



## **TAXABLE/TAX-EXEMPT FINANCING POLICY AND PRIVATE ACTIVITY REVENUE BOND FINANCING**

### **1. POLICY PURPOSE**

1.01 The purpose of this policy is to establish the City's position on the use of Revenue Bond Financing for private development, above and beyond the requirements and limitations set forth by State Law. This policy shall be used as a guide in processing and reviewing applications requesting Taxable/Tax Exempt Financing. These Guidelines apply to the issuance of private activity revenue bonds by the City and the HRA, and references herein to the City and to the Council include the HRA and its governing body, as appropriate.

### **2. STATUTORY LIMITATIONS**

2.01 In accordance with the Taxable/Tax-Exempt Financing Policy, requests must comply with applicable State and Federal Statutes. Under the Minnesota Municipal Industrial Development Act, Minnesota Statutes, Sections 469.152 to 469.1651 (the "Industrial Development Act"), the City of Anoka and/or the Housing and Redevelopment Authority in and for the City of Anoka have authority to issue industrial, commercial, and health care revenue bonds or notes to attract or promote economically sound industry and commerce to the City.

Under Minnesota Statutes, Chapter 462C (the "Housing Act") the City is authorized to issue housing revenue bonds to finance multi-family residential housing projects for low and moderate income persons and elderly persons. Projects must be consistent with a Housing Program as these terms are defined in the Housing Act. The City has, by ordinance, authorized the HRA to issue housing revenue bonds on its behalf.

### **3. FILING CRITERIA**

3.01 The applicant must provide all of the following items with the application, unless waived by the Finance Director:

A. If the project requires approval by the Zoning and Planning Commission, the applicant must apply for these approvals prior to or with this application.

B. An application will not be considered by the Council until City Staff has reviewed City Codes with respect to zoning, building plans, platting, streets, and utility services. The application and must be accompanied by the addendum which is Part III of the application and must provide information as to the project's need for municipal services including, but not limited to, street improvements, water and sewer services, and police and fire protection.

C. A written opinion, with supporting justification, from an expert acceptable to the Director of Planning and Economic Development, to document that the development will not adversely affect similar, existing developments. This requirement may be waived if there are no similar developments in the area of your project, or if it is an existing development.

D. The applicant must select a qualified financial adviser or underwriter to assist the applicant in preparing all necessary application documents and materials. The financial adviser will submit a letter that establishes the financial feasibility of the project. Applications may, in the alternative, include a signed letter from a financial institution indicating that the project is economically feasible and viable and stating that bonds can be successfully sold for the project or that an individual or institution intends to purchase all of the bonds.

E. The City will appoint bond counsel for the bond issue, which will normally be the City's regularly retained bond counsel.

F. Pursuant to the Industrial Development Act and the Housing Act, consideration of an application for tax exempt financing must be done at a public hearing held by the Council. Modifications to the project after the public hearing and preliminary approval must be consistent with the scope of the project as proposed at the time of preliminary approval.

G. The applicant must receive approval from the appropriate state agencies, secure financing and commence construction, if applicable, within one year of the date of the public hearing on the project or the housing program.

H. The City is to be reimbursed and held harmless for and from any out-of-pocket expenses related to the tax exempt financing including, but not limited to, legal fees, financial analyst fees, bond counsel fees, the City staff's expenses in connection with the application, and any deposits or application fees required under state law in order to secure allocation of bonding authority. The applicant must execute a letter to the City undertaking to pay all such expenses. A form of the required letter is set forth as Part IV of the Application. A non-refundable application fee in the amount of \$2,500 must be included with the submission of the application.

I. Prior to closing and delivery of the bonds for the project, the applicant must pay an administrative fee in an amount equal to the greater of \$10,000 or 1% of the principal amount of the bonds up to \$15,000,000 and then .25% of the bonds actually issued over \$15,000,000 *or*. The administrative fees required by this paragraph will be adjusted at or paid prior to delivery of the bonds if necessary to ensure compliance with the Internal Revenue Code and Regulations.

#### 4. **CRITERIA FOR THE USE OF TAXABLE/TAX EXEMPT FINANCING**

4.01 As a matter of adopted policy, the city will consider using Taxable/Tax Exempt Financing to assist private developments only if the following requirements are met:

A. The Council will consider tax exempt financing for commercial, industrial and health care projects under the Industrial Development Act and housing projects under the Housing Act. An applicant for tax exempt financing pursuant to the Industrial Development Act must submit to the City the "Application for Tax-Exempt Financing" Part I, (Commercial, Industrial or Health Care). Projects must be compatible with the overall development plans and objectives of the City and comply with the zoning and land use regulations of the City.

