

# URBAN CENTER HOUSING TAX INCREMENT FINANCING (UCH-TIF)

## GUIDELINES

Issued by:

Department of Housing and Community Development

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**M.G.L. CHAPTER 40, Section 60**  
**URBAN CENTER HOUSING TAX INCREMENT FINANCING PROGRAM**

**GUIDELINES**

**I. INTRODUCTION AND PURPOSE**

These Guidelines will assist communities in preparing their Urban Center Housing Tax Increment Financing Program (UCH-TIF) application submissions to the Department of Housing and Community Development (DHCD). Adherence to these Guidelines shall also ensure that UCH-TIF applications are complete, thereby expediting their review and approval by DHCD. DHCD's Office of Sustainable Communities is responsible for the operation and administration of the UCH-TIF Program. This includes review and approval of all UCH-TIF applications. Please note that all references to **sections** in the headings below are to UCH-TIF's Regulations at 760 CMR 58.00.

The UCH-TIF Program established under M. G. L. Chapter 40, section 60, as amended by St. 2010 chapter 240 section 77, and further amended by St. 2016, c.219 §§24-28, encourages residential development as a catalyst for Commercial Center revitalization. The UCH-TIF Program authorizes municipalities to provide a real estate tax exemption on all or part of the increased value (the "Increment") of improved real property. Consistent with this goal, the area that benefits from the TIF shall be primarily a commercial district, new development shall be primarily residential, and such housing shall be appropriate to a Commercial Center, e.g., multi-unit. Single family housing is prohibited. New development may consist of new construction, reconstruction, rehabilitation or renovation. Tax increment financing may be combined with local, state and federal grants and loans in order to make a project feasible.

The UCH-TIF Program requires that units created on each property within an UCH-TIF zone must satisfy one of the following affordability thresholds:

- (a) At least 15% of the housing units assisted by the UCH-TIF agreement shall be affordable to occupants or families with incomes at or below 80% of the area median income (AMI) in the area where the city or town is located, as defined by the United States Department of Housing and Urban Development, hereafter referred to as AMI;
- (b) At least 25% of the housing units assisted by the UCH-TIF agreement shall be affordable to occupants or families with incomes at or below 110% of the AMI; or
- (c) The property shall satisfy the requirements of an existing inclusionary zoning ordinance or by-law in the city or town, under which the property Owner is required to make a portion of the housing units assisted by the UCH-TIF agreement affordable to low and moderate income households.

All units produced shall be marketed in a fair and open process consistent with state and federal fair housing laws. Affordable Housing created under this program which is affordable to households with incomes at or below 80% of AMI shall count towards a municipality's goal of 10% low or moderate income housing on DHCD's Subsidized Housing Inventory so long as the housing meets the requirements set out in the [Comprehensive Permit Guidelines](#) available on DHCD's Website.

Participation in the UCH-TIF Program requires that a municipality adopt a detailed Urban Center Housing Tax Increment Financing Plan ("UCH-TIF Plan") for a designated commercial area (the "UCH-TIF Zone"). The Plan must demonstrate the need for multi-unit housing in the Zone and contain detailed development plans for the Zone, including the form of the UCH-TIF Agreement. DHCD must approve each Zone and Plan in order to ensure compliance with statutory and program requirements. If no UCH-TIF Agreements are to be executed at the time of Plan approval, only the form of Agreement must be submitted at that time; however, each UCH-TIF Agreement requires DHCD approval before it becomes effective.

**Communities are strongly encouraged to:**

- **Contact DHCD to schedule a project meeting at the beginning of the UCH-TIF planning process.**
- **Submit copies of draft(s) of the UCH-TIF Application (Zone, Plan and form of the Agreement) to DHCD for its review and comment before formal application submission. DHCD's review of and comments on drafts will assist communities to prepare their final applications, thereby expediting submission of complete applications.**

**DHCD is committed to working with communities to ensure that the final application submission meets all statutory and regulatory requirements and all project funding and financing deadlines.**

## **II. LOCAL APPROVAL PROCESS - Section 58.04**

Before submitting an application for approval of an UCH-TIF Zone, an UCH-TIF Plan and an UCH-TIF Agreement to DHCD, a municipality shall implement a local review and approval process. The steps of this process shall conform to the regulatory requirements specified under 760 CMR 58.04. These steps are described below. Documentation that the municipality has complied with the local approval process shall be submitted as part of the UCH-TIF Application.

If the Zone includes areas in more than one municipality, then the "Local Approval Process" pursuant to 760 CMR 58.04 shall be implemented in each of the participating communities. All requisite documentation, including authorizing signatures and identification of the municipal boards, agencies or authorized officers designated to execute UCH-TIF Agreements shall be submitted.

