

same rate on the declining balance thereof, is deemed a part of the special assessments appropriated for payment of the cost, within the meaning of section 40-26-08.

10. When the cost of development or renewal of any development or renewal area has been fully paid and all bonds, notes, or other obligations issued by the municipality to pay that cost have been retired, or funds sufficient for the retirement thereof have been received by the municipality, the governing body shall cause this to be reported to the county auditor, who shall thereafter compute the mill rates of all taxes upon the total taxable value of the development or renewal area. Any balance then on hand in the tax increment fund must be distributed by the county treasurer to the state and all political subdivisions having power to tax property in the area, in amounts proportionate to the amounts of the tax losses previously reimbursed to them.
11. As an alternative to the sale of bonds to be amortized with tax increments as provided in this section, the governing body of a municipality may, in its discretion, grant a total or partial tax exemption for the project in order to provide assistance to a project developer in a development or renewal area, pursuant to agreement with the municipality. However, if a developer of a development or renewal project receives a tax exemption for that project pursuant to this subsection, that project developer may not receive a tax exemption for that project under section 40-57.1-03, 40-57.1-04, 40-57.1-04.1, or 40-57.1-04.3. The amount of annual tax exemption under this subsection is limited to the tax increment as defined in this section as it applies to the development or renewal project and may extend for a period not to exceed fifteen years. In determining the total amount of the tax exemption to be authorized, the municipality shall give due consideration to the same elements as are involved in the sale of bonds to be amortized by tax increments. The amount to be reimbursed, by tax exemption, to the project developer must be all or a portion of eligible public costs which have been paid by the project developer, plus interest on those costs at a rate not to exceed ten percent per annum. The amount of tax exemption must be an amount sufficient to reimburse the project operator for those eligible costs, amortized pursuant to the agreement between the project developer and the municipality.
12. The governing body of a municipality with an active tax increment financing district may at any time identify funds on hand that are in excess of the costs it determines necessary to complete the activities included in the last approved urban renewal plan for that district. The governing body shall cause the identified surplus to be transferred to the county treasurer to be distributed to the state and all political subdivisions having power to tax property in the area, in amounts proportionate to the most recent five-year average of the property tax levy within the district.

**40-58-20.1. Use of tax increment financing for the development of certain industrial or commercial property - Public hearing - Eligible costs of development.**

1. The governing body of a municipality may use the tax increment financing method authorized by section 40-58-20 to assist a project developer in the development of industrial or commercial property, as limited by this section, pursuant to an agreement between the municipality and the project developer.
2. Prior to entering into an agreement with a project developer under subsection 1, the governing body of the municipality shall consider the agreement at a public hearing, which may be held in conjunction with the public hearing required by subsection 3 of section 40-58-06, after providing written notice of the hearing at least fifteen days prior to the hearing to potential competitors of the prospective industrial or commercial enterprise, and may enter into the agreement only if it determines that the agreement will not result in unfair competition and that the agreement is in the best interests of the municipality as a whole.
3. For the purpose of determining costs of development of industrial or commercial property to be reimbursed by tax increments under section 40-58-20, only the following public costs necessarily incurred, by either the municipality or the project developer, for the purpose of preparing the property for private development by the project

#### 40-05-23. Limitation on authority - Seed.

Notwithstanding any other law, a city may not impose any requirements or restrictions pertaining to the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of seed. This section does not apply to city zoning ordinances.

#### 40-05-24. Duties of cities granting property tax incentives.

1. Notwithstanding any other provision of law, before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city shall send the chairman of each county commission and the president of each school district affected by the property tax incentive a letter, by certified mail, which provides notice of the terms of the proposed property tax incentive.
2. Within thirty days from receipt of the letter, each affected county and school district shall notify the city, in writing, whether the county or school district elects to participate in granting the tax incentive on the county or school district portion of tax levied on the property. The notification from a county or school district electing not to participate must include a letter explaining any reason for which the entity elected not to participate and whether the county or school district is willing to negotiate the terms of the property tax incentive with the city.
3. If the city does not receive a response from an affected county or school district within thirty days of delivery of the letter, the county and school district must be treated as participating in the property tax incentive.
4. The term "negotiation" as used in this section means the governing body of an affected county or school district may negotiate the terms of participating in the tax incentive, including the duration of the tax incentive and the taxable value selected for the base year for purposes of computing tax increments.
5. If an agreement is reached through negotiation under this section, the property tax incentive must be applied in accordance with the agreement.
6. Property subject to a development agreement entered pursuant to section 40-58-20.1 before August 1, 2017, and all amendments to the development agreement, is not subject to the requirements under this section. (Effective for property tax incentives approved after July 31, 2017)

ADDED IN  
2017  
SESSION

NOTE: THE TERM "PROPERTY TAX INCENTIVE"  
DOES NOT SEEM TO BE DEFINED IN THE ND  
CENTURY CODE.

developer may be included in the agreement as reimbursable public costs of development:

- a. The cost of acquiring, or the market value, of all or a part of the industrial or commercial property;
- b. Costs of demolition, removal, or alteration of buildings and improvements on the industrial or commercial property, including the cost of clearing and grading land;
- c. Costs of installation, construction, or reconstruction of streets, utilities, parks, and other public works or improvements necessary for carrying out the development or renewal plan; and
- d. All interest and redemption premiums paid on bonds, notes, or other obligations issued by the municipality to provide funds for the payment of eligible public costs of development.

**40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to representatives of affected taxing districts.**

1. Before approval of a development or renewal plan for any development or renewal area under section 40-58-20, the governing body of the municipality shall conduct a public hearing on the proposal. The governing body shall provide invitations to participate in the public hearing to the governing body of each county, school district, and park district within the development or renewal area. At a minimum, the governing body of the municipality shall provide the following information at the public hearing:
  - a. The anticipated costs of development of property to be reimbursed by tax incentives.
  - b. The anticipated annual revenue from tax increments which will be received to complete the development or renewal plan.
  - c. The anticipated date when the plan will be completed, the costs will be fully paid, and the tax increments will be released.
  - d. The estimate of the dollars annually attributable to the levies from each taxing entity which will be credited to the tax increment fund.
2. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of the municipality must comply with the requirements in section 40-05-24.

**40-58-20.3. Tax increment financing reports.**

For each development or renewal plan for any development or renewal area under section 40-58-20 in existence at the end of a calendar year, the governing body of the municipality shall file an annual report with the department of commerce, by the following July thirty-first, which is in a format prescribed by the department. The report must include:

1. The total of outstanding indebtedness.
2. The balance of funds on hand.
3. The name of the tax increment financing district.