establish an HRA before it can do business and use its powers. Once a council legally establishes an HRA, it may undertake certain types of planning and community development activities on its own with council approval.

Minn. Stat. § 469.003, subd. 1.

To create a housing and redevelopment authority, the city council must, by resolution, make the following findings required by law:

- Substandard, slum or blighted areas that cannot be redeveloped without governmental assistance; or,
- A shortage of affordable, decent, safe, and sanitary dwelling accommodations available to low-income individuals and families.

Minn. Stat. § 469.003, subds. 2, 4.

The council must pass this resolution after a public hearing. A copy of this resolution must go to the commissioner of DEED.

2. Area of operation for an HRA

Minn. Stat. § 469.004, subds. 1, 2.

The area of operation of a city HRA is the corporate limits of the city. County and multi-county HRAs operate in areas that include all the political subdivisions within the county or counties, except they may not undertake any project within the boundaries of a city that has not adopted a resolution authorizing the county or multi-county HRA to exercise powers within that city.

Minn. Stat. § 469.004, subd. 5.

Establishment of a county or multi-county HRA precludes the formation of city HRAs, unless the county or multi-county HRA and the commissioner of DEED agree to let the city form one.

3. HRA membership

Minn. Stat. § 469.003, subd. 6.

An HRA consists of five commissioners who are residents of the city. The mayor appoints and the council approves the members who serve five-year, staggered terms. City councilmembers often serve on the HRA. The entire membership of an HRA may consist of councilmembers.

24 C.F.R. 964.415.

Federal regulations require that at least one eligible resident be a member of a public housing agency board, which may be the HRA, an EDA or other public housing authority (PHA). This rule applies to any public housing agency that holds a public housing annual contributions contract with HUD or that administers Section 8 tenant-based rental assistance. The rule does not apply to state-financed public housing projects or Section 8 project-based assistance. A “small PHA exception” also exists.

Minn. Stat. § 469.003, subd. 7.

The city clerk must file a certificate of appointment for each commissioner of a city HRA and send a certified copy to the commissioner of DEED.

Minn. Stat. § 469.011, subd. 2.
Minn. Stat. § 469.011, subd. 4.

State law allows the HRA to adopt bylaws. Commissioners may accept compensation of up to \$75 for each meeting they attend. Commissioners who are elected officials may receive daily payment for a particular day only if they do not receive any other daily payment for public service on that day. Commissioners who are public employees may not receive daily payment, but may not suffer loss in compensation or benefits as a result of their service.

4. HRA powers

Minn. Stat. § 469.012, subd. 1.

An HRA is primarily responsible for the planning and implementation of redevelopment and/or low-rent housing assistance programs within its area of operation. An HRA has all the powers necessary to carry out the state HRA Act, including but not limited to the following powers:

- To sue and be sued.
- To employ staff and an executive director.
- To undertake projects within its area of operation and to provide for the construction, reconstruction, improvement, extension, alteration, or repair of any project or part of a project.

- To sell, buy, own, and lease property by any means necessary, including the power of eminent domain.
- To cooperate with and use state and federal financial assistance programs.
- To develop rehabilitation and code enforcement techniques.
- To issue bonds for any of its corporate purposes backed by the pledge of revenues, grants or other contributions.
- To implement renewal or redevelopment programs using tax increment financing.
- To own, hold, improve, lease, sell or dispose of real or personal property.
- To designate substandard, slum or deteriorating areas needing redevelopment, and unsafe, unsanitary, and overcrowded housing.
- To make necessary expenditures to carry out the purposes of the HRA law.
- To develop and administer an interest reduction program to assist the financing of the construction, rehabilitation, or purchase of low- or moderate-income housing.

5. HRA special assessment and levy authority

[Minn. Stat. § 469.001 – 469.047.](#)

[Minn. Stat. § 469.033, subd. 6.](#)

[Minn. Stat. § 275.70 to 275.74.](#)

[Minn. Stat. § 275.066.](#)

HRA power to levy and collect taxes or special assessments is limited to the power provided in state law. Subject to a resolution of consent from the city council an HRA may levy a tax upon all taxable property within the city. (The council may give a consent that covers a series of years if they so choose or council may pass a resolution authorizing an HRA levy for a set amount of time, for example, the entire term of the bonds secured in part by an HRA levy and in part by a city levy.) State law recognizes the distinct nature of HRAs and designates them as “special taxing districts.” The maximum general allowable operational levy of HRAs is 0.0185 percent of the previous year’s taxable market value of all property in the city. The city’s total taxable market value is available from the county assessor. An HRA raises its own levy because it is a separate political subdivision and not a “local governmental unit.” Therefore, an HRA levy is not subject to levy limits but is subject to the 0.0185 percent market value limit. Levies collected by an HRA must be used only for purposes listed in the HRA Act.

