

# A Tool for Your Town: New Hampshire's Community Revitalization Tax Relief Incentive



**Plymouth State Graduate Studies Historic Preservation Program  
Drew Bedard, Martha Cummings, Alison Keay, Joanna Snyder  
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## Plymouth State Graduate Studies- Historic Preservation Program

The Master of Arts (MA) in Historic Preservation is designed to provide students with a fundamental understanding of historic preservation issues and opportunities that promote the protection of historic and

cultural resources. Students will gain strong organizational, practical and administrative skills ideal for careers in historic preservation, heritage tourism and/or heritage resource management. To learn more about the program visit:

<http://www.plymouth.edu/historic-preservation>

### Historic Preservation Planning and Management

Now seen as integral to the definition and protection of the cultural landscape, historic preservation planning and cultural resources management (CRM) are accomplished through the identification, evaluation, documentation, registration, treatment and ongoing stewardship of historic properties. This course examines the tools of preservation planning and management, and illustrates their application at the federal, state and local levels. Guest speakers introduce students to key players and the work of various organizations and agencies.

This report was prepared as a final project for the course by the class. Its purpose was to focus on a current preservation need, or issue, in New Hampshire and produce a publication of lasting value to the preservation community. Here is a description of the class: [HPR 5400 Syllabus](#) .



### Graduate Students

Members of the Spring 2014 Historic Preservation Planning and Management class include:

**Drew Bedard** – Drew is a graduate from Plymouth State University where he majored in Business Administration with a minor in Communications. He now works as a project manager for his family’s business, Bedard Preservation & Restoration, where they specialize in preservation, rehabilitation, and restoration of historic buildings throughout New England.

**Martha Cummings** – Martha is a new graduate from Plymouth State University College of Graduate Studies with a Master’s degree in Historic Preservation. She has a Bachelor of Arts in History from Principia College. For over six years she worked at Longyear Museum in Chestnut Hill, MA, managing the museum’s collection of eight historic houses spread throughout Massachusetts and New Hampshire. Martha relocated to the Lakes Region of Maine over the winter, where she started a home interiors consulting business and is also pursuing new opportunities in the preservation field.

**Alison Keay** – Alison is a graduate of Keene State where she majored in Architecture with a focus in Building Science and sustainability. She now works for a building consulting firm based in Concord, New Hampshire, and specializes in existing buildings, performing energy audits, LEED consulting, and managing construction for deep energy retrofits and energy focused projects.

**Joanna Snyder** – Joanna is halfway through the Historic Preservation Certificate Program at Plymouth State University. She graduated from Salve Regina University with a Bachelor’s degree in Art History with a minor in Historical Preservation. She then spent close to seven years working at the Lutz Children’s Museum in Manchester, Connecticut, as the Volunteer Coordinator. Joanna relocated to New Hampshire in the fall to take part in this degree program. She is currently a museum interpreter and site supervisor at Canterbury Shaker Village.

## Acknowledgements

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We would like to thank our Professor Elizabeth Muzzey for suggesting a project that will be of public benefit to the State of New Hampshire and for her encouragement and support throughout the process.

## Methodology

The goal of the project was to better understand how cities and towns in New Hampshire were using the Community Revitalization Tax Relief Incentive over the years since its creation in 2006. Our first step was to determine which communities adopted the incentive. We acquired a list of cities and towns that had adopted RSA-79E from the New Hampshire Preservation Alliance and cross-referenced it with a list found on the [NH Office of Energy and Planning](#) (OEP) website. The second step was to create a standard list of questions for the communities. It was ultimately converted to an online questionnaire, which automatically tallied the results and created a chart of the answers. A general email that introduced the Planning Class along with an explanation of the project was sent out first. This was followed by telephone conversations with the representatives from each city or town along with the questionnaire.

The resulting answer chart was utilized to compile and then compare the data. This aided the class with assessing the trends, strengths, and weaknesses of the RSA-79E uses in the communities. It also provided us information on completed projects, which helped determine the case studies for the report. Those studies were opportunities to highlight successful projects from four different cities across the state and evaluate them.

Following the interviews and analysis, a few more communities were added to the initial list; other communities that were thought to have adopted RSA-79E had not. These communities are looking into the possibility of adopting the incentive. Also, it should be mentioned that the city of Manchester adopted RSA-79E, but appears to no longer utilize or promote it. That city is not included in this report other than its mention here.