### **A. Designation of UCH-TIF Zone, Preparation of UCH-TIF Plan, and Preparation of the UCH-TIF Agreement.**

The Chief Executive of a municipality or other authorized officer or entity shall designate a qualifying Commercial Center as a proposed UCH-TIF Zone and prepare a proposed UCH-TIF Plan, and the form of an UCH-TIF agreement (i.e., a document containing the basic provisions of the UCH-TIF Agreement, with specific provisions to be completed as they become known). If an UCH-TIF Agreement has been negotiated with a Property Owner, that Agreement shall be attached to and become part of the UCH-TIF Plan.

### **B. Public Hearing**

The Chief Executive, other authorized officer or entity, or the designee of such officer or entity shall hold a public hearing to receive public comment on the proposed Zone, Plan, form of the Agreement and negotiated Agreements, if any. Notice of the hearing shall be published in a newspaper of general circulation in the city or town in each of two successive weeks, with the last publication being at least three days prior to the hearing. A joint public hearing may be conducted provided that the public hearing notice is published in local papers and posted in locations serving all participating communities and the hearing is held in a location accessible to all participating communities. Notice of the hearing should also be posted on the city/town website at least 3 days in advance of the hearing.

### **C. Approval by the Municipal Legislative Body**

Following the public hearing, the legislative body of the municipality (i.e., the town meeting, town council, city council or board of aldermen) may make amendments and approve the Zone, Plan, and form of the Agreement, along with any Agreements that have been negotiated, as amended, by majority vote. The approval shall include:

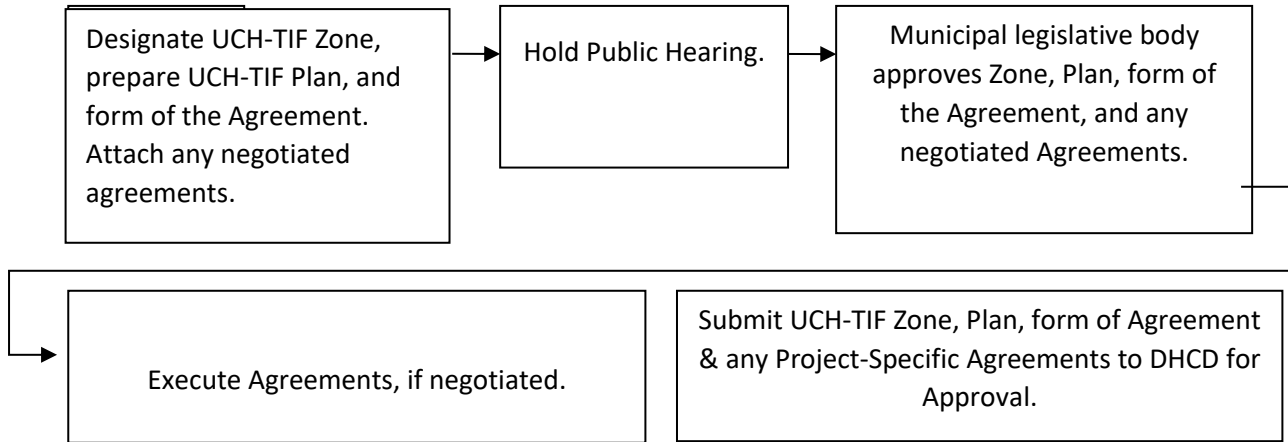
1. The authority to implement Tax Increment Exemptions from property taxes for a period not to exceed twenty (20) years, and
2. The maximum percentage of the costs of any public project that can be recovered through Special Assessments on properties receiving tax increment exemptions.

### **D. Execution of UCH-TIF Agreements**

Following approval of the proposed Zone, Plan, form of the Agreement and any negotiated Agreements by the legislative body, additional UCH-TIF Agreements may be negotiated and/or entered into with individual Property Owners. The Agreements shall be executed by a municipal designee or any other officer or entity as specified in the Plan. The Agreements shall provide that they are subject to the approval of DHCD in order to become effective. Each Agreement shall be in the form previously approved by DHCD, with project-specific information provided, as needed.

### **E. Application Submission to DHCD**

The Chief Executive of the municipality is responsible for submitting the UCH-TIF Application to DHCD. An Application consists of the locally approved UCH-TIF Zone, UCH-TIF Plan, form of the Agreement and any negotiated Agreements. All these components must be submitted together.



### III. THE UCH-TIF APPLICATION

The UCH-TIF Application submission to DHCD shall correspond to the regulatory requirements of 760 CMR 58.04, “Local approval Process;” 760 CMR 58.05, “The UCH-TIF Zone;” 760 CMR 58.06, “The UCH-TIF Plan;” and 760 CMR 58.07, “The UCH-TIF Agreement.” Submission of the UCH-TIF Application in the format set out below ensures compliance with the regulations, will result in a complete application, and will expedite DHCD review and approval.