[Minn. Stat. § 469.107.](#)

[Minn. Stat. § 275.066.](#)

There is crossover between HRA and EDA levies that can be confusing. Typically, EDAs are not authorized to levy taxes under state law. However, many city EDA-enabling resolutions adopt all the powers of an HRA, and then the EDA functions as a special taxing district under state law. If the enabling resolution so allows, the EDA levies a separate tax or “HRA levy” not subject to levy limits or city debt limits—but again subject to the 0.0185 percent of total city market value limit in state law. The city attorney may verify the structure and levy authority of each city’s HRA and/or EDA.

Minn. Stat. § 469.012, subd. 4.
Minn. Stat. § 469.028.

While HRAs have the legal authority to “do whatever is necessary and convenient” to implement redevelopment, they are subject to the ordinances and laws of the city. The city council must approve HRA plans before the housing and redevelopment authority may begin implementation.

6. HRA contracting

Minn. Stat. § 469.015. Minn.
Stat. § 469.015 subd. 1a.

All HRA construction work and purchases of equipment, supplies or materials that involve expenditure of more than \$100,000 must be competitively bid. An HRA (and a city) may also use the “best value alternative.” There are limited exceptions to these requirements for emergencies and certain projects, such as parking ramps and certain public transit facilities.

7. HRA financing

Minn. Stat. §§ 469.033 and
469.034.

Operating funds, capital improvements, and debt retirement expenses for HRA projects may be financed by any one, or combination of, the following methods:

- Federal grants.
- Revenue bonds the HRA or local governing body sells.
- General obligation bonds the local governing body sells.
- Tax increments from redevelopment projects.
- A limited mill levy for redevelopment projects and planning activities.
- A limited mill levy for informational and relocation services.

Minn. Stat. § 429.034, subd. 1.

When an HRA issues bonds, the revenue generated must be used for the projects financed, or bond costs must be paid from income generated by designated projects. The law states that the principal and interest on bonds are payable exclusively from the income and revenues of the project financed with the proceeds of the bonds, or exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part with the proceeds of the bonds.

8. HRA certifications to state

The following documents relating to the establishment and activities of local HRAs must go to the DEED commissioner:

Minn. Stat. § 469.003, subds. 4,
6.

Minn. Stat. § 469.003, subd. 7.

- Resolution of need.
- Certificates of appointment or reappointment of HRA commissioners.
- Project reports.
- Applications for federal assistance.
- Contracts with federal agencies.

- Redevelopment plans.
- Low rent public housing project and management plans.

Minn. Stat. § 469.013.

In addition, annual financial reports must go to the state auditor.

9. HRA federal certification

In order for a local HRA to use federal Department of Housing and Urban Development (HUD) assistance programs, it must submit a transcript of organizational documents to the HUD area office.

C. Economic development authorities

Minn. Stat. §§ 469.090 to 469.1082.

2010 Minn. Laws ch. 387, art. 1, § 25 amending Minn. Stat. § 469.1082, subd. 5.

The Economic Development Authorities Handbook. For a copy of this book, and for sample resolutions and by laws for an EDA, contact the [League's Research Department](#) at (651) 281-1220 or (800) 925-1122.

All cities and townships have authority from the state Legislature to create economic development authorities. The city may consolidate the economic development authority (EDA) with an existing HRA or the city may grant the authority HRA powers. The city council may create an EDA by passing an enabling resolution. Before adopting the enabling resolution, the city must first conduct a public hearing. The enabling resolution establishes a board of commissioners for the EDA. The city council can choose to serve as the EDA board of commissioners or create a board composed of community members. The mayor, with approval of the council, appoints the commissioners. The board may consist of three, five or seven members who serve six-year terms. The board is subject to the open meeting law.

1. EDA levies

Minn. Stat. § 275.70.

Minn. Stat. § 275.066.

