

**POLICY STATEMENT:
ESTABLISHING PUBLIC INFRASTRUCTURE DISTRICTS**

Local and regional infrastructure needed in Tooele City’s industrial, commercial, and mixed-use development areas and in redevelopment areas require that a broad range of tools be available to finance infrastructure. This policy statement addresses the criteria under which Tooele City (the “City”) will consider applications for proposed Public Infrastructure Districts (a “District”). Compliance with these criteria shall not obligate the City to approve the formation of a District. The Governing Document will be subject to approval by the City in both form and substance. The criteria are intended to serve as guidelines for the review of letters of intent and Governing Documents.

The policy statement has three sections:

- 1. Process for applying including fees charged**
 - 2. The City’s decision-making criteria**
 - 3. Governing Document requirements**
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I. Process and Fees

Any proposed Public Infrastructure District will be considered in relation to the best interests of the City. Such interests include using the most appropriate financing mechanism for the type and magnitude of the improvements to be financed and appropriate governance mechanism. If through the review process, a Public Infrastructure District is determined by Tooele City to be the most appropriate mechanism, the process, the criteria, and requirements provided herein will apply, unless otherwise waived by the City.

The City will not consider creation of any Public Infrastructure District for exclusively residential development if such District proposes to impose ongoing property taxes as the repayment source for District debt.

A. Petition and Letter of intent to form a Public Infrastructure District

The applicant shall submit (1) a petition meeting the requirements outlined in Utah Code Title17B, Chapter 1, Part 2 as modified by 17D-4-201 and (2) a letter of intent containing the following information in summary form. The petition and letter will be used by staff to make a preliminary determination about the appropriateness of a District and must be submitted prior to submittal of a draft Governing Document. A positive staff response to the Letter of Intent does not assure approval of the Governing Document. The petition shall also be submitted concurrently with the City Recorder for certification.

Letter of Intent contents:

1. Description of District (or Districts) area including size, location, area context (significant natural and man-made features, major public improvements, adjacent development), development history, and proposed development;
2. Summary and costs of infrastructure, services and facilities:

- a. Currently expected development scenario with and without the proposed District;
 - b. Required local and regional infrastructure and facilities for such development;
 - c. Regional and local infrastructure the proposed District is to provide;
 - d. Other unique enhancements that benefit both the District and the City as a whole
 - e. Estimated construction costs for the proposed District improvements;
 - f. General description of phasing of construction based on development projections; and
3. Provide the following financial plan information:
- a. Proforma financial overview of total costs and total revenues from all revenue sources (recognizing that a residential District may not impose ongoing property taxes);
 - b. An example plan of finance showing a proposal of how the proposed financing might take place;
 - c. Anticipated maximum or fixed maximum mill levy required to meet debt service of the District;
 - d. Analysis of proposed mill levies in light of outstanding debt and mill levies of other taxing entities affecting the area;
 - e. Comparison of the mill levies of similar taxing entities in the area;
 - f. Proposed operating budgets for the District's first three years of existence;
 - g. A plan of ownership and/or maintenance of proposed District improvements
 - h. Any other forms of public financing and assistance being sought, including assessment areas; and
4. Proposed timeline for District creation.
5. Acknowledgement that a consent must be signed prior to the hearing date for the governing document by all property owners and registered voters, if any, within the proposed District boundaries approving of the creation of the proposed District and consenting to the issuance of debt in an amount sufficient for the proposed plan of financing.
6. Disclosure of any business relationships and conflicts of interest between the applicant and the officers and employees of the City.
7. Copies of signed engagement letters between the applicant and applicable consultants and legal counsel retained by the City and/or the proposed District whereby applicant agrees to pay fees related to the review of the application and governing document.

B. Review Process

1. The District Advisory Committee (“DAC”) is a City committee that advises the Mayor, City Council and other policy-makers about district issues. The DAC includes representatives of the departments of Economic Development, Community Development, Law, Finance, Public Works, as well as other agencies and departments as needed.

The DAC will review the petition and letter of intent utilizing these public benefit criteria and evaluation criteria to determine whether or not to direct the applicant to proceed with preparation of a draft Governing Document for submittal. Conceptual approval does not assure approval of the governing document.

C. Governing Document

1. If the concept for the District as contained in the letter of intent is approved by the DAC, the applicant shall submit a draft Governing Document to the City’s Department of Economic Development. Unless the City approves otherwise in advance, such Governing Document shall be initiated from the Model Governing Document on file with the City. The applicant’s draft shall include a clean draft and a redline showing all changes from the Model Governing Document.
2. The draft Governing Document will be reviewed by the DAC for compliance with the criteria and requirements contained herein. The DAC will discuss with appropriate policy-makers issues that arise during this drafting period to have such issues resolved.
3. The final Governing Document will be forwarded to City Council for action by Resolution.