#### A. Cover Sheet

Attach a cover sheet with the following information:

- The UCH-TIF Plan name;
- The UCH-TIF Zone designation;
- The name of the applicant municipality (or municipalities);
- The name, address, telephone number, e-mail address, and fax number of the municipal board, agency or authorized officer designated to execute UCH-TIF Agreements;
- The name, address, telephone number, e-mail address, and fax number of the contact person for the UCH-TIF project/application;
- The addresses of individual properties with which the municipality hopes to execute UCH-TIF Agreements; and
- Authorization by the municipality’s Chief Executive or other authorized officer or entity that:
  - An area qualifying as a Commercial Center has been designated the UCH-TIF Zone; and
  - The proposed UCH-TIF Plan meets the requirements of 760 CMR 58.00.

- The form of the Agreement and any negotiated Agreements meet the requirements of 760 CMR 58.00.

## **B. Table of Contents and Page Numbering**

The UCH-TIF Application submission must include a Table of Contents. The application should include tabs separating each section of the application and all pages should be numbered sequentially, including any appendices and/or attachments.

## **C. Evidence of Public Hearing – Section 58.04(2)**

Submit documentation that a public hearing was held, including:

- A copy of the published hearing notice
- Minutes of the hearing and attendance sheet(s)

## **D. Approval by Municipal Legislative Body – Section 58.04(3)**

Submit documentation of municipal approval (town meeting, town council, city council or board of aldermen) of the proposed UCH-TIF Zone, Plan, form of the Agreement and any negotiated Agreements, by majority vote, including:

- Certified copy of the vote
- Authorization to implement tax increment financing
- Maximum percentage of costs of any public project that can be recovered through Special Assessments

## **E. UCH-TIF Zone - Section 58.05**

The UCH-TIF Application submission shall include the proposed UCH-TIF Zone, Plan, form of the Agreement, and any negotiated Agreements. The UCH-TIF Zone and UCH-TIF Plan may be submitted together but as separate documents or the UCH-TIF Zone may be submitted as a component of the UCH-TIF Plan. The application shall include a written designation of the proposed UCH-TIF Zone with sufficient documentation to qualify the UCH-TIF Zone as a Commercial Center.

To qualify as an UCH-TIF Zone, the area must:

1. Meet the definition of a Commercial Center (an area in a municipality used primarily for commerce or business, which may include but need not be limited to, sales of or provision of goods or services, including medical and educational services and services provided by profit and nonprofit entities), and
2. Meet one of the following conditions:
  - (a) The UCH-TIF zone has either:

- (i) an unemployment rate that exceeds the statewide average by at least 25%;
  - (ii) a commercial vacancy rate of 15% or more;
  - (iii) an average household income below 115% of the AMI;
- (b) At least 51% of the land area within the UCH-TIF zone is located within a qualified census tract, as defined in Section 42(d)(5) of the Internal Revenue Code of 1986; or
- (c) At least 51% of the land area within the UCH-TIF zone constitutes a:
- (i) blighted open area,
  - (ii) decadent area or
  - (iii) sub-standard area, as defined in M.G.L. c. 121A §1.

If the UCH-TIF Zone includes areas in more than one municipality, then these areas must be contiguous, and the documentation must demonstrate that the UCH-TIF Zone area - across municipal boundaries – is a Commercial Center. The municipal boundaries must be clearly delineated.

**F. UCH-TIF Plan - Section 58.06**

The UCH-TIF Plan shall focus on residential and mixed use development as a means of achieving the objectives of UCH-TIF Program, meet the standards and requirements of M.G.L. c. 40 §60 (a), and include the following information/documentation:

**1. Executive Summary**

The UCH-TIF Plan submission must include an Executive Summary or overview, including:

- A description of the UCH-TIF Zone;
- An explanation of the need for residential development in the proposed UCH-TIF Zone, including Affordable Housing;
- An explanation of the need for commercial growth/development in the proposed UCH-TIF Zone;
- A summary of the anticipated construction, reconstruction, rehabilitation, renovation and related activities, both public and private, planned for the UCH-TIF Zone and the anticipated costs and timelines associated with these activities;
- A summary of the types, amounts and locations of the proposed Affordable Housing; and
- Identification of the addresses of individual properties for which the municipality hopes to enter into UCH-TIF Agreements;
- To the extent that a significant portion of the required information is not known at the time of Plan submission, a municipality may request conditional approval pursuant to Section VI. B. 4 of these Guidelines and submit such information as a condition of final approval.

Submission of the Executive Summary will expedite DHCD’s application review.

**2. Objectives of the UCH-TIF Plan**

The UCH-TIF Plan submission shall describe how implementation of the UCH-TIF Plan will meet the integrated purpose of the statute to “encourage increased residential growth, affordable housing and commercial growth” in the locally designated UCH-TIF Zone. Applicants are encouraged to include separate objectives for residential growth, affordable housing and commercial growth, as appropriate, and to identify milestones with associated timelines.