B. The project must be a positive benefit to the City. The project must be of a nature that the City wishes to attract, or an existing business which the City wishes to retain or have expand within the City, considering employment opportunities, incentive for further development, impact on City services, and support for the industrial, commercial or health care operations currently located in the City.

C. Applications for financing must be made on the application forms approved by the council. In addition, the applicant must furnish a description of the project, a site plan, elevation of proposed buildings, landscape, lighting, and site preparation, if applicable, together with a brief description of applicant and the proposed financing in such form as required at the time of application.

D. The Council may, in its sole discretion, impose conditions exceeding those required under the City building code in respect to exterior building materials, landscaping, signage lighting, and such other aspects as the Council may consider appropriate on a case-by-case basis.

5. **CRITERIA FOR THE USE OF TAXABLE/TAX EXEMPT FINANCING FOR RESIDENTIAL PROJECTS**

5.01 The Taxable/Tax-Exempt residential project bond indenture agreement shall require:

A. An applicant for tax exempt financing, pursuant to the Housing Act, must submit to the City the "Application for Tax-Exempt Financing" Part II (Multi-Family Housing).

B. A housing project must provide significant housing opportunities for low and moderate income persons or the elderly.

C. Applications for financing must be made on the application forms approved by the council. In addition, the applicant must furnish a description of the project, a site plan, elevation of the proposed buildings, landscape, lighting, and site preparation, if applicable, together with a brief description of applicant and the proposed financing in such form as required at the time of application. The trustee is to inform the City of noncompliance trends with federal low-to-moderate income requirements.

D. The trustee is to inform the City of noncompliance trends with federal low-to moderate income requirements.

E. The developer must certify annually to the City and trustee, for compliance with the federal low-to-moderate income requirements.

F. Developer must stipulate the federal law requirements for the set-aside of low-to-moderate income units and any other set-aside provisions agreed to by the developer.

6. **OTHER PROVISIONS**

6.01 The Council resolution giving preliminary approval to a project shall specify:

A. That the City reserves the right in its sole discretion to withdraw the preliminary approval at any time prior to the issuance of taxable/tax-exempt obligations for the project upon its determination that the purposes of the Act and this policy would not be served thereby and that the Council's decision on this matter is uncontestable.

B. That any approval given terminates one year from the date of the resolution and may be renewed only upon request of the applicant.

## 6.02 Miscellaneous Matters:

A. Refundings. In the case of refunding of bonds for which the administrative fee listed in paragraph I of Section 3 have been paid in full, no new administrative fees are required; but the non-refundable application fee must be paid together with all City expenses in excess of that fee. If the administrative fees for the refunded bonds are not paid in full upon closing on the refunding bonds, such fees must continue to be paid for the refunding bonds. In the case of refundings of bonds where no administrative fee has been paid, the administrative fees listed in paragraph I of Section 3 must be paid. The application form is to be appropriately modified.

B. Subsequent proceedings. Where changes to the underlying documents or credit facilities of outstanding bond issues are to be made and require Council action (including changes that are a “deemed reissuance” under Internal Revenue Service regulations), no administrative fee is charged but a non-refundable fee of \$1,500 must be deposited with the City to cover administrative costs. No formal application form is required.

C. Issue by Another Political Subdivision. The City will consider requests for tax exempt financing of projects in the City by other political subdivisions. In these cases the non-refundable application fee must be paid and all procedures through the approval of the preliminary resolution followed. No administrative fee is charged.

D. City Contact. Initial contacts about tax-exempt financing are made by contacting:

Finance Director  
City of Anoka  
2015 1st Avenue North  
Anoka, MN 55303

E. Request for additional information or requirements. The City of Anoka has the right to request additional information that may be deemed necessary to consider requests for tax exempt financing of any project in the City of Anoka.

F. Upon issuance of the Bonds. The City of Anoka will want to be copied in on all annual certifications of documents that are sent to the Treasury Department, the Internal Revenue Service, the State of Minnesota, Minnesota Housing and Finance Agency and/or other governmental body for compliance purposes, as provided in the documents relating to the bonds.

## 7. **MODIFICATION IN POLICY**

7.01 This statement is intended as a general guide for the policy to be followed by the City Council in considering applications for taxable/tax-exempt financing. It is not binding on the Council and may be modified by the Council in the case of any projects in which, in the sole discretion of the Council, such modification is deemed necessary or appropriate in the interest of the City.

7.02 The City staff shall have the option of amending or waiving sections of this policy when determined necessary or appropriate and when such changes do not affect the overall impact of this policy.

### **Policy History**

Initially Adopted: 02.22.2005

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