The typical EDA levy is different than the HRA levy discussed above. It is not a levy raised by the EDA—it is a levy set by a city at the request of the EDA. Basically, the city simply appropriates part of the money the city collects in the general city levy to the EDA. Because the EDA levy is part of the city levy, it is not a “special levy” under state law and thus the EDA levy is subject to the city’s overall levy limit. However, as noted above, many EDA-enabling resolutions adopt all the powers of an HRA. If so, the EDA may levy a separate tax or “HRA levy,” and then the EDA functions as a special taxing district as if it were an HRA and that levy is not subject to levy limits or to city debt limits. An EDA using the levy powers of an HRA is still limited to a levy no more than 0.0185 percent of the total taxable market value in the city.

2. EDA loans

Minn. Stat. § 469.192.

Minn. Stat. §§ 469.090 to 469.1082.

Minn. Stat. § 469.098.

An EDA is authorized to make a loan to a business, a for-profit or nonprofit organization, or an individual. Before taking an action or making a decision which could substantially affect an EDA commissioner's or an employee's financial interests or those of an organization with which the commissioner or an employee is associated, a commissioner or employee of an authority must comply with specific requirements to disclose the conflict and obtain prior approval. Failure to do so may result in criminal charges.

Loans must be for a purpose the EDA is authorized to carry out under the law. An authorized purpose must deal with or contribute to economic or industrial development. EDAs have the ability to use pooled bond reserving. In most development programs, each bond issue is independent of any other bond issue with a separate service or sinking fund account. EDAs, however, may create a single common bond reserve fund. Under this arrangement, each project's revenues go into a common fund, which in turn pays the bondholders on all projects.

Through this pooling mechanism, the security of each project's bond increases and borrowing costs decrease as long as the pool has the necessary volume and diversity of cash flow.

3. Other EDA powers

Minn. Stat. § 469.101, subs 1, 2.

2010 Minn. Laws ch. 389, art. 7, § 5 amending Minn. Stat. § 469.101, subd. 1.

"Bill Summary H.F. 3729" House Research Department (May 16, 2010).

Minn. Stat. § 469.102.

EDAs can acquire property and facilities but cannot issue debt without an election. The city must authorize the issuance of debt in the resolution creating the EDA. Also, EDAs can create economic development districts but the districts must be contiguous. Current law eliminates the requirements that economic development districts established by EDAs meet the "blight test" under tax increment financing law for redevelopment districts. EDAs may exercise powers under the housing and redevelopment authority (HRA) law (if a particular EDA enabling resolution includes HRA power) to create a redevelopment project, housing development, or housing project under which a restrictive blight test does not apply. These projects can be used for similar purposes to those of an economic development district under the EDA law.

D. Port authorities

Minn. Stat. §§ 469.048- 469.068.
Minn. Stat. § 469.053.

The state Legislature authorizes city creation of port authorities. A port authority is a separate political entity with the right to sue and be sued in its own name and is generally organized to increase commerce in a city. Unlike EDAs and HRAs, a port authority may issue general obligation bonds without holding an election.

Minn. Stat. § 469.050. Minn. Stat. § 469.051.

Cities establish a port authority by passing an enabling resolution. It may have from three to seven commissioners (two of whom must be on the city council) appointed by the mayor and approved by the city council, unless a different number or procedure is set out in the enabling law. State law governs commissioner pay, vacancies, duties, and port authority by-laws.

Minn. Stat. § 469.051, subd. 2.

A port authority shall annually elect a president or chair, vice-president or vice-chair, treasurer, secretary, and assistant treasurer. A commissioner may not serve as president or chair and vice-president or vice-chair at the same time. The other offices may be held by one commissioner. The offices of secretary and assistant treasurer need not be held by a commissioner.

The treasurer of a port authority must be bonded to faithfully perform these duties:

- Receive and be responsible for port authority money.
- Be responsible for the acts of the assistant treasurer, if appointed.
- Disburse port authority money by check or electronic procedures.
- Keep an account of the source of all receipts, and the nature, purpose, and authority of all disbursements.
- File the authority's detailed financial statement with its secretary at least once a year at times set by the authority.

Minn. Stat. § 469.051, subd. 9.

The port authority's annual detailed financial statement must show all receipts and disbursements, their nature, the money on hand, the purposes to which the money on hand is to be applied, the authority's credits and assets, and its outstanding liabilities. The authority must examine the statement together with the treasurer's vouchers. If the authority finds the statement and vouchers correct, it shall approve them by resolution and record the resolution.

Minn. Stat. §§ 469.048–469.068.

State law governs many other aspects of port authorities, including but not limited to use of city property by a port authority, employees, contracts, and audits. The city attorney also acts as the port authority's attorney.