Objectives should be measurable and may include: create affordable housing, reuse mill buildings, increase pedestrian activity, generate new tax revenue, encourage new business development and job creation, decrease downtown vacancy rate, promote upper story development, and rehabilitate historic structures. Please cite specific objectives to the greatest extent possible.

### **3. Parcel Description, Coverage and Zoning in the UCH-TIF Zone**

#### **UCH-TIF Zone in one municipality**

Submit to-scale legible maps of the UCH-TIF Zone and written, support documentation, as appropriate, for the following:

- Boundaries of the UCH-TIF Zone and its location within the municipality;
- All existing streets, thoroughfares, and public rights of way within the UCH-TIF Zone;
- All current zoning;
- Identification of all individual parcels for which project-specific UCH-TIF Agreements will be submitted with the Plan, if any;
- Identify whether parcels within the zone are privately or publically owned and whether use is commercial, residential or industrial; and
- A detailed description of the UCH-TIF Zone’s infrastructure, including its capacity and condition.

#### **UCH-TIF Zone in two or more municipalities**

(1) Applications with proposed UCH-TIF Zones covering areas in two or more municipalities should include identical written designations of the proposed UCH-TIF Zone and maps of the Zone from each participating municipality, which clearly delineate:

- Boundaries of the entire UCH-TIF Zone and its location within the municipalities;
- All existing streets, thoroughfares, and public rights of way within the UCH-TIF Zone; and
- All current zoning.

(2) In addition, applications should include the following separate descriptions of each participating municipality’s respective portion of the proposed UCH-TIF Zone:

- Identification of all individual parcels in the UCH-TIF Zone for which project-specific UCH-TIF Agreements will be submitted;
- Identify whether parcels within the zone are privately or publically owned and whether use is commercial, residential or industrial; and



- A detailed description of existing infrastructure, including its capacity and condition.

(3) All additional application information, including designations, approvals and UCH-TIF Agreements, should be submitted separately by each municipality. Please note, however, that the municipalities may hold separate public hearings or one joint public hearing. If a joint public hearing is conducted, appropriate notice must be provided in all participating municipalities, and the hearing must be conducted at a site accessible to residents of all participating communities.

#### **4. Specification of Development and Useful Life of Housing**

- Submit detailed descriptions and Concept Plans for all construction, reconstruction, rehabilitation, renovation and any related activities (including landscaping), for both public and private development planned for individual parcels and other areas in the UCH-TIF Zone.
- Submit specifications of the useful life of any proposed Affordable Housing in the UCH-TIF Zone and the method used to determine the useful life.

#### **5. Compliance with Zoning**

- Submit information on existing zoning.
- Submit a statement describing any proposed projects that will be in noncompliance with any applicable zoning or ordinances and/or any other applicable laws, bylaws, ordinances, rules and regulations.
- Submit a description of how any noncompliance will be addressed, including proposed new zoning.

#### **6. Schedule and Cost of Public Construction in the UCH-TIF Zone**

Submit the following information/documentation to the extent know at the time of Plan submission:

- All existing Concept Plans for planned public construction in the UCH-TIF Zone;
- A detailed budget – identifying all sources of funding, their specific amounts, and their projected uses – for all proposed public construction;
- A timetable for public construction;
- A schedule specifying the amounts of and dates for any Special Assessments to be assessed against individual property Owners to pay for this construction; and
- Specification of a maximum percentage of the costs of the public construction recoverable through Special Assessments.

#### **7. Affordable Housing**

- Specify the types and amounts of Affordable Housing proposed for individual parcels.
- Submit documentation that housing units to be created on each property shall satisfy one of the following affordability thresholds:

- (a) At least 15% of the housing units assisted by the UCH-TIF agreement shall be affordable to occupants or families with incomes at or below 80% of the AMI;
- (b) At least 25% of the housing units assisted by the UCH-TIF agreement shall be affordable to occupants or families with incomes at or below 110% of the AMI; or
- (c) The property shall satisfy the requirements of an existing inclusionary zoning ordinance or by-law in the city or town, under which the property Owner is required to make a portion of the housing units assisted by the UCH-TIF agreement affordable to low and moderate income households.

Please note that AMI should be calculated using the HUD Metropolitan Area data for the area where the municipality is located, not the AMI for a specific municipality. For example, Haverhill is in the Lawrence, MA-NH HUD Metropolitan Fair Market Rent area, so if units are being developed in Haverhill, the HUD data for the Lawrence, MA-NH HUD Metropolitan Fair Market Rent area should be used, not the data for Haverhill.

Area Median Income information can be found here:

[https://www.huduser.gov/portal/datasets/il/il2017/select\\_Geography.odn](https://www.huduser.gov/portal/datasets/il/il2017/select_Geography.odn).