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## What is RSA 79-E?

RSA 79-E is a temporary tax relief incentive for a property owner who wants to substantially rehabilitate a building that is located in a historic district, downtown, or village center. RSA 79-E was written into law on April 1, 2006.

The property owner can apply to a town office to delay the increase of their property tax for up to five years. The property must be within the parameters of the downtown or city center district designated by the town or city. The rehabilitation must cost at least fifteen percent of the building's pre-rehabilitation assessed value, or at least \$75,000, whichever is less. The project must also be consistent with the town's master plan or development regulations. The goal of the incentive is to encourage the rehabilitation and active use of an under-utilized property.

The full text of the law has been included as Appendix A.

### Public Benefit

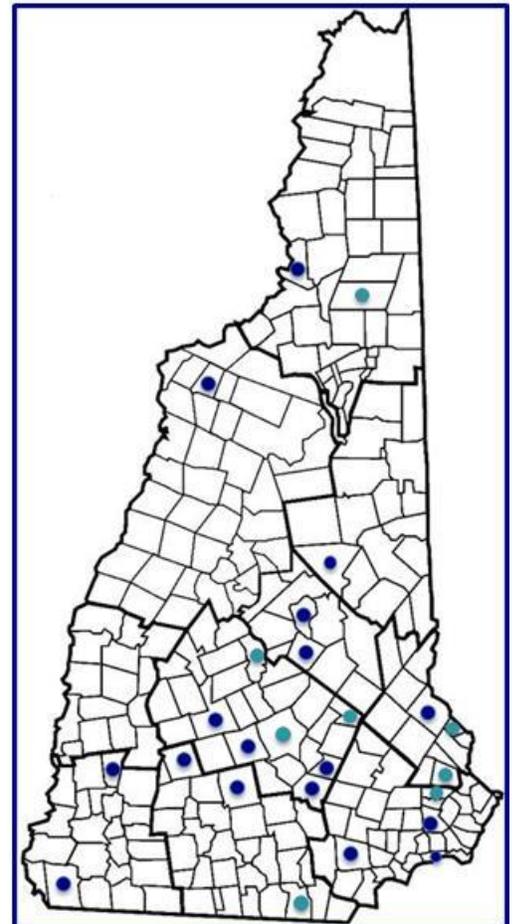
A project that puts a building back into use can benefit a community in a number of ways. In order to qualify for tax relief, the substantial rehabilitation must provide at least one public benefit, as defined in state law. In the case of a proposed replacement of a qualifying structure, the replaced structure cannot be considered historic, and the project must provide one or more benefits to a greater degree than a regular substantial rehabilitation project. The project could be used to enhance downtowns and town centers with respect to cultural and historic character, economic vitality, and sense of community. It could also encourage the rehabilitation of underutilized structures in urban and town centers and in turn encourage growth of municipal, economic and residential uses of properties. As an example, the project could enhance and improve a structure that is culturally or historically important. It could add residential housing for urban or town centers. Furthermore, the project could encourage the increase of energy efficiency in the preservation and reuse of a historic structure. Communities can also define additional possible public benefits depending on local conditions that they see fit.

### Owner Benefit

Property owners may be granted tax relief at the discretion of the governing body for a period of one to five years starting at the completion of the rehabilitation. The governing body in a municipality can choose to add years to the tax relief for a number of reasons. Two years may be added if the rehabilitation results in new residential units and up to four years if the project includes affordable housing. An additional four years may be added if the project adheres to the U.S. Secretary of the Interior's *Standards for Rehabilitation*. The *Standards* are intended to promote responsible preservation practices for maintaining, repairing, and replacing historic materials that help to protect the nation's irreplaceable cultural resources. The *Standards for Rehabilitation* recognize the need to modify or



### Geographic Location of Communities using RSA 79-E



Key:  
● - Communities that have adopted RSA 79-E  
● - Communities that have adopted RSA 79-E and have had successful applications.

(Data as of June 2014)

add to a historic property to meet continuing or changing uses while maintaining the property's historical character. Confirmation of the proper use of the standards is the responsibility of the community.