E. Municipal or area redevelopment agencies

Minn. Stat. §§ 469.109 to 469.123.

Any rural municipality or group of municipalities may establish a public body, known as a municipal or area redevelopment agency, in and for the area the municipality covers. This law defines municipalities as home rule charter or statutory cities, counties, towns or school districts.

Minn. Stat. § 469.110, subd. 11.
Minn. Stat. § 469.111.

The law includes only rural areas, which generally means all areas that are not within the boundary of any city having a population of 50,000 or more, and not immediately adjacent to urbanized and urbanizing areas with a population density of more than 100 persons per square mile—or areas with an unemployment rate of 6 percent or more. The restrictions limit applicability of the law to rural areas and to the Iron Range.

Minn. Stat. § 469.111.
Minn. Stat. § 469.115.

The establishment of the municipal or area redevelopment agency is similar to the establishment of an HRA. A municipal or area redevelopment agency has similar powers to an HRA.

F. City development districts

Minn. Stat. §§ 469.124 to 469.134.

Any home rule charter or statutory city may designate development districts within the boundaries of the city. Within these districts, cities may:

- Adopt a development program to acquire, construct, reconstruct, improve, alter, extend, operate, maintain or promote developments aimed at improving the physical facilities, quality of life, and quality of transportation.

- Promote pedestrian skyway systems.
- Install special lighting systems, street signs and street furniture, landscaping of streets and public property, and snow removal systems.

Minn. Stat. § 469.127.

The law encourages pedestrian skyway systems, underground pedestrian concourses, people-mover systems, and publicly-owned parking structures. It exempts these structures from taxation even when they are attached to privately-owned buildings.

G. City industrial development

Minn. Stat. §§ 469.152 to 469.1651.

Minn. Stat. § 469.152.

For the purpose of attracting industrial and commercial development and encouraging local governments to prevent economic deterioration, any home rule charter or statutory city or its redevelopment agency has the power to promote industrial development by:

- Acquiring, constructing, and holding lands, buildings, easements, improvements to lands and buildings, capital equipment, and inventory for industrial projects.
- Issuing revenue bonds and entering into revenue agreements to finance these activities to promote industrial projects.
- Refinancing health care and other facilities.

Minn. Stat. § 469.155, subd. 4.

Under the legislation, cities assist industries in starting operations and use generated revenues to repay the costs. This law is the basis for issuing most industrial revenue bonds.

2010 Minn. Laws ch. 216, § 24 amending Minn. Stat. § 469.153, subd. 2.

Industrial projects eligible for assistance include any revenue-producing enterprises engaged in assembling, fabricating, manufacturing, mixing, processing, storing, warehousing, or distributing any products of agriculture, forestry, mining, or manufacturing; or in research and development activity in these fields; or in the manufacturing, creation, or production of intangible property, including any patent, copyright, formula, process, design, know how, format, or other similar item. "Project" also includes any properties designated as a qualified green building and sustainable design project under state law. Eligible projects may include costs related to dewatering activities.

2010 Minn. Laws ch. 216, § 26 to be codified as Minn. Stat. § 469.1655.

Minn. Stat. § 469.155, subd. 14.

The law prohibits a city from operating any of these projects as a business or in any other manner.

III. Other development strategies

A. Housing bonds

[Minn. Stat. ch. 462C.](#)

Cities may use revenue bonds for financing single- and multi-family housing, primarily for the benefit of low- and moderate-income families. The law contains single- and multi-family housing criteria and the specific actions cities must take to comply with the law. Federal law limits the issuance of housing revenue bonds. Bonding authority is allocated by a state formula.

B. Industrial parks

An industrial park is a tract of land suitable for industrial use because of location, topography, proper zoning, availability to utilities, and accessibility to transportation. A single body has administrative control of the tract. In some cities, an industrial park may be little more than a tract of unimproved land, while in other cities it may be totally served by city services and have restrictive building requirements. An industrial park's purpose is to attract industrial development.

Property a city holds for later sale for economic development purposes remains tax exempt for a period of eight years, or until buildings or other improvements that are constructed after acquisition reach one-half occupancy.

Currently, private enterprise creates most new industrial park development by establishing a for-profit community development corporation. A city can cooperate with that corporation through its land-use controls and methods of financing public improvements. Many cities have also established industrial parks complete with streets, water, and sewer, in spite of the possible tax ramifications. The city then sells or leases a portion of the park to a business needing a location for its building.

