

**INSTRUCTION SHEET
ADDITIONS TO
MILWAUKEE CODE OF ORDINANCES
VOLUME 3**

SUMMARY

This supplement incorporates changes to Volume 3 of the Milwaukee Code of Ordinances enacted by the following Common Council file:

230668 A substitute ordinance relating to common council approval of amendments to tax incremental district project plans and related documents.

Remove old MEMO (Suppl. #350)

<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
304-93-4.5 Index	cr	230668	10/28/2023 "	v-vi 70c-70f 1535-1536	v-vi 70c-70f 1535-1536

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Abbreviations:

am=amended
cr=created
corr=correction

ra=renumbered and amended
rc=recreated

rn=renumbered
rp=repealed

Revised 10/10/2023
Suppl. #351

MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through October 10, 2023.

Revised 10/10/2023
Suppl. #351

d-1. Tax incremental district plan's estimate of total tax incremental district expenditures.

d-2. Department of city development's estimate of total tax incremental district expenditures.

d-3. Total authorized expenditures after adoption of the resolution.

e. An authorizing resolution is introduced that includes the information, and complies with the provisions, in paragraphs a to d.

f. Upon adoption of an authorizing resolution by the common council and a request by the department of city development, the comptroller shall release the requested amount of authorized funds for the tax incremental district.

4.5. AMENDMENTS; COMMON COUNCIL APPROVAL. No amendment to the project plan, budget, funding, term sheet, expenditure plan, or repayment terms, including but not limited to the interest rate, repayment schedule and expenditures eligible for repayment, for a tax incremental district that would increase the city's fiscal obligation in connection therewith, including but not limited to forgiving interest payment or tax incremental district donations, subject to sub. 2-b, may be made without the approval of the common council. Notwithstanding the foregoing, the commissioner of city development or any other proper city official may undertake administrative approvals of, or authorize modifications to, the project plan, budget, term sheet or repayment terms, including but not limited to modifications to the project commencement and completion dates and descriptions therein, and execute any additional documents, agreements and instruments necessary to implement the project plan and carry out the agreements in connection therewith, provided the approvals or modifications do not increase the city's fiscal obligation for the tax incremental district.

5. ANNUAL REPORT. The city comptroller shall submit its annual TID audit and together with the department of city development shall submit annually to the common council no later than August 1 a report and summary of the status of all tax incremental districts, detailing the amount of expenditures, accomplishments in such districts, projections as to when the districts will be closed out, and the percentage of allowable debt each district represents.

304-95. Tax Incremental Districts - Inclusion of Street-Paving Costs in Project Plans.

1. NEW DISTRICTS. In preparing the project plan for any new tax incremental district, the commissioner of city development shall include in the plan, as project costs, the costs of all street-paving projects anticipated to occur within the district and within one-half mile of the district's boundaries within the next 6 years, as identified by the city's most recent 6-year local street-paving program. The commissioner shall consult with the department of public works in identifying all street-paving projects to be included in the project plan. The requirement to include street-paving costs in the project plan for a new tax incremental district may be waived by resolution of the common council.

2. EXISTING DISTRICTS.

a. The commissioner of city development shall prepare, for each tax incremental district that is within one year of fully recovering its project costs, an amendment to the district's project plan to include, in the "statement of the kind, number, location of all proposed public works or improvements" and the "detailed list of estimated project costs" required by s. 66.1105(4)(f), Wis. Stats., all street-paving projects anticipated to occur within the district or within one-half mile of the district's boundaries within the next 6 years, as identified by the city's most recent 6-year local street-paving program, subject to the guidelines set forth in sub. 3. The commissioner shall consult with the department of public works in identifying all street-paving projects to be included in the project plan.

b. No project plan amendment shall be required under this subsection if any of the following is true:

b-1. An extension of the expenditure period for the district is prohibited under state law.

b-2. The district is a developer-funded tax incremental district in which a developer funds project costs up front and the city repays the developer over time using actual tax incremental revenue received.

b-3. The common council has approved a resolution permitting the district to donate excess revenues to one or more underperforming recipient tax incremental districts to insure that the indebtedness of those districts may be retired within the districts' statutory lives.

304-96 Finance

c. No provision of this subsection shall be interpreted as prohibiting the commissioner from preparing a project plan amendment, for the purpose specified in par. a, more than one year prior to the anticipated closing-out of a tax incremental district.

3. GUIDELINES FOR AMENDING PROJECT PLANS. A project plan amendment prepared under sub. 2 shall:

a. Fund additional eligible public improvements which have a direct impact on the redevelopment achieved in the district.

b. Enumerate how the additional public improvements will improve the long-term viability of the district.

c. Provide an amount of funding that is limited to the amount of tax incremental revenue generated within the district in the year preceding the amendment.

d. Provide that, upon completion of the improvements, the district shall be closed out without the need for additional action by the city, unless the life of the district is further extended under s. 304-96.

e. Provide funding for additional public improvements only to the extent that the district's indebtedness can still be retired within the maximum statutory life for the district.

4. JOINT REVIEW BOARD. The project plan amendment prepared under sub. 2 shall not be effective unless approved by the joint review board established pursuant to s. 66.1105(4m), Wis. Stats.

304-96. Tax Incremental Districts – Extension to Fund Affordable Housing and Improvements to the City's Housing Stock.

