

**DAKOTA COUNTY COMMUNITY DEVELOPMENT AGENCY (CDA)  
HOUSING IMPROVEMENT AREA POLICY**

**1.00 PURPOSE** The purpose of this policy is to establish the Dakota County Community Development Agency (“CDA”) position relating to the use of Housing Improvement Area (HIA) financing for private housing improvements to Housing Units, as described in chapter 515, 515A, or 515B. This policy will be used as a guide in processing and reviewing applications requesting HIA financing. The CDA may amend or waive sections of this policy when determined necessary or appropriate, or deferring to the HIA policy of the city in which the housing is located (“City”).

**2.00 AUTHORITY**

2.01 The CDA has the authority to establish HIAs under Laws of Minnesota 2013, Chapter 143, Article 12, Section 7 (the “Special Law”), which grants to the CDA the powers of a city under Minnesota Statutes, Sections 428A.11 through 428A.21 (the “HIA Law”), to establish HIAs in Dakota County

2.02 Within the HIA, the CDA has the authority to:

- A. Make housing improvements
- B. Levy fees and assessments
- C. Issue bonds to pay for improvements

2.03 The CDA will review each HIA application which includes scope of improvements, HOA’s finances, long-term financial plan, and the support of the owners of at least 55% of the housing units that would be subject to fees in an HIA. Note that the percentage of the owners that support the establishment of the HIA will be weighed in accordance with the basis the fee is imposed (i.e. tax capacity of the housing unit, total amount of square footage of the housing units, or a method determined by the CDA Board of Commissioners and specified in the resolution).

2.04 The CDA will send a copy of each HIA Application and required petitions for the establishment of an HIA to the City. The CDA may not hold the public hearing required in Section 428A.13, subdivision 2, fewer than 30 days after the date on which the City received the HIA Application and required petitions. The CDA may not establish an HIA if the City Council adopts a resolution opposing it within this 30 day period.

**3.00 POLICY**

3.01 It is the policy of the CDA to use HIA financing to assist a private homeowner association (“HOA”) only in those circumstances in which the proposed housing improvements addresses one or more of the following goals:

- A. To promote neighborhood stabilization and revitalization by the removal of blight and/or the upgrading of the existing housing stock in the neighborhood.
- B. To correct housing or building code violations as identified by the City Code enforcement staff.
- C. To maintain or obtain FHA mortgage eligibility for a particular HOA within the designated HIA.
- D. To increase or prevent the loss of the tax base of the City and County in order to ensure the long-term ability of the City and County to provide adequate services for its residents.
- E. To stabilize or increase the owner-occupancy level within a neighborhood or HOA.
- F. To meet other public policy objectives, as adopted by the City or CDA from time to time, including promotion of quality urban design, quality architectural design, energy conservation, decreasing the capital and operating costs of local government, etc.

#### **4.00 PROCEDURE AND REQUIREMENTS**

4.01 In order to be eligible for HIA financing through the CDA, the HOA is to submit an Application, together with an application fee as set from time to time by the Executive Director of the CDA, and follow the attached HIA Application Procedures (see **Exhibit A**). Each HIA financed by the CDA should meet the following minimum criteria. However, it should not be presumed that a project meeting these criteria would automatically be approved. Meeting these criteria creates no contractual rights on the part of any HOA.

- A. The project must be in accordance with the City Comprehensive Plan and Zoning Ordinances, or required changes to the Plan and Ordinances must be under active consideration by the City at the time of approval.
- B. The creation of the HIA and HIA financing will be provided within applicable state legislative restrictions, debt limit guidelines, and other appropriate financial requirements and policies.
- C. The project should meet one or more of the goals stated in the Policy section of this document.
- D. The term of the HIA should be the shortest term possible while still making the annual fee affordable to the HOA members. The term of any bonds or other debt incurred for the area should mature in 20 years or less.
- E. The HOA in an HIA should provide adequate financial guarantees to ensure repayment of the HIA financing and the performance of the administrative requirements of the development agreement. Financial guarantees may include, but are not limited to the pledge of the HOA's assets including reserves, operating funds and/or property.
- F. The proposed project, including the use of HIA financing, should be supported by not fewer than 55% of the owners within the HOA who will be subject to a fee. The HOA's application should include the results of a

membership vote along with petitions that indicate at least 55% owner support to create the area. Note that the percentage of owners that support the establishment of the HIA will be weighed in accordance with the basis the fee is imposed (i.e. tax capacity of the housing unit, total amount of square footage of the housing units, or a method determined by the CDA Board of Commissioners and specified in the resolution).