[Minn. Stat. § 469.185.](#)

[Minn. Stat. § 465.035.](#)

[A.G. Op. 476-B-2 \(Mar. 2, 1961\).](#)
[City of Pipestone v. Madsen, 287](#)
[Minn. 357, 178 N.W.2d 594](#)
 (1970).

The law authorizes any city owning lands that are not restricted by deed to convey the lands for nominal consideration, to encourage and promote industry, and to provide employment for citizens. In finding that a conveyance of land for an indoor arena was not within the statute, the attorney general concluded the conveyance must encourage and promote industry and provide employment for citizens. A more direct promotion of industry is necessary, beyond the fact that more potential customers might be in town as a result of athletic contests. However, the courts have upheld the municipal industrial development revenue bond law, discussed subsequently, against the same objection. The city's attorney can best advise the city concerning the legality of a purchase of land for resale.

C. Industrial revenue bonds

Minn. Stat. §§ 469.152 to 469.1651.

The municipal industrial development laws help cities attract new commercial and industrial development, and keep existing businesses in the city. The law authorizes the council to issue revenue bonds, and use the proceeds to acquire and construct industrial sites and facilities. The city then leases these facilities to private industry and uses the rental fee proceeds to retire the bonds.

A city may issue industrial revenue bonds, also known as municipal revenue bonds, without public referendum. It cannot pledge the full faith and credit of a community as security for these bonds. Thus, the city may not tax property owners to pay principal and interest on the bonds.

For more information, contact DEED 651.259.7114, 800.657.3858 or 888.438.5627. Main Office: 1st National Bank Building 332 Minnesota Street, Suite E200 Saint Paul, MN 55101-1351.

If a city decides to investigate the use of industrial bond financing, it should contact the Department of Employment and Economic Development. The department provides the city with information, advice, and technical assistance. This assistance is important, due to the adoption of federal and state laws allocating issuance authority among the states and their political subdivisions. The commissioner of Securities must approve the project.

D. Commercial rehabilitation

Minn. Stat. § 469.184.

Cities have authority to carry out programs for the rehabilitation of small- and medium-sized commercial buildings. The city must adopt a program ordinance that provides for the adoption of program regulations, including a definition of small- and medium-sized commercial buildings. Loans under the program may be for amounts up to \$200,000. The city may finance the program through the sale of revenue bonds.

E. Tax increment financing (TIF)

Minn. Stat. §§ 469.174 to 469.1799.

Tax increment financing authority is available to most cities. Cities with housing and redevelopment authorities, economic development authorities, port authorities, redevelopment agencies, those cities administering development districts or development projects, or cities exercising port authority powers under a general or special law may use tax increment financing. Amendments to the law, however, may make the use of this development tool more complicated.

Tax increment financing is a funding technique that takes advantage of the increases in tax capacity and property taxes from development or redevelopment to pay upfront public development or redevelopment costs. The difference in the tax capacity and the tax revenues the property generates after new construction has occurred, compared with the tax capacity and tax revenues it generated before the construction, is the captured value. The taxes paid on the captured value are called “increments.” Unlike property taxes, increments are not used to pay for the general costs of cities, counties, and schools. Instead, increments go to the development authority and are used to repay public indebtedness or current costs the city incurred in acquiring the property, removing existing structures or installing public services.

Thus, the property owner in a TIF district continues to pay the full amount of property taxes. TIF involves only the increased property taxes generated within the district. It does not change the amount of property taxes currently derived from the redevelopment area, nor does it directly affect the amount or rate of general ad valorem taxes the city levies. The result of a TIF project is an increased tax base that will benefit all local taxing jurisdictions. Additionally, TIF districts usually spur economic development and redevelopment through creating job, removing blight, and providing more affordable housing.

State. v. Wicklund, 589 N.W.2d 793 (Minn. 1999) .

TIF is used to encourage four general types of private development: redevelopment, renovation and renewal, growth in low- to moderate-income housing, and economic development. Public financing using TIF funding for a privately owned facility does not make public space in the facility a public forum for free speech purposes.

2010 Minn. Laws ch. 216, § 26 amending Minn. Stat. § 469.174; 2010 Minn. Laws ch. 216, § 28 amending Minn. Stat. § 469.175 adding subd. 2a; 2010 Minn. Laws ch. 216, § 29 amending Minn. Stat. § 469.176, subd. 1b; 2010 Minn. Laws ch. 216, § 30 amending Minn. Stat. § 469.176 adding subd. 1i; 2010 Minn. Laws ch. 216, § 31 amending Minn. Stat. § 469.176, subd. 4c. Minn. Stat § 273.13, subd. 24.