Income of tenants is calculated in accordance with the U.S. Department of Housing and Urban Development (HUD) regulations.

To determine the maximum income limits for the proposed affordable units, refer to the current *U.S. Department of Housing and Urban Development (HUD) Income Limits Documentation System* for the HUD Metropolitan Fair Market Rent Area (HMFA) in which the municipality is located. (See, [https://www.huduser.gov/portal/datasets/il/il2017/select\\_Geography.odn](https://www.huduser.gov/portal/datasets/il/il2017/select_Geography.odn)). For an income limit greater than 100% of AMI, multiply the Area Median Income by the appropriate percentage. For example, in the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area, Median Income is \$98,100; the income limit for a household at 110% AMI would be \$98,100 x 110%, or \$107,910.

The maximum permitted rent shall not exceed an amount equal to one-twelfth of thirty percent (30%) of the appropriate percentage of AMI (80%, 110%, etc.), adjusted for household size, bedroom size and utilities.

Maximum permitted rents represent per unit gross rents and include utility costs for heat, hot water, cooking fuel, electricity and tenant owned ranges and refrigerators. Municipalities may also include trash collection as a utility cost, if tenants are billed for this service. If any utility costs are paid by tenants, an adjustment for each utility must be made to the proposed affordable rents. The housing authority in the municipality in which the UCH-TIF project is located can provide the utility allowances for the HUD Metropolitan Fair Market Rent Area. The utility allowance schedule provides the dollar amount for each utility that must be subtracted from the gross rent.

For example, the maximum permissible monthly rent for a 3 person, 2 bedroom household subject to an income limitation of 80% AMI in a 2 bedroom unit in a multi-unit residential property in Haverhill, as of January 1, 2017, inclusive of all utilities, is calculated as follows::

- 80% of AMI for a 3 person household in the same area is: \$61,200.
- 30% of \$61,200 = \$18,360
- \$18,360 ÷12= \$1530.

The maximum permissible monthly rent for this situation is \$1530.

This calculation will vary depending on the household composition and the bedroom size. There are some instances, for example, where a 3 person household is entitled to a 3 bedroom unit.

If the tenant is paying for heat, hot water, electricity and cooking fuel, these allowances must be subtracted from the gross rent to determine the maximum permissible monthly rent allowed for that unit.

**Please note: All project-specific UCH-TIF Agreements submitted to DHCD for approval must include a completed copy of the OneStop Low Income Housing Tax Credit Application, Sections 1-4.** The OneStop Application shall be completed by the property Owner/developer. The OneStop Application submission will provide both the municipality and DHCD with the information needed to justify the percentage of Affordable Housing units proposed, as well as document the financial feasibility of the housing project receiving the tax increment exemption. The OneStop Low Income Housing Tax Credit Application and instructions for its use can be found at <http://www.mhic.com>

## 8. UCH-TIF Agreements

The UCH-TIF Plan shall include the form of the UCH-TIF Agreement (i.e. a document containing the basic provisions of the UCH-TIF Agreement, with specific provisions to be completed as they become known), and copies of all executed UCH-TIF Agreements.

DHCD shall review both the form of the Agreement and any executed UCH-TIF Agreements. In order to expedite approval of the project-specific UCH-TIF Agreements, if any:

- Please submit the form of the Agreement.
- Please submit a copy of any executed UCH-TIF Agreements. The Agreements may be submitted with or in advance of the final UCH-TIF Application (i.e., with a copy of the draft application/UCH-TIF Zone and UCH-TIF Plan), or at the time of negotiation.
- DHCD shall review the form of Agreement and project-specific agreements, if any, and request revisions, as appropriate. All project-specific agreements must conform to the approved form of Agreement, with project-specific information incorporated into the document.

It is recommended that, to the extent possible, UCH-TIF Agreements shall be written to include all known and potentially applicable Affordable Housing restrictions from Federal, state and local programs and funding sources – i.e., develop a single form of UCH-TIF Agreement

covering all applicable affordability restrictions, rather than developing separate forms of UCH-TIF agreements for use based on funding program.

If any project-specific UCH-TIF Agreements are being submitted, attach a completed copy of the OneStop Low Income Housing Tax Credit Application, Sections 1-4, to each executed UCH-TIF Agreement.

### **9. Municipal Signatory Power**

Submit the name and title of the municipal designee authorized to execute UCH-TIF Agreements. Please note that such power may be made subject to the approval of the municipality's Chief Executive.

### **10. Other Material – 58.06(3)**

DHCD reserves the right to request additional information from municipalities to supplement their applications and/or in order to facilitate its review of application submissions.

UCH-TIF Applications should be submitted to:

Attn: Urban Development Coordinator  
UCH-TIF Program  
Department of Housing & Community Development  
100 Cambridge Street, Suite 300  
Boston, MA 02114.