1. EXTENSION REQUIRED. As permitted by s. 66.1105 (6)(g), Wis. Stats., after the date on which a tax incremental district created by the city pays off the aggregate of all of its project costs, including any project costs relating to an amendment to the district's project plan under s. 304-95-2, the life of the district shall be extended for one year if:

a. The common council adopts a resolution extending the life of the district for one year. The resolution shall specify how the city intends to use the additional tax incremental revenues to improve its housing stock. The commissioner of city development shall prepare this resolution.

b. The city clerk forwards a copy of the common council resolution to the Wisconsin department of revenue, notifying it that it is required to continue to authorize the allocation of tax increments to the district under s. 66.1105(6)(a), Wis. Stats.

2. USE OF FUNDS FROM DISTRICT LIFE EXTENSION. If the city receives tax increments from the extension of the life of a tax incremental district under this section, it shall use at least 75 percent of the increments received for the benefit of affordable housing in the city. The remaining portion of the increments shall be used by the city to improve its housing stock.

304-97. City Financial Assistance to For-Profit Institutions of Higher Education.

1. DEFINITION. In this section:

a. "Direct financial assistance" means the value of below-market land sales, any direct subsidies or city expenditures for private improvements targeted specifically to a project. It includes the value of tax increment financing and below-market-rate loans provided by the city.

b. "Found in violation" means paid a fine or changed policy or practice at the direction of the U.S. department of education to comply with a federal regulation, regardless of admission of culpability.

2. LIMITATION ON ASSISTANCE. No city direct financial assistance shall be provided to any for-profit institution of higher education, including any for-profit college, university or institute and any proprietary institution of higher education as defined in 34 CFR s. 600.5 on January 1, 2017, or to any developer of a project that will include selling or leasing real estate to, or constructing a facility for, a for-profit institution of higher education, unless the following criteria are met:

a. For a for-profit institution of higher education seeking city direct financial assistance, the institution shall certify to the department of city development that it, and any other institution owned and operated by the same company as the applicant institution, is in compliance with all applicable U.S. department of education regulations set forth in 34 CFR 600 on January 1, 2017. The institution shall further certify that it, and any other institution owned and operated by the same company, has not, during the previous 3 years, been found in violation of any provision of 34 CFR 668 as the regulation was written on January 1, 2017.

b. For a developer seeking city direct financial assistance for a project that will include selling or leasing real estate to a for-profit institution of higher education, the developer shall certify to the department of city development that the institution, and any other institution owned and operated by the same company as the institution buying or leasing the real estate, is in compliance with all applicable U.S. department of education regulations set forth in 34 CFR 600 on January 1, 2017, and has not, during the previous 3 years, been found in violation of any provision of 34 CFR 668 as the regulation was written on January 1, 2017.

3. DURATION OF LIMITATION. In the case of direct financial assistance in the form of tax incremental financing or a loan, the limitation of sub. 2 shall be in effect until the tax incremental district is closed or the loan is completely repaid.

4. INCLUSION IN AGREEMENTS. The limitation of sub. 2 shall be clearly stated in each loan agreement, development agreement or lease agreement pertaining to city direct financial assistance to a for-profit institution of higher education or to any developer of a project that involves selling or leasing real estate to, or constructing a facility for, a for-profit institution of higher education.

304-100. Sales and Use Tax.

1. AUTHORITY AND PURPOSE. This section is enacted under the authority of s. 77.701, Wis. Stats. The revenue from the city sales and use tax imposed under this section shall be used for payments to the city retirement system and for public safety services.

2. IMPOSITION OF TAX. A city sales and use tax shall be imposed in the manner and to the extent permitted under subch. V of ch. 77, Wis. Stats.

3. SALES AND USE TAX RATE . The city sales and use tax imposed by this section shall be at the rate of 2.0%.

4. EFFECTIVE DATE. The sales and use tax imposed by this section shall take effect January 1, 2024.

5. APPLICATION OF SALES AND USE TAX REVENUE. Revenue from the city sales and use tax, less a percentage retained by the Wisconsin department of revenue for administrative purposes, shall be applied as follows:

a. Annually, no more than 90% of the amount of the revenue generated under this section in 2024 shall be used to offset the actual costs of the city's required payment under s. 62.625, Wis. Stats., toward the unfunded actuarial accrued liability of the city's retirement system, and to offset the increase in participating city agency employer contribution costs from 2022 to the current year, as set forth in s. 77.701(2)(a), Wis. Stats.

b. An amount equal to the revenue derived from 10% of the amount of revenue generated under this section in 2024 shall be used to maintain a level of law enforcement and fire protective and emergency medical service that is equivalent to that provided in the city on April 1, 2023, as set forth in s. 77.701(2)(b), Wis. Stats.

c. In any year in which the amount of city sales and use tax collected under this section exceeds the amount of the taxes collected in 2024 and the amounts necessary to make the payments under pars. (a) and (b), excess revenue shall be used to implement the requirements of s. 62.90(5)(b), Wis. Stats., and the ongoing costs of the increased number of law enforcement officers and the daily staffing levels of the members of the paid fire department, as set forth in s. 77.701(2)(c), Wis. Stats.

6. REPEAL OF SALES AND USE TAX. This section shall be repealed at a date to be determined under s. 77.701(1), Wis. Stats.

For legislative history of chapter 304, contact the Municipal Research Library.

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