NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division ~~and Taxation~~

Chapter 18 – Community Redevelopment Law Regulations

Effective Date ~~1/3/07~~

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Title 350 - Nebraska Department of Revenue, Property Assessment Division ~~and Taxation~~
Chapter 18 – Community Development Project Regulations

REG-18-001 PURPOSE

001.01 The purpose of these regulations is to outline various duties of assessors and redevelopment authorities in administering property assessment and taxation laws for properties in a community redevelopment project. The community redevelopment laws allow for the increased property taxes generated by the improvement of blighted property to be used to pay for the financing of the redevelopment, i.e. tax increment financing (TIF).

(Neb. Rev. Stat. Sections 18-2102 and 18-2105, R.R.S. 1997, Neb. Rev. Stat. Section 18-2113, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007~~R.R.S. 2003~~.)

REG-18-002 DEFINITIONS

002.01 Redevelopment Authority shall mean a public body corporate and politic, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Community Development Law.

002.02 Limited Redevelopment Authority shall mean a redevelopment authority created for the purpose of only one single specific limited pilot project.

002.03 City shall mean any city or incorporated village in the state.

002.04 Public body shall mean the state, county, township, board, commission, authority, district, or other political subdivision or public body of the state.

002.05 Governing body or local governing body shall mean the city council, board of trustees, or other legislative body charged with governing the municipality.

002.06 Area of operation shall mean and include all real property within the corporate limits of a city and such land outside the city as may come under the purview of Neb. Rev. Stat. Section 18-2123.

002.07 Substandard area shall mean an area as defined in Neb. Rev. Stat. Section 18-2103(10) and generally refers to an area in which there are buildings and structures that are detrimental to public safety and health.

002.08 Blighted area shall mean an area as defined in Neb. Rev. Stat. Section 18-2103(11) and generally refers to an area with high unemployment, the average age of buildings and structures is over forty years, majority of the land is unimproved, lower than city average per capita income and the area has had either stable or decreasing population.

002.09 Redevelopment project shall mean a project as defined in Neb. Rev. Stat. Section 18-2103(12) and generally refers to any work or undertaking in a substandard or blighted area, including clearing the area through demolition of existing buildings, structures, or improvements and to make available through the leasing, or selling of the land to developers for residential, recreational, commercial, industrial or other uses.

002.10 Redevelopment plan shall mean a plan as defined in Neb. Rev. Stat. Section 18-2103(13) and generally refers to a plan showing the boundaries of the redevelopment area, proposed land uses, population densities, land and building intensities within the area after development, statement of changes effecting zoning, streets and building codes and other ordinances, site plan for the area, and a statement as to the kind and number of public facilities and utilities needed to support the area.

002.11 Redeveloper shall mean any person, partnership, or public or private corporation or agency which shall enter or propose to enter into a redevelopment contract.

002.12 Redevelopment contract shall mean a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan.

002.13 Real property for the purpose of this regulation shall mean all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by such liens.

002.14 Community redevelopment area shall mean a substandard and blighted area which the community redevelopment authority designates as appropriate for a renewal project.

002.15 Redevelopment project valuation, also known as the base value, shall mean the assessed valuation on the taxable real property in a redevelopment project last certified to the political subdivisions in the year prior to the effective date of the provision authorizing the dividing of ad valorem tax pursuant to Neb. Rev. Stat. Sections 18-2103(21) and 18-2147.

002.16 Redevelopment project excess valuation shall mean the total assessed valuation on the real property in a redevelopment project for the current year less the redevelopment project base valuation.

(~~Neb. Rev. Stat. Sections 18-2103, R.R.S. 1997 and Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and~~ Neb. Rev. Stat. Section 18-2147, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 18-2103 and 77-702, R.S. Supp., 2007.)

REG-18-003 PROCEDURES

003.01 The governing body shall not implement any plan until such time the real property in the redevelopment project is within the corporate boundaries of the city or the property is to be developed for an agricultural processing facility and is annexed pursuant to Neb. Rev. Stat. Section 17-405.01(2).

003.02 For property qualified under Nebraska Redevelopment Act, the redevelopment project valuation shall include real and personal property, pursuant to Chapter 58, Article 5.

003.03 Beginning August 1, 2006 and on or before each August 1 thereafter, in the calendar year that the division of the real property tax is to become effective, the governing body shall give notice to the assessor, on forms prescribed by the Property Tax Administrator.

003.03A Failure on the part of the governing body to provide the notice for dividing the real property taxes to the assessor on or before August 1, shall result in the taxes becoming undivided and allocated to the political subdivisions levying the taxes. Such real property taxes shall remain undivided until such time as the governing body provides the notice for the division of the real property taxes to the assessor. Upon the providing of notice by the governing body to the assessor, on or before August 1, shall result in the real property taxes being divided based upon the redevelopment project valuation as defined in REG-18-002.15, for the remainder of the financing term of the redevelopment project.