Applications must be submitted in triplicate, an original and two copies. Please contact Linda Balzotti, Manager, Office of Sustainable Communities, at (617) 573-1446 or at [Linda.Balzotti@state.ma.us](mailto:Linda.Balzotti@state.ma.us) if you have questions or need assistance.

## **IV. THE UCH-TIF AGREEMENT -- Section 58.07**

The UCH-TIF Application submission must include the form of the UCH-TIF Agreement, and any Agreements that have been negotiated. Once executed and approved by DHCD, each UCH-TIF Agreement is a binding legal agreement requiring an Owner of a parcel of real property in an UCH-TIF Zone to undertake development of the parcel, including the provision of Affordable Housing according to the locally approved UCH-TIF Plan, and to maintain the parcel(s) as developed in good, decent, safe and sanitary condition, in partial consideration of an UCH-TIF exemption. The UCH-TIF Agreement shall not become effective until it has been: (a) executed by the Owner and the municipality; (b) approved by DHCD; and (c) the notice of DHCD's approval is recorded with the appropriate registry of deeds or land court registry. UCH-TIF Agreements shall specify that: **Properties receiving tax increment exemptions shall be primarily residential.**

UCH-TIF Agreements shall include **all** of the following:

### **A. Description of the Improvements by Owner**

- Location of the project;
- Specification of the construction, reconstruction, rehabilitation, renovation and related activity, which shall be primarily residential, to be undertaken by the property Owner;
- A development timetable; and
- A detailed Sources and Uses Budget.

### **B. Description of Municipal Improvements and Special Assessments**

- Specification of the public construction to be undertaken by the municipality (e.g., location, linear feet, materials, purpose);
- A timetable;
- A detailed Sources and Uses Budget;
- Specification of any Special Assessments to be levied on the property Owner to pay the costs of public construction;
- Specification of the maximum percentage of the costs of public construction that can be levied on the property Owner through such Special Assessments.

Please note that Special Assessments are prohibited if they are not specified in the UCH-TIF Agreement. Public construction that could not reasonably be anticipated at the time of UCH-TIF Plan approval is not subject to this prohibition.

### **C. Tax Increment Financing**

- The tax increment financing, including the term, the applicable Exemption Percentage for each fiscal year, the Base Valuation and any agreement as to the initial valuation of the Increment for each fiscal year.

### **D. Affordable Housing**

The Affordable Housing Restriction incorporated as part of each UCH-TIF Agreement shall be in a form prescribed by DHCD. See Section V, below, for further information.

### **E. Material Representations and Commitments**

- Submit all material representations and any other commitments made by either the property Owner or the municipality and relied on by the other in entering the UCH-TIF Agreement.

### **F. Other Requirements**

- DHCD reserves the right to request additional information.

## **V. AFFORDABLE HOUSING RESTRICTION – Section 58.08**

The Affordable Housing Restriction for both rental and ownership units shall comply with the provisions of M.G.L. chapter 40, section 60 and 760 CMR 58.08. In addition, the Affordable Housing restrictions shall contain the following provisions:

1. The housing assisted by the exemption meets one of the affordability thresholds set out in 760 CMR 58.06 (also see Section III, F, 7 of these Guidelines).
2. Marketing and resident selection for the Affordable Housing shall comply with the Department's Affirmative Fair Housing and Civil Rights Policy.
3. Implementation of the restrictions shall be monitored by an agent or employee of the municipality, and the results included in the annual report submitted to DHCD pursuant to 760 CMR 58.13;
4. There shall be enforcement of the restrictions in the event of any material noncompliance.

### **A. Municipal, State or Federal Monitoring**

During the term of the Affordable Housing Restriction, provision must be made for monitoring and enforcement using a monitoring agent or an employee of the municipality. The monitoring agent or employee shall be specifically empowered and required to provide such monitoring and enforcement, and if using a municipal employee, adequate municipal resources shall be provided during the term of the Affordable Housing Restriction so that monitoring and enforcement are effective. In the event that Affordable Housing is created under a federal or state housing production program in which such monitoring and enforcement are provided through the program, such federal or state monitoring and enforcement shall suffice.

### **B. Resident Selection**

Selection of income-qualified tenants shall be made in accordance with the provisions and requirements of all applicable state and federal fair housing laws including the Department's Affirmative Fair Housing and Civil Rights Policy.

Throughout the term of the Affordable Housing Restriction, each low and moderate income unit will be rented to an eligible tenant. An eligible tenant is a family or individual whose annual income does not exceed the limits specified in the Affordable Housing Restriction.