- G. The HOA must have adopted a financial plan that provides for the HOA to finance maintenance and operation of the common elements within the HOA and a long-range plan to conduct and finance capital improvements therein, which does not rely on the subsequent use of HIA financing. The financial plan must be prepared by an independent third party, with designation as a Community Associations Institute (“CAI”) certified reserve specialist, and must conform to CAI Reserve Study Standards.
- H. HIA financial assistance is a last resort financing and should not be provided to projects that have the financial ability to proceed without the benefit of HIA financing. Evidence that the HOA has sought other financing for the project should be provided and should include an explanation and verification that an assessment by the HOA is not feasible along with letters from private lenders or other evidence indicating lack of financing options.
- I. The HOA must enter into a development agreement, which may include, but is not limited to, the following requirements:
  - a. Establishment and funding of a reserve fund;
  - b. HOA management by professional association management firm;
  - c. HOA hires a construction manager or owner’s representative to monitor performance of the general contractor (may be employee of association management firm);
  - d. Submission of annual reports, including audited financial statements;
  - e. Conditions of disbursement;
  - f. Amount of annual dues increases;
  - g. Notification to new owners of levied fees;
  - h. Obtain multiple bids for project construction;
  - i. Guaranty by the HOA to fund the completion of HIA improvements; and
  - j. Requirement to update to the financial plan every 5 years.
- J. The improvements financed through the HIA should primarily be exterior improvements and other improvements integral to the operation of the project, e.g. boilers. The improvements should be restricted to common elements or limited common elements and must comply with the attached CDA HIA Property Standards (see **Exhibit B**). The HOA must have a third party conduct a facility needs assessment to determine and prioritize the scope of improvements. The HOA may be required to make changes to its bylaws to ensure adequate enforcement authority to protect common area improvements financed through the HIA from substandard building components for which the homeowner is responsible.
- K. HIA financing should not be provided to those projects that fail to meet good public policy criteria as determined by the CDA Board of Commissioners,

including: poor project quality; projects that are not in accord with the City Comprehensive Plan, zoning, redevelopment plans and the City and CDA policies; projects that provide no significant improvement to the neighborhood and/or the City and County; and projects that do not provide a significant increase in the tax base and/or prevent the loss of tax base.

- L. The CDA Board of Commissioners reserves the right to deny funding for specific improvements if they are determined not to be in keeping with the intent of the policy.
- M. The financial structure of the project should receive a favorable review by the CDA's Financial Advisor and/or Bond Counsel. The review will include a review of performance and level of outstanding debt of previous HIAs.
- N. The average market value of units in the HOA should not exceed the maximum home purchase price for existing homes under the CDA's first time homebuyer program.

## **5.00 FINANCING**

- A. The CDA may finance the cost of housing improvements in an HIA through the issuance of bonds or other obligations, or through direct lending of its unrestricted fund balance, subject to the approval of the CDA Board of Commissioners (the "HIA Loan"). Unless otherwise approved by the CDA Board of Commissioners, the interest rate of the HIA Loan will be 2.5% above the composite AAA municipal bond yield for the term matching the HIA Loan term, rounded to the higher .5%.
- B. Depending on the availability of Dakota County Housing Opportunities Enhancement Program (HOPE) funds, the HOA may request lower interest financing of up to the lesser of one-third of the project costs, \$500,000, or \$20,000 per eligible Housing Unit. Eligibility for this financing is based on the following criteria:
  - a. 75% or more of the HOA owners return completed income surveys; and
  - b. 51% or more of the survey respondents report total gross household income at or below 80% of the area median income.
- C. All forms of CDA financing will be re-paid through the establishment of an HIA fee.

## **6.00 RESPONSIBILITY**

- 6.01 The Community & Economic Development Department will have primary responsibility for implementation and coordination of this policy.

Date of Approval: November 12, 2013

## Exhibit A

# APPLICATION PROCEDURES FOR ESTABLISHING A HOUSING IMPROVEMENT AREA

1. Meet with appropriate Dakota County Community Development Agency (“CDA”) staff to discuss the scope of the project, member participation, time schedule and other information as may be necessary.
2. Complete **HIA Application** for the Establishment of a Housing Improvement Area. This form along with the required petitions (minimum of 55% of owners must sign petition form) and other required documents should be submitted to the Director of Community and Economic Development. The CDA will forward a copy of the HIA Application to the city in which the project is located (“City”). Note that the percentage of owners that support the establishment of the HIA will be weighed in accordance with the basis the fee is imposed (i.e. tax capacity of the housing unit, total amount of square footage of the housing units, or a method determined by the CDA Board of Commissioners and specified in the
3. Staff will coordinate a site visit with the Applicant and City code enforcement staff to determine if there are any code issues of concern and to evaluate the general condition of the property.
4. Staff will prepare a report for the City and the Applicant which will include a preliminary analysis of the project.
5. If the proposal receives a favorable review by City, the Applicant must then submit the following items:
  - a. Application fee
  - b. Financial Plan required by State Statute, which identifies how both maintenance and operation of the common elements will be paid for and a long-range plan to conduct and finance capital improvements.
  - c. Resident survey response, if applicable
6. The CDA and/or the CDA’s Financial Advisor will review the Financing Plan and surveys.
7. CDA staff and/or Financial Advisor will structure financing terms
8. CDA Attorney will prepare Development Agreement

9. CDA will schedule public hearings on the creation of the district and the setting of the fees (two separate public hearings may be required).
10. CDA Board of Commissioners will approve or deny the creation of the HIA and the associated fees by resolution. If approved, the Development Agreement will be executed subject to the successful passage of the veto period (minimum of 45 days). (If 45% or more of the owners file a written objection within the veto period, the CDA cannot provide financing through a Housing Improvement Area). Note that the percentage of owners filing a written objection will be weighed in accordance with the basis the fee is imposed (i.e. tax capacity of the housing unit, total amount of square footage of the housing units, or a method determined by the CDA Board of Commissioners and specified in the resolution).
11. Once the HIA is established, the CDA will work in cooperation with City code enforcement staff to ensure that the building permit process is being followed and that City inspections are satisfactory before approving draw requests from the homeowner association.
12. It is understood that CDA Staff or Board of Commissioners may from time to time determine that a different process which is outlined is more appropriate, given the circumstances of each individual request.