## Qualifying Structures

In order for a property owner to receive this tax relief incentive, he/she must own a qualifying structure. The property must be located in the district that is designated in the town's master plan as a downtown, town center, central business district, or village center. A town may clarify this distinct zone for applicants. To be considered as a historic qualifying structure, the property must be listed on or be eligible for listing on the National Register of Historic Places or the New Hampshire State Register of Historic Places. The law recognizes that the preservation or reuse of a historic structure conserves the embodied energy of the structure.

In certain cases, a town may adopt part of the state law that allows a qualifying structure to replace a building destroyed by fire or disaster, if the fire occurred within 15 years of the town's adoption of RSA 79-E. An amendment can also be adopted to allow the replacement of a non-historic building that has no cultural or architectural significance with a new building that has added public benefit as defined by the town or city (both must apply).

To determine if a building is listed on the National Register of Historic Places, contact the New Hampshire Division of Historical Resources, 603-271-3483, or check with your local heritage commission.

## 2013 Amendment

In 2013, an amendment was added to RSA 79-E that allows for historic structures outside of the downtown, village center, or historic district to be qualifying structures. This update to the law promotes the preservation and reuse of existing structures throughout the entire municipality. The qualifying structure has to be historic as defined by the law and energy efficiency measures must be included in the project. The energy efficiency measures must be valued at least 10% of the pre-assessed value or at least \$5,000. The energy efficiency measures must also be in accordance with the Secretary of the Interior's *Standards for Rehabilitation*. This amendment does not go into effect unless the municipality decides to adopt or modify the provisions that are already in place.

## The Covenant

Once a project's application is approved, a legal document call the covenant is signed by the owner and the town or city. A covenant is needed to protect the public benefit(s) the project provides and to ensure that the building is maintained. The term of the covenant may be up to twice as long as tax relief period granted. This document is developed by the town or city to protect both the municipality and the owner.<sup>1</sup>

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<sup>1</sup> Chapter 79-E Community Revitalization Tax Relief Incentive, <http://www.gencourt.state.nh.us/rsa/html/v/79-e/79-e-mrg.htm>, April 1, 2006

## Questionnaire Results

### Why Have Cities and Towns Adopted RSA 79-E?

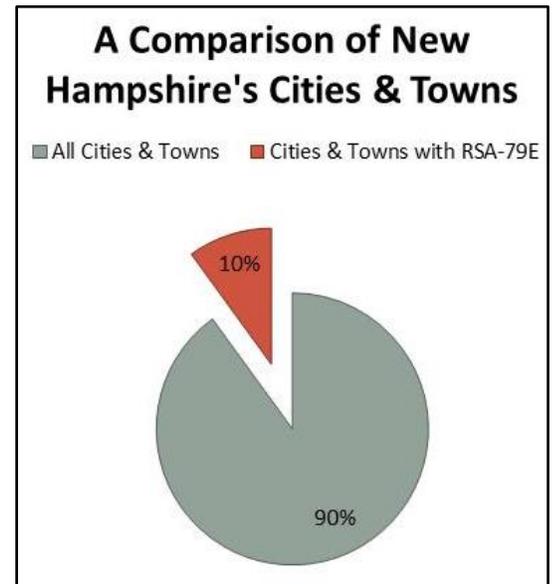
Twenty-six New Hampshire cities and towns were contacted that have adopted RSA 79-E and all gave virtually the same answer as to why they adopted it: community revitalization. Most of these cities and towns have a downtown or village center with a number of older, historic buildings and former mills that are underutilized or vacant. The communities hope that by adopting the tax relief incentive it will draw developers and investors to their cities and towns to rehabilitate these types of buildings for both commercial space and housing. Many of the cities and towns look at the incentive as a tool for business and property owners that can be used towards restoration and rehabilitation. For some the adoption of the incentive was in response to newly written master plans or fell in line with a planning charrette that had been done.

Several longer-term goals of these communities included: to stimulate the local economy and strengthen the town infrastructure, to create more cohesive village centers or attractive main streets, to preserve historically significant properties, to take a “green” approach to redevelopment by investing in older buildings, and to ultimately expand the tax base.