## **VI. UCH-TIF APPLICATION REVIEW AND APPROVAL PROCESS – Section 58.09**

### **A. Processing Applications**

DHCD shall review each UCH-TIF Application – the UCH-TIF Zone, UCH-TIF Plan, and the form of the UCH-TIF Agreement, and any specific Agreements that have been negotiated. DHCD may request assistance from the Department of Revenue and the Massachusetts Office of Business Development in its review and/or may also solicit reports or information from consultants or other third parties, if necessary. DHCD may also request additional information/clarification from the municipality if DHCD determines that the application submission is incomplete. If DHCD determines that the additional information does not result in any material changes to the application, the additional information shall become part of the application without further action by the municipality’s legislative body. DHCD shall give a notice of approval or notice of denial to the municipality within 60 days of receipt of a complete application. DHCD may also give a notice of conditional approval, which is an approval subject to the satisfaction of certain specified conditions.

## **B. Findings**

In order to approve an UCH-TIF Application DHCD shall make the following findings:

### **1. UCH-TIF Zone**

- The area comprising the proposed UCH-TIF Zone meets the statutory and regulatory requirements for an UCH-TIF Zone.

### **2. UCH-TIF Plan**

- The UCH-TIF Plan is complete and meets the statutory and regulatory requirements for an UCH-TIF Plan;
- The UCH-TIF Plan employs sound planning principles;
- The financial assumptions and projections for any proposed private projects appear sound;
- The financial assumptions and projections for public construction appear sound, and there is a likelihood that the public projects shall be timely completed; and
- Implementation of the UCH-TIF Plan will encourage increased residential growth, Affordable Housing and/or commercial growth in the designated UCH-TIF Zone.

### **3. UCH-TIF Agreements**

- The form of Agreement complies with the UCH-TIF statute and regulations and any administrative guidance issued by DHCD, including these Guidelines ; and
- Any project-specific Agreement
  - Is consistent with the Zone and Plan;
  - Specifies that the development is primarily residential, and includes the total number of units in the development and the number of affordable units in the development in accordance with the UCH-TIF Plan; and
  - Provides for an UCH-TIF Exemption meeting the standards set out in 760 CMR 58.10 in view of the representations and commitments set out in the Agreement.

### **4. Conditional Approval of UCH-TIF Zone and UCH-TIF Plan**

- If there are portions of required information that are not known at the time of Plan submission, a municipality may request that the Department conditionally approve a Zone, Plan, form of the Agreement and/or project-specific Agreements. Upon submission of complete documentation that meets the standards of the regulations and these Guidelines, DHCD can then issue a final approval of the Zone, Plan, form of the Agreement and Agreements.

**C. Time and Effect of Approval – 58.04 (6)**

DHCD’s approval of the UCH-TIF Zone and the UCH-TIF Plan shall become effective as of the date that DHCD’s notice of approval is recorded with the appropriate registry of deeds or land court registry. Each UCH-TIF Agreement shall become effective upon the later of the recording of the UCH-TIF Agreement together with the Department’s approval of the Agreement or the effective date of the UCH-TIF Plan. The UCH-TIF Zone, UCH-TIF Plan and executed UCH-TIF Agreements, once effective, are final and cannot be amended without prior written approval by DHCD as provided in 760 CMR 58.12. All notices of approvals of major amendments shall be effective upon recording of the notice with the appropriate registry of deeds or land court registry. Recording will be undertaken by and at the expense of the municipality or the Owner, and DHCD must be notified when the recording occurs.

**D. Disapproval and Resubmission – 58.04 (7)**

DHCD shall notify the municipality if some material part(s) of the UCH-TIF Plan, UCH-TIF Zone, the form of the UCH-TIF Agreement, or executed Agreements are denied. Subsequently, the legislative body of the municipality must make amendments to the UCH-TIF Plan, Zone, form of the Agreement or executed Agreements by majority vote in order to address any issue(s) raised by DHCD in its denial. The UCH-TIF Plan, UCH-TIF Zone, form of Agreement and/or executed Agreement(s), as amended, may then be resubmitted for DHCD’s approval.

**E. New UCH-TIF Agreements – 58.04 (8)**

If the municipality negotiates new UCH-TIF Agreements, each new UCH-TIF Agreement shall be submitted to DHCD for approval as provided in 760 CMR 58.12 (5). Upon the recording of DHCD’s notice of approval, the Agreement shall become effective and final and cannot be amended without prior written approval by both the municipality and DHCD as provided in 760 CMR 58.12. New UCH-TIF Agreements shall be in compliance with the UCH-TIF Plan. Consequently, the UCH-TIF Plan may need to be amended over time to include properties not originally identified in the UCH-TIF Plan as future tax-increment exempt properties.