003.03B When there is no redevelopment project value on a parcel or parcels, the assessor shall determine the redevelopment project valuation based on the fair market value of the parcel or parcels as of January 1 of the year prior to the year that the real property taxes are to be divided. For example, if there is no assessed valuation on a parcel that may be used as the redevelopment project value because the parcel was previously exempt or centrally assessed, the assessor shall determine a fair market value for the year prior to the year the taxes are to be divided to be used as the redevelopment valuation.

003.03B(1) The assessor shall send notice of the redevelopment project valuation by first class mail to the authority and the owner. The valuation notice shall state that the authority or the owner has thirty (30) days after the date of the valuation notice to protest the valuations to the county board of equalization. If the final date for filing a protest falls upon a Saturday, Sunday, or legal holiday the protest will be considered timely filed if performed in person or postmarked on the next business day. When the protest is sent by ordinary mail the postmarked date shall be used to determine the date filed. When the protest is sent by either certified or registered mail, the certification or registration date shall be used as the postmarked date.

003.03B(1)(a) The valuation protest shall be written in triplicate, signed and filed with the county clerk of the county in which the property is located.

003.03B(1)(b) If the valuation protest is not timely filed, it shall automatically be dismissed.

003.03B(1)(c) Attached to each valuation protest, shall be a written statement of why the requested change in assessment should be made. If no statement is attached, the protest shall automatically be dismissed.

003.03B(1)(d) Each protest filed can only pertain to one parcel and not a combination of parcels.

003.03B(2) The county board of equalization shall decide the protest within thirty (30) days after the date the protest was filed with the county clerk.

003.03B(2)(a) Within seven (7) days after the county board of equalization's decision, the county clerk shall mail written notice of the board's decision to the authority or the owner.

003.03B(3) Within thirty (30) days after the date of the decision of the county board of equalization, the authority or owner may appeal the board's decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

003.03B(4) If failure to give notice pursuant to REGS-18-003.03A(1) and 18-003.03A(2)(a) prevented the timely filing of a protest or appeal, the authority or owner having a right to protest or appeal, may petition the Tax Equalization and Review Commission pursuant to

Neb. Rev. Stat. Section 77-5013 on or before December 31 of the year the notice should have been sent, for a determination of the actual value.

003.03B(5) No appeal shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal were pending.

003.03B(6) If by final order of the Commission, it is determined that such tax or a part thereof should be refunded or reallocated, the county treasurer is authorized to make the refund or reallocation upon receiving a certified copy of such final order.

003.03C The division of the real property tax is determined by subtracting the redevelopment project valuation from the current year assessed value to arrive at the redevelopment project's excess value. The consolidated tax rate for the tax district in which the redevelopment project is located is applied to both the redevelopment project valuation and to the redevelopment project excess valuation resulting in a tax on each of the valuations. If the real property in a redevelopment project is granted a homestead exemption, the homestead exempt value shall apply to the base value first and any remaining homestead exempt value shall apply to the excess value. The division of the homestead tax loss reimbursement shall be proportionate to the homestead exempt value determined for the base value and excess value.

003.03C(1) The resulting real property tax calculated for the redevelopment project valuation shall be distributed by the county treasurer to the political subdivisions that comprise the tax district in which the project is located. Any homestead tax loss reimbursement applicable to base value shall be distributed to the political subdivisions that comprise the tax district in which the project is located.

003.03C(2) The resulting real property tax calculated for the redevelopment project excess valuation shall be distributed by the county treasurer to the local governing body charged with the responsibility of paying the indebtedness of the project. The local governing body shall credit the tax to a special fund to be used for the sole purpose of paying the indebtedness incurred for the project for which the taxes were pledged. Any homestead tax loss reimbursement applicable to excess value shall be distributed to the special fund used for the sole purpose of paying the indebtedness incurred for the project for which the taxes were pledged.

003.03C(3) Any interest and penalties due for delinquent property taxes shall be distributed into the funds of each political subdivision in the same proportion as are all other property taxes collected by or for the political subdivision.

003.03D When the indebtedness incurred for the project has been paid, the local governing body charged with such indebtedness, shall immediately send written notification to the assessor and county treasurer that all further real property taxes shall be distributed to the respective political subdivisions allowed to levy a tax on the project.

003.03E The division of the real property tax on the redevelopment project shall not exceed fifteen years from the effective date of the notice provided to the assessor by the governing body.

(Neb. Rev. Stat. Sections 17-405.01, ~~18-2107,~~ 18-2114, 18-2124, 18-2150, R.R.S. 1997, Neb. Rev. Stat. Section 58-507, R.R.S. 2004, ~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and~~ Neb. Rev. Stat. Sections 13-509~~, 13-518,~~ and 18-2147 through 18-2149, ~~77-1514, 77-1613.01 and 79-1016,~~ R.S. Supp., 2006 and 13-518, 18-2107, 77-702, 77-1514, 77-1613.01 and 79-1016, R.S. Supp., 2007.)