### Some Communities Have It, But Have Not Used It

Out of the twenty-six cities and towns that have adopted RSA 79-E, eight have completed successful projects, and three are in the process of reviewing applications now (one town is counted twice as it has had a completed project and is also reviewing an application at this time). Sixteen municipalities, mostly towns, have not had any applications submitted to date. However, of those, there are a few that, as of the date of this report, recently had inquiries for applications.

A review of the responses reveals some possible explanations. Of the communities that have adopted the incentive, but have not used it, most are overwhelmingly towns. The combined total of completed projects for five of the cities is nine. For the four towns that have had completed projects, the combined total is seven, and all but one of those towns are located in the two Seacoast counties. As mentioned above, there are three municipalities in the process of reviewing applications: two cities and one town. Of the sixteen communities that have not had any applications submitted to date, fifteen are towns and one is a city. Some possible reasons for the higher rate of application submittals and completed projects in the cities versus most of the towns are: the creation of the application forms shortly after the adoption of the incentive, making the application forms easily accessible on their websites, and slightly more time and money invested in marketing the incentive.



Another possible factor for those fifteen towns and one city that have not yet had any applicants could be preparedness. Those communities, some of which are small rural villages or former mill towns, have not yet created application forms or marketed the incentive to a wider audience. Lastly, a few of the city and town officials attributed the economic downturn in 2008 as a possible reason for stalled development and redevelopment in their communities, though this has not been verified through a specific study.

### How Towns and Cities Are Marketing It

Several of the cities and towns interviewed have spent time and money marketing the tax relief incentive. Those that have spread the word broadly have had applicants with completed projects. Those that have only posted the information to their city or town website have not yet had any applications. Some town officials believed the information was on the town websites, but the tax relief incentive details were nowhere to be found. And a few towns that were interviewed did not even know the incentive had been adopted. A direct correlation between the amount of marketing done and number of applications received was apparent. Broader marketing led to more applicants and projects.

Examples of the places where communities promoted the incentive are: local chambers of commerce, local economic development committees, planning commissions, commercial real estate brokers, developers, local town or village associations, Main Street Programs, civic organizations, press releases in newspapers, postcard mailings, city or town annual report, city or town website, and letters to property owners.

### Cities and Towns That Are Considering It

During the study, we learned about a few communities that were about to adopt the incentive and a number of others that are considering it. We hope that this report will help to inform those cities and towns considering the tax relief incentive.

County	City or Town	Year Adopted	Number of Projects
<b>Belknap</b>	Belmont	2011	0
	Laconia	2012	0
<b>Carroll</b>	Moultonborough	2009	0
<b>Cheshire</b>	Marlow	2013	0
	Winchester	2009	0
<b>Coos</b>	Berlin	2007	3 completed projects
	Groveton	2008	0
<b>Grafton</b>	Lisbon	2007	0
<b>Hillsborough</b>	Goffstown	2011	0
	Hillsborough	2007	0
	Peterborough	2007 or 2008	0
	Nashua	2011	1 completed project
<b>Merrimack</b>	Allenstown	2007 or 2008	0
	Concord	2008	4 completed projects
	Franklin	2013	1 approved application
	Hooksett	2007	0
	Hopkinton	unknown	0
	Pittsfield	2007	1 completed project & 1 in process
	Warner	unknown	0
<b>Rockingham</b>	Derry	2012	0
	Exeter	2014	0
	Hampton	unknown	1 completed project
	Newmarket	unknown	2 completed project
<b>Strafford</b>	Durham	2007	3 completed projects
	Rochester	2010	1 approved application
	Somersworth	2013	1 completed project
<b>TOTALS</b>			<b>16 Completed Projects</b>
			<b>3 Projects In Process</b>

## Case Studies

### Cotton Mill Square - Nashua NH

The city of Nashua adopted RSA 79-E in 2011. Nashua, known as the “Gate City,” is the second largest city in New Hampshire after Manchester. There are roughly 89,000 residents. The city decided to adopt the incentive as an extra tool for property owners and developers to rehabilitate and revitalize the downtown area and industrial center, including the Nashua Manufacturing Company Historic District.

Nashua has created a website called

<http://www.nashuadares.com> as a way to showcase all aspects

of the city. The website is easy to maneuver and the tax

incentive is clearly defined. Under the resources tab, there is an

option to choose the Downtown Nashua Tax Relief Incentive,

which is the name the city chose for RSA 79-E. It outlines the eligibility and application processes with a link to the application itself. Currently, Nashua has had one successful application and with a downtown dotted with several vacant mill buildings, this preservation tool could indeed be an incentive to start a project.