D. Fees

No request to create a Public Infrastructure District shall proceed until the fees set forth herein are paid. All checks are to be made payable to Tooele City and sent to the Economic Development Office.

1. Letter of Intent: A Letter of Intent is to be submitted to the City Economic Development Office and a fee (as listed in the City’s Fee Schedule) shall be paid at the time of submittal of the Letter to cover the cost of staff review.
2. If the applicant proceeds to the submittal of a Governing Document an application fee (as listed in the City’s Fee Schedule) shall be submitted concurrent with the draft Governing Document
3. Other Expenses: In the event the costs of review exceed the application fee, the applicant for a District shall pay all reasonable consultant, legal, and other fees and expenses incurred by the City in the process of reviewing the application, including the draft Governing Document, prior to adoption, documents related to a bond issue and other such fees and expenses as may be necessary to interface with such District. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses. Failure to pay these fees and costs shall be cause to suspend the City’s review and consideration of the application.

4. In the event the applicant proposes to create more than one Public Infrastructure District with respect to the same project, the City may modify the above fees to account for overlapping work in the review and creation of such Districts.

II. Criteria for Evaluating Proposed Public Infrastructure Districts

A. Public Benefit

Formation of a District bestows certain benefits on the District's proponents and is expected to provide public benefit consistent with the City's policy goals. Components of public benefit to be considered may include:

1. Resultant development that furthers the goals and objectives of the City's Comprehensive General Plan and all applicable elements and supplements;
2. Provision of and/or contribution to needed regional and sub-regional infrastructure, including establishing, looping, expanding, connecting, and integrating critical infrastructure systems;
3. Economic development and job creation and diversification, which may include but are not limited to wage, salary, benefits, and employee quality-of-life considerations;
4. Sustainable design including multimodal transportation, water conserving landscape design, thoughtful development phasing, green and energy efficient building design, and formation of and participation in transportation management programs;
5. Mixed-use development that includes a variety of housing types and prices—including housing affordable to persons with 80% or less AMI—a range of employment opportunities, retail and consumer services, and civic amenities;
6. Contribution to and diversification of commercial/industrial property tax base;
7. Contribution to and diversification of sales tax revenue generation;
8. Preservation and improvement of natural and new green spaces and recreation areas;
9. Company equal opportunity, diversity, and inclusivity planning and initiatives;
10. Company culture of community involvement; and
11. High quality site and building design, including street connectivity, multimodal street design, durable construction materials, pedestrian-friendly building design, and upgraded architectural design and building materials.

B. Evaluation Criteria

These criteria provide thresholds for consideration. Compliance with some or all of these criteria is desired; however, alternative approaches may be considered. Compliance with Utah Code Title 17D Chapter 4 (Public Infrastructure District Act) is required.

1. Districts should not include land that is already included within the boundaries of another public infrastructure district without express provision in an adopted Governing Document. In such cases, the relationship with the existing or proposed districts must be addressed in the Governing Document, including any inclusion area concept and how ultimate district boundaries will be determined.
2. There must be a demonstrated public benefit directly resulting from the creation of the District and its undertakings as described in the Governing Document.
3. A justification of need above that of available conventional infrastructure financing.
4. A demonstration that a public infrastructure district will not create a risk of unduly overtaxing properties to the extent of undermining their value, marketability, and liquidity.

C. Evaluation of Applicant

The following criteria relating to the applicant and the development will be considered:

1. Historical performance of the applicant (within and outside of the City);
2. The current proposed plan of finance of the District;
3. The current development plans relationship to the City General Plan, including the Land Use Plan and other elements and supplements; and
4. The regional or overall benefits to the City from the proposed plan of finance.

III. **Governing Document Requirements**

In addition to statutory requirements, a Governing Document memorializes the understandings between the District and the City, as well as the considerations that persuaded the City to authorize the formation of the District. The Governing Document for the proposed District shall contain and will be reviewed for compliance with the following policies and requirements.

A. District Description

1. Description of District area including size, location, area context, and proposed development scenario;
2. Description of the public benefit resulting from the creation of the District and its undertakings;
3. Description of proposed development within the boundaries of the proposed District;

4. If the District boundaries overlap with another district, an explanation of the relationship between the districts and outline of any plans to utilize an inclusion area or multi-district structuring;
5. Description of needed infrastructure (both regional and local) and facilities in the District's area;
6. Estimated construction costs of such infrastructure;
7. General description of phasing of construction based on development projections and phasing;
8. Description of the ultimate ownership and provision for the ongoing operating and maintenance costs for infrastructure.
9. Description of any proposed divisions and an inclusion/exclusion process as appropriate.
10. Proposed governance plan, including Board structure and to transition from appointed Board to elected Board.