REG-18-004 REPORTING BY ASSESSORS

004.01 On or before August 20, when certifying the total taxable valuation to the political subdivisions, the assessor shall include no more than the redevelopment project valuation as part of the taxable value for levy setting purposes. The redevelopment project excess valuation shall not be included in the certification of the taxable valuation to the political subdivisions.

004.01A The redevelopment project excess valuation shall not be included in the calculation of the valuation attributable to growth for use by certain political subdivisions, for purposes of preparing budgets.

004.01B If the current year's total taxable value of the real property in a redevelopment project drops below the originally established redevelopment project valuation, the current year's taxable value is the amount assessable to the political subdivisions and there would be no excess value or tax proceeds available to the redevelopment project.

004.01B(1) The redevelopment project excess valuation shall be reinstated when the assessed valuation on taxable real property in the redevelopment project is greater than the redevelopment project base valuation.

004.01C The assessor shall annually on or before August 20, certify to the community redevelopment authority and to the county treasurer the amount of the redevelopment project valuation (base value) and the redevelopment project excess valuation, if any for each project.

004.02 The assessor shall include only the redevelopment project base valuation and parcel counts as part of the taxable property for each property class and subclass as required on the County Abstract of Assessment for Real Property (Form 45). In addition, the assessor shall provide the county's total number of parcels involved in a redevelopment project along with the associated total redevelopment project base valuation and excess valuation for each property class and subclass as required on the County Abstract of Assessment for Real Property (Form 45). The redevelopment project excess valuation shall not be included as part of the total taxable valuation for a property class on the Abstract of Assessment for Real Property.

004.03 The assessor, for purposes of preparing the School District Taxable Value Report, pursuant to Neb. Rev. Stat. Section 79-1016, shall include only the redevelopment project base valuation as part of the total taxable value for each school district. The amount certified to the Property Tax Administrator shall be that same amount of taxable value as certified to the school district for levy setting purposes, pursuant to Neb. Rev. Stat. Section 13-509. In addition, the assessor shall provide the supplemental information, outlined on the School District Taxable Value Report, for each school district's total redevelopment project base and excess valuations by property class. The redevelopment project excess valuation will be included in the certification, only when the real property taxes are no longer divided.

004.04 The assessor, for purposes of preparing the Certificate of Taxes Levied Report (Form 49), pursuant to Neb. Rev. Stat. Section 77-1613.01, shall include only the redevelopment project base valuation on the appropriate schedule for each of the levying political subdivisions that make up the tax district within which the project is located. In addition, the assessor shall report each project's information as required on separate schedules of this report, indicating each project's redevelopment base and excess valuations by property class, consolidated tax rate and the taxes levied on the redevelopment excess valuation.

004.05 The assessor shall transmit to an authority and the county treasurer, upon request of the authority, the redevelopment project valuation .

004.06 The assessor, shall at the authority's request conduct an investigation, examination, and inspection of the taxable real property in the redevelopment project and shall reaffirm or revalue the current value for assessment of such property pursuant to the findings of such investigation, examination and inspection.

(~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003, and~~ Neb. Rev. Stat. Section 13-509, ~~13-518,~~ 18-2147, 18-2148, ~~77-1514, 77-1613.01 and 79-1016,~~R.S. Supp., 2006 and Neb. Rev. Stat. Sections 13-518, 77-702, 77-1514, 77-1613.01 and 79-1016, R.S. Supp., 2007.)

REG-18-005 REPORTING BY REDEVELOPMENT AUTHORITIES

005.01 On or before December 1 each year, any city which has approved redevelopment plans that are financed in whole or in part through the use of tax increment financing, shall file a report with the Property Tax Administrator for each plan. The report shall contain the following:

005.01A A copy of the redevelopment plan and any amendments thereto, approval date of the plan, the effective date for dividing the real property taxes as provided to the assessor and the location and boundaries of the property in the redevelopment project.

005.01B A short narrative description of the type of development undertaken, including the financing and type of business or commercial activity locating within the redevelopment area as a result of the redevelopment project.

005.02 The Property Tax Administrator shall compile the information obtained from the cities pursuant to Regulation 18-005 and information reported by the assessor or county clerk on the certificate of taxes levied for each redevelopment project into a report to be submitted to the Clerk of the Legislature by March 1 each year.

005.02A The report may also contain any recommendations that the Property Tax Administrator determines necessary to facilitate analysis of the uses, purposes, and effectiveness of tax increment financing and the process for its implementation.

(Neb. Rev. Stat. Section 18-2117.01, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007~~R.R.S. 2003~~.)