**VII. AMENDMENTS -- Section 58.12**

**A. Amendments to the UCH-TIF Zone or UCH-TIF Plan – Section 58.12 (1)**



A municipality may change a previously approved UCH-TIF Zone or UCH-TIF Plan by submitting an application for amendment of the UCH-TIF Zone and/or UCH-TIF Plan -- signed by the Chief Executive of the municipality or other authorized officer or entity -- to DHCD for approval. DHCD shall determine whether the proposed amendment is minor or major. The application for amendment shall include:

- A detailed description of the proposed amendment;
- The reason(s) why the amendment is needed;
- The effect the proposed amendment will have on projects/activities described in the UCH-TIF Plan;
- A presentation of whether the amendment is “minor” or “major;”
- A copy of pertinent revisions to the UCH-TIF Zone or UCH-TIF Plan as originally approved by DHCD.

#### **B. Minor Amendments – Section 58.12 (2)**

A minor amendment is a change that does not significantly alter any of the basic or material elements of the UCH-TIF Zone or UCH-TIF Plan. DHCD shall have 60 days to approve an application submission for a minor amendment if DHCD determines that it is reasonable as presented in the application submission. DHCD may require additional information to complete its review and the time for acting on the amendment shall be suspended until DHCD shall have received the additional information. If during its review, DHCD determines that the amendment is a major amendment that has been misclassified as a minor amendment, DHCD shall return the application for minor amendment to the municipality for a public hearing and approval by the legislative body of the municipality.

#### **C. Major Amendments – Section 58.12 (3)**

A major amendment is a change that significantly alters any of the material elements of an UCH-TIF Zone or the UCH-TIF Plan. Prior to submission of an application for a major amendment to DHCD, the municipality shall hold a public hearing, and the legislative body of the municipality shall approve the amendment in the manner provided by 760 CMR 58.04. DHCD shall review the application submission and take appropriate actions within 60 days following receipt of a complete application for a major amendment subject to the standards set out in these Guidelines (VI. UCH-TIF Application Review and Approval Process).

#### **D. Amended Agreements – Section 58.12 (4)**

If a municipality and an Owner decide to change an UCH-TIF Agreement, an amended agreement between the municipality and the Owner shall be submitted to DHCD for approval. The amendment submission shall include a separate written specification of each change, the reason for each change, and meet the requirements specified in 756 CMR 58.07. DHCD shall review the amended agreement and make its findings within 60 days of receipt of a complete submission as required by these Guidelines (VI. UCH-TIF Application Review and Approval Process).

### **VIII. DETERMINATION OF THE UCH-TIF EXEMPTION – Section 58.10**

A municipality may grant an UCH-TIF Exemption to an Owner for a period not to exceed twenty (20) years. The Term of the Exemption shall be specified in the UCH-TIF Agreement and may vary from 100% to 1% -- i.e., the percentage of the tax on the Increment that is exempted in each year of the Term. The Term need not be the same for all Owners.

Please refer to 760 CMR 58.03, “Definitions,” for the following terms:

- Base Value
- Increment

The Exemption amount and the total tax owed after the exemption for any one year of the Term are calculated as follows:

- 1. Increment = Total Assessed Value of Property – Adjusted Base Value of Property**
- 2. Tax on Increment = Increment x Tax Rate x (100% - Exemption %)**
- 3. Exemption = Increment x Tax Rate – Increment x Tax Rate x (100% - Exemption %)**
- 4. Total Tax Owed = Tax on Adjusted Base Value + Tax on Increment**

Example:

Anytown, MA executed an UCH-TIF Agreement with Pleasant Gardens, LLC for a mixed-use project (housing and commercial with 25% of the housing units affordable) in a Commercial Center, granting a 10- year Exemption. The Exemption Schedule and Percentages were negotiated as follows:

FY2017	100%
FY2018	95%
FY2019	90%
FY2020	85%
FY2021	80%
FY2022	75%
FY2023	70%
FY2024	65%
FY2025	60%
FY2026	55%

Pleasant Gardens LLC has finished construction, and this is the second year of the Exemption Schedule. The Exemption is 95%.

Adjusted Base Value of Property	\$1,000,000 (Regular tax rates apply)
Value of Increment	2,000,000 (Tax Exemption applies)
Total Assessed Value	3,000,000
Annual Tax Rate	1.4%

- 1. Tax on Increment prior to exemption = \$2,000,000 x 0.014 = \$28,000**
- 2. Exemption = \$28,000 x 95% = \$26,600. \$28,000 - \$26,600 = \$1,400 (Tax on Increment in year 2 of the UCH-TIF agreement)**
- 3. Total Tax Owed in year 2 of the agreement = (\$1,000,000 x 0.014) + \$1,400 = \$15,400**

**Total Tax without UCH-TIF Agreement = \$3,000,000 x 0.014 = \$42,000**

As this example illustrates, tax savings for an Owner of real property granted an UCH-TIF Exemption can be substantial. Without the Exemption, Pleasant Gardens, LLC's tax for FY2018 would have been \$42,000.

Thanks to its UCH-TIF Agreement with Anytown, MA Pleasant Gardens LLC saved \$26,600 in FY2018 property taxes.

For questions or information about the UCH-TIF program, please contact:

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