### **Estimated Timeline**

<b>Estimated time</b>	<b>From Task Completion</b>	<b>To Action</b>
45 days	Applicant submits HIA Application and Petitions	Staff preliminary analysis report to City
30 days	Applicant submits fee, Financial Plan, and resident surveys	CDA and Applicant meet to discuss review of Financial Plan, scope of work, and proposed financing terms
15- 30 days	Applicant accepts proposed terms	CDA prepares draft Development Agreement and sets public hearing date
10 – 30 days	Notify owners of public hearing date (10 days) Publish public hearing notice (7 days before)	Holds public hearing; adopts resolution establishing HIA; establishing the fee*
5 days	Fee resolution adopted	Notice to owner of each unit with resolution
45 days	Fee resolution adopted	Effective date of the resolution (end of veto period)
50 days	Fee resolution adopted	Close on financing; proceed with housing improvements

*\* this could be two separate meetings, requiring separate public hearings and notice periods.*

## **Exhibit B**

### **HOME IMPROVEMENT AREAS (HIA) PROPERTY STANDARDS**

These standards provide a basis for assuring that a project meets minimum conditions established by the CDA. The scope of work for the project must include all items necessary to bring the association into compliance with all property standards. Only items that are the responsibility of the association (as determined by the association by-laws) are subject to these requirements. The following minimum standards are hereby accepted for implementation in the Home Improvement Areas (HIA) Program throughout Dakota County.

**A. SITE.** The designated HIA site shall be reasonably free from hazards to the health, safety and general welfare of the occupants.

1. The condition of exterior stairways, walkways, driveways, etc., shall not present a danger of tripping or falling. All exterior steps, walkways, and driveways should be free of tripping hazards. Crumbling, cracked, broken, missing or uneven conditions should be repaired or replaced as necessary. Handrails should be properly installed on all stairways. Retaining walls should be structurally stable.
2. The site shall be well drained. Surface drainage must be directed away from the structure, to a designated ponding area, or to municipal storm sewer system. Include roof drainage provisions when assessing site drainage conditions.
3. Excessive accumulations of trash; any materials which accumulate on a property in the neighborhood should be removed, or screened and arranged in a manner which does not detract from the general appearance of the neighborhood.
4. Fire hazards; the site should be free from fire hazards, such as the storage of highly flammable materials, etc.
5. The appearance of the site, after rehabilitation, should make a positive contribution to the general appearance of the association. To this extent, other items identified as deficient (including, but not limited to, play areas, exterior lighting, landscaping, signage, and common spaces) should be included as part of the scope of work.

**B. STRUCTURE AND MATERIALS.** The dwelling exterior shall be structurally sound, free from threats to the health and safety of the occupants, and shall protect the occupants from the environment.

1. Siding, windows, roofs, doors, soffits, facia, etc., shall not have any serious defects such as large holes, loose surface materials, missing parts, or other serious damage. The exterior walls should be weather-tight. This includes the repainting or installation of siding to protect the exterior surface from the elements.

2. The roof structure shall be firm and the roof shall be weather-tight. All roof framing members should be free from cracks and rot. The roof sheathing should be solid and free from sagging, buckling and heaving. If the roof appears to be well worn, it should be replaced. If possible, the roof should be stripped all the way down to the sheathing and replaced.
3. Foundation walls shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose materials, loose siding, or other serious damage. Empty or cracked mortar joints should be tuckpointed in an acceptable manner to match, as closely as possible, the rest of the structure. The joints should be recessed. Masonry chimneys should be inspected for loose mortar joints and proper height. All empty or cracked mortar joints should be tuckpointed in an acceptable manner to match, as closely as possible, the rest of the chimney. The joints should be recessed.
4. All detached garages should be repaired to a usable condition or removed from the property; other out-buildings may be removed and/or demolished based on hazardous conditions.
5. The general appearance of the outside of the structure, after rehabilitation, should make a positive contribution to the general appearance of the association
6. Installation of gutters and downspouts is strongly recommended in order to divert water away from foundations.

#### **C. COMPLIANCE WITH OTHER CODES/REGULATIONS/BYLAWS.**

1. The completed Rehabilitation must meet the Minnesota State Building Code.
2. The Contractor will be responsible for applying for and fulfilling any and all applicable building permits and meeting the local building codes.
3. Lead Based Paint - All work performed on structures built before 1978 shall be in compliance with the Environmental Protection Agency (EPA) Renovation, Repair, and Painting Rule (RRP).