A new TIF district involves compact development. Two major conditions must be satisfied:

- Parcels consisting of 70 percent of the area of the district are occupied by buildings or similar structures that are classified as class 3a property under state law. and
- The planned redevelopment or development of the district, when completed, will increase the total square footage of buildings, classified as class 3a under state law, occupying the district by three times or more relative to the square footage of similar buildings occupying the district when the resolution is approved.

The authority to establish or approve a compact development district expires on June 30, 2012.

2010 Minn. Laws ch. 216, § 32 amending Minn. Stat. § 469.176, adding subd. 4m.

Cities have temporary authority to spend TIF funds to stimulate construction using economic development districts for any type of project, if three conditions are met:

- The municipality funds projects that will create new jobs in the state, including construction jobs, and the project otherwise would not have begun before July 1, 2011, without assistance.
- Construction of the project begins no later than July 1, 2011.
- The request for certification is made by June 30, 2011.

This temporary authority to spend the tax increment expires Dec. 31, 2011.

Minn. Stat. § 469.175, subd. 5.

The city using TIF must report annually to the county board, the county auditor, the school board, and the state auditor as to the status of the TIF district or districts and publish the report. The state auditor has established a uniform system of accounting and financial reporting for TIF districts. The city must annually submit to the state auditor a financial report in compliance with these standards.

Minn. Stat. § 469.1771, subds. 1, 2b.

The state auditor may audit TIF districts. If the state auditor notifies a TIF authority of an alleged violation, a copy of the notice is also forwarded to the county attorney. If no corrective action is brought within one year, the county attorney must notify the state auditor, who then notifies the attorney general. If the attorney general finds a substantial violation, the attorney general will petition the state tax court to suspend the authority's power to use TIF for a period of up to five years.

Minn. Stat. § 469.177, subd. 8. *Lake Superior Paper Indus. v. State*, 624 N.W.2d 254 (Minn. 2001). *Brookfield Trade Center, Inc. v. County of Ramsey*, 609 N.W.2d 868 (Minn. 1998).

The TIF agreement with the developer is a complex document. Assistance from a financial advisor and the city attorney is necessary in order to anticipate the many potential problems. An agreement can establish a minimum market value for tax increment assessment purposes, as well as provide that the developer pay a certain level of taxes regardless of any classification rate changes or levy decreases. The agreement should be entered into before the assembly and acquisition of the land on which the completed improvements are to be located.

See Minn. Stat. §§ 469.177, subds. 1b, 11; 469.1771, subd. 1; 469.1791; 469.1793; 469.1799; and 469.1814.

The 2001 tax reform legislation, which reduced class rates and provided for the state takeover of the general education levy, resulted in several changes to various statutes to accommodate the changes. These changes considerably reduce the continued viability of TIF in the future.

Minn. Stat. § 469.174.

The law imposes a 180-day statute of limitations on actions to challenge the creation or modification of a TIF district. The law is complex including a "but-for" finding before a city approves a TIF plan and the creation of a TIF district. Cities must follow statutory requirements as to administrative expenses, plan modifications, reporting requirements, use of increment in pre-1979 districts, excess increments, pool, and decertification, among other things.

Minn. Stat. § 469.175.

Before a district can be created, the law requires a detailed estimate of the impact of a proposed district on city-provided services, such as police and fire protection, public infrastructure, and borrowing costs attributable to the district, in addition to other complex estimations must be prepared.

Walser Auto Sales, Inc. v. City of Richfield, 635 N.W.2d 391 (Minn. Ct. App. 2001), *aff'd*, 644 N.W.2d 425 (Minn. 2002).

Cities should use extreme care in establishing a TIF district and should follow all procedural requirements; otherwise a court may find the district was not properly established. In one case, a TIF district was not properly established where minimal effort was made to ensure the thorough inspection of the properties, inaccurate and unprecedented methodology was used to establish the condition of the buildings, and the buildings found structurally substandard were not reasonably distributed throughout the district.

Chenoweth v. City of New Brighton, 655 N.W.2d 821 (Minn. Ct. App. 2003)

In another case, a cause of action for inverse condemnation does not arise where a city's involvement with an adjacent property owner's development consists of establishing a TIF district, entering into a contract with a private developer specifying the size and value of structures to be built, and providing for substantial city assistance to facilitate development.