The Stabile Company is in the process of rehabilitating the North Cotton Storehouse. It was built in 1902 and was part of the Nashua Manufacturing Company, which comprises more than fifteen buildings built between the 1820’s and 1920’s. The building was used solely for storing cotton, which called for certain features such as low ceilings, high windows, and industrial fireproof interiors. The property is located on 30 Front Street and is part of the Nashua Manufacturing Company Historic District, which was added to the National Register of Historic Places in 1987. Until the project went underway, the building had been sitting vacant for over ten years.

The development of Cotton Mill Square for reuse is a great achievement for the evolution of downtown Nashua. The area, on the north shore of the Nashua River, is prone to flooding, contains hazardous waste, and has many under-utilized buildings. It has been a challenge for the city to redevelop this area because of these issues. The Cotton Mill Square apartments will be a substantial rehabilitation of the eight story historic mill building into 109 multifamily residential units (eight studio apartments, thirty-one one-bedroom apartments, and seventy two-bedroom apartments). The units are a mixed-income project that will result in fifty-five affordable apartments and fifty-four market rate apartments. The property and this planned rehabilitation are major parts of the downtown revitalization initiative and are on target with the goals of the city’s master plan. With the addition of 109 high quality units, there is hope that there will be call for the revitalization of other older buildings in the area. In years to come, the completed rehabilitation will also provide a property tax increase for the city.

The developer, city, and various other parties have worked to make sure that the new project will contribute to the historic district by protecting character defining features. They have preserved the exterior’s eight story brick elevations, kept the small arched windows with granite sills, the tongue and groove paneled doors, and the low-pitched gabled roof. There has also been an effort to keep the industrial character of the



interior. To accommodate residential spaces, four bays of windows have been added to the either end of the building, which had been previously flat brick.

There are a number of public benefits that will be added to Nashua's downtown center. With the addition of the apartments, residents will become new patrons of the city center. The development of this property could mean the result of 100 jobs for construction and 9 long-term property management jobs. Cotton Mill Square is located within walking distance of downtown retailers and businesses in the Nashua Technology District; it will provide more housing options for the employees of those businesses.

The project is scheduled for completion with a move-in date for December of 2014. The project began its planning in 2006 and all funds have been secured for the project. The project proponents have raised the money through a contribution from the developer, federal historic and low-income housing tax credits, city and state HOME funds, EPA loan funds, and CDFA state tax credits.

The rehabilitation of this property is a great example of a project that is eligible for the tax incentive RSA 79-E. The structure has been deemed historic and is on the National Register of Historic Places. The project includes work to lower the nearby dam, which will enhance the environmental soundness of the area. The additional 109 units of housing will add to the housing market and provide quality housing to low-income families as well as market rate units. Hopefully, with this successful use of the tax incentive in Nashua, more applications will follow.

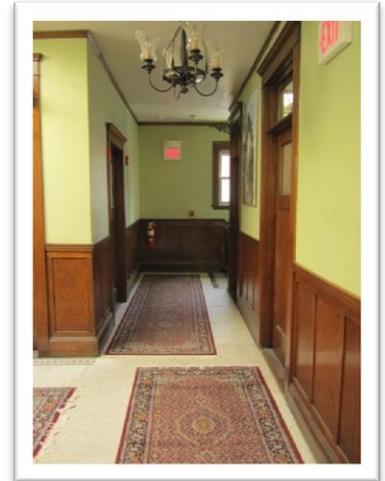
### Winterland Marketplace - Berlin, NH

The city of Berlin adopted RSA 79-E in 2007. Situated on the banks of the Androscoggin River, surrounded by the White Mountains, Berlin is known as the "City that Trees Built." It was once the largest producer of newsprint paper in the world, reaching its pinnacle in 1929, and was truly a city made by the logging and papermaking industry. For over one-hundred years, this city relied on that industry as its major source of revenue and employment. In 2006 the last paper mill closed, as did a major chapter in Berlin's history. Now with a population of roughly 9,945 that continues to decline, Berlin hopes to write a new chapter and encourage people to live, work and play there.