B. Requirements and Expectations

1. The planned ownership of the improvements, including any relationship with an existing municipality or statutory district must be addressed in the Governing Document.
2. All debt issued by the District for which a tax is pledged to pay the debt service shall meet the requirements of all applicable statutes.
3. Land, easements, or improvements to be conveyed or dedicated to the City and any other local government entity shall be conveyed in accordance with the related standards at no cost to the City.
4. All public infrastructure within the District which will be connected to and owned by another public entity shall be subject to all design and inspection requirements and other standards of such public entity.
5. The District shall not pledge as security any land, assets or funds to be transferred to the City.
6. The District shall be subject to City zoning, subdivision, building codes, and all other applicable City ordinances and regulations. Approval of the Governing Document shall not bind the City to approve other matters which the District or developer may request.
7. The District shall pay all fees and expenses as provided in the Governing Document.
8. The District may not double tax, whether by mill levy, assessment, impact fees, or any combination thereof; any end user for the costs of Improvements.

C. Disclosure and Reporting Requirements

Disclosure of the existence of the District to property owners and potential property owners within the District is important and the following actions shall be taken by each District and shall be included in the Governing Document.

1. Within 30 days after the formation of the District, the Board shall record a notice with the county recorder:
 - a. Containing a description of the boundaries of the District and inclusion area as applicable;
 - b. Stating that a copy of the Governing Document is on file at the office of the City;
 - c. Stating that the District may finance and repay infrastructure and other improvements through the levy of a property tax;
 - d. Stating the maximum rate that the District may levy; and
 - e. If applicable, stating that the debt may convert to general obligation debt of District taxpayers, and outlining the provisions relating to conversion.
2. Applicant, homebuilders, commercial developers, and commercial lessors, as applicable, shall be required to disclose the following information to initial resident homeowners, renters, commercial property owners, and/or commercial tenants:
 - a. All of the information required under (1)(b) above;
 - b. A disclosure outlining the impact of any applicable property tax, in substantially the following form:

“Under the maximum property tax rate of the District, a primary residence valued at \$[insert average anticipated residential property value] would have an **additional annual property tax of \$_____** for the duration of the District’s Bonds. A business property valued at \$[insert average anticipated commercial property value] would have an **additional annual property tax of \$_____** for the duration of the District’s Bonds.”
 - c. Such disclosures shall be contained on a separate colored page of the applicable closing or lease documents and shall require a signature of such end user acknowledging the foregoing.
3. At least annually following the formation of the District, the District shall notify (by mail, e-mail, or posting to the District’s website) property owners in the District of the existence of the District and of the next scheduled meeting of the Board of the District. Such meeting shall occur at least 30 days and not more than 60 days following the date of the notice. Such notification shall include names and addresses of the Board of Directors and officers, the address, telephone and fax numbers, and e-mail address of the District, and shall include reference to the existence of a District file maintained by the City as described below.

4. The District shall provide the following information to the City Economic Development Office on an annual basis, and the District shall create and maintain a file for public review of the following information.
 - a. Annual District budget;
 - b. Annual financial statements of the District, audited if required by Statute or bond covenant;
 - c. Total debt authorized and total debt issued and presently planned debt issuances;
 - d. Names and terms of Board members and officers and progress towards milestones required for transition to elected Board;
 - e. A copy of the language required to be disclosed (2)(b) above;
 - f. Rules and regulations of the District regarding bidding, conflict of interest, contracting, and other governance matters, if changed;
 - g. List of current interlocal agreements, if changed (to be delivered to the City upon request);
 - h. List of all current contracts for services or construction (to be delivered to the City upon request);
 - i. Official statements of current outstanding bonded indebtedness, if not previously received by the City; and
 - j. District Office contact information.

IV. Submittal Instructions

Required Documents: Submit one copy of each of the Letter of Intent, Petition, and Governing Document (if requested by the DAC), to:

Tooele City
Department of Economic Development
90 North Main Street
Tooele, UT 84074

With a Copy to: Submit a copy of the Letter of Intent and Petition to:

Tooele City
City Recorder
90 North Main Street
Tooele, UT 84074

V. Policy Amendments

This Policy Document may be amended at any time by majority vote of the City Council.