Given the complexity of the laws governing the use of TIF, cities or HRAs should not undertake this method of financing community development projects without the advice of an attorney and professional consultants.

F. Property tax abatement

Minn. Stat. §§ 469.1812 to 469.1815.

A city may use this development tool to segregate some or all of the taxes (or the increase in taxes) it imposes on a parcel of property if the city expects the benefits of the proposed abatement agreement to at least equal the costs of the proposed development. The term "abatement" is somewhat misleading, as in most cases the tax is not forgiven; it is paid normally, but the amount of property tax levied by the city is used to pay for the bonds. The city must determine that the agreement is in the public interest because it will increase or preserve tax base, provide employment opportunities, provide or help acquire or construct public facilities, help redevelop or renew blighted areas, or help provide access to services for residents of the city. Property taxes in a TIF district cannot be abated unless the period of the abatement will not occur until after the district is decertified.

A resolution must be adopted after notice and public hearing, specifying the terms of the abatement. A city may issue bonds or other obligations to provide an amount equal to the sum of the abatements granted for a specific property. The maximum principal amount of these bonds may not exceed the estimated sum of the abatements for the property for the years authorized. The bonds may be general obligations of the city if the city council chooses to pledge the full faith and credit of the city in the resolution issuing the bonds. The law limits property tax abatements to 15 years. School districts and counties have similar abatement powers. A city, county, and school district can agree to abate their taxes on the same property.

IV. State-sponsored development tools

A. Minnesota Housing Finance Agency

[Minn. Stat. ch. 462A](#). For more information about [MHFA](#) programs, contact MHFA at 400 Sibley Street Suite 300, St. Paul, MN 55101-1998 (651) 296-7608 or (800) 657-3769.

The goals of the Minnesota Housing Finance Agency (MHFA) are to provide decent, affordable housing to low- and moderate-income people; preserve the existing housing stock in Minnesota; preserve existing neighborhoods and prevent them from deteriorating; and prevent mortgage foreclosures while promoting energy conservation in residential housing.

The Minnesota Legislature created the MHFA in response to a shortage of affordable housing for low- and moderate-income people. Private enterprise and private investment were unable, without public assistance, to provide an adequate supply of safe, sanitary, and decent housing at affordable prices and rents.

[Minn. Stat. § 462A.073](#) *et seq.*
MHFA: [Minnesota City Participation Program](#).

The sale of state tax-exempt bonds is the primary financing for MFHA programs. Through the Minnesota City Participation Program, Minnesota Housing sells mortgage revenue bonds on behalf of cities to meet locally identified housing needs. The proceeds of these bonds provide below-market interest rate home mortgage loans for low- and moderate-income, first-time homebuyers, or for the construction or rehabilitation of single- and multi-family housing. Appropriations from the Legislature provide additional funding for programs, including the promotion of energy conservation; an increase in home ownership opportunities for first time homebuyers; home improvement grants to very low-income homeowners; and programs to improve the housing available to Native Americans, large families, and people with disabilities.

B. Department of Employment and Economic Development (DEED)

[Minn. Stat. ch. 116J](#).
[Minnesota Department of Employment and Economic Development](#).

The Minnesota Department of Employment and Economic Development is the primary development agency for Minnesota. DEED staff is responsible for a wide range of grant and loan programs, as well as for providing technical assistance to businesses and communities.

[Minn. Stat. §§ 116J.411 to 116J.424](#).
[The USDA Development](#).

DEED also provides grants for contamination cleanup and redevelopment; administers the rural development program; makes challenge grants to regional organizations to encourage private investment in rural areas; and administers a revolving loan fund to provide loans to new and expanding business in rural Minnesota. Local government units, including cities, may receive these loans if the community has established a local revolving loan fund and can provide at least an equal match to the loan received.

Minn. Stat. § 116J.431.
Greater Minnesota Business
Development Infrastructure Grant
Program.

Cities outside the seven-county metropolitan area may receive grants from DEED for up to 50 percent of the capital costs of public infrastructure necessary for certain specified economic development projects, excluding retail and office space. For this program, “public infrastructure” means publicly owned physical infrastructure necessary to support economic development projects, including but not limited to sewers, water supply systems, utility extensions, streets, wastewater treatment systems, stormwater management systems, and facilities for pretreatment of wastewater to remove phosphorus.

Minn. Stat. § 116J.431, subd. 2.

Under this law, an “economic development project” for which a county or city may be eligible to receive a grant under this section includes manufacturing; technology; warehousing and distribution; research and development; agricultural processing or industrial park development that would be used by any one of these businesses.

2010 Minn. Laws ch. 189, § 39
amending Minn. Stat. § 116J.435,
as amended by 2009 Minn. Laws
ch. 35, §§ 1 and 2, and 2009
Minn. Laws ch. 78, art. 2, § 12.

DEED runs the Innovative Business Development Public Infrastructure (BDPI) program that provides grants to local governmental units on a competitive basis statewide for up to 50 percent of the capital cost of the public infrastructure necessary to expand or retain jobs.

Innovative Business
Development Program:
Department of Employment and
Economic Development.

“Innovative business” means a business that is engaged in, or is committed to engage in, innovation in Minnesota in one of the following:

- Using proprietary technology to add value to a product, process, or service in a high technology field;
- Researching or developing a proprietary product, process, or service in a high technology field;
- Researching, developing, or producing a new proprietary technology for use in the fields of tourism, forestry, mining, transportation, or green manufacturing.

2010 Minn. Laws ch. 189, § 39
amending Minn. Stat. § 116J.435,
as amended by 2009 Minn. Laws
ch. 35, §§ 1 and 2, and 2009
Minn. Laws ch. 78, art. 2, § 12.

“Proprietary technology” means the technical innovations that are unique and legally owned or licensed by a business and includes, without limitation, those innovations that are patented, patent pending, a subject of trade secrets, or copyrighted. “Eligible project” means a bioscience an innovative business development capital improvement project in this state, including:

- Manufacturing; technology; warehousing and distribution; research and development;
- Bioscience innovative business incubator;
- Agricultural bio-processing processing; or industrial, office, or
- Research park development that would be used by a bioscience-based an innovative business.

Minn. Stat. § 272.02, subd. 64.

DEED administers “tax-free” job opportunity building zones (JOBZ). In each of these zones, businesses will be eligible for a broad range of tax incentives for a period of 12 years. Under the program, local units of government, including cities, must submit applications to DEED and follow all statutory requirements related to JOBZ.

C. Enterprise Minnesota

[Minn. Stat. ch. 116O.](#)

Enterprise Minnesota is a nonprofit business consulting organization, set up by the Legislature that helps small and medium-sized manufacturing companies, education services, and government entities in Minnesota. Enterprise Minnesota operates as a fee-for-services 501(c) (3) nonprofit.

[Enterprise Minnesota](#) 612-373-2900 or 800-325-3073.

[Minn. Stat. § 116O.061.](#)

Enterprise Minnesota focuses on applied research and technology transfer and early stage funding. It may provide financial assistance, including loan guarantees, direct loans, interest subsidies, or equity investments, to sole proprietorships, corporations, other entities, nonprofit organizations, or joint ventures. Financial assistance includes but is not limited to assisting a qualified company or organization with business services and products that will enhance the operations of the entity.

D. E-commerce ready cities

[Minn. Stat. § 116J.037.](#)

[DEED](#) (651) 297-1291 or (800) 657-3858.

As a tangential aid to encouraging development, the Department of Employment and Economic Development may designate cities that meet certain criteria as e-commerce ready.

E. Corporations

[Minn. Stat. § 465.717.](#)

[Minn. Stat. § 471.59.](#)

LMCIT risk information memo, [Liability Coverage for Joint Powers Agreements.](#)

Cities must not create nonprofit corporations unless authorized to do so by special legislation. The law allows incorporation of a joint powers entity, but these must comply with all applicable public sector laws (open meeting, gift law, conflicts of interest, competitive bidding, etc.) and must be separately insured.

V. Federal development tools

A. Community development block grants

More information is available on the [HUD](#) web site.

The Community Development Block Grant (CDBG) program, under the U.S. Department of Housing and Urban Development (HUD), provides cities with federal funding to initiate and continue a diverse array of housing and community development projects.

B. Rural development grants

For more information, contact [Rural Development State Office](#) 410 Farm Credit Service Building 375 Jackson Street St. Paul, MN 55101-1853, (651) 602-7800. See also, Handbook, [Chapter 25.](#)

A variety of grants and loans to encourage economic development are available to cities from the U. S. Department of Agriculture, rural development program. Sewer, water, rural enterprise, housing, and other types of grants and loans are available.

VI. How this chapter applies to home rule charter cities

All of the tools this chapter lists are available to charter cities. The general discussions also apply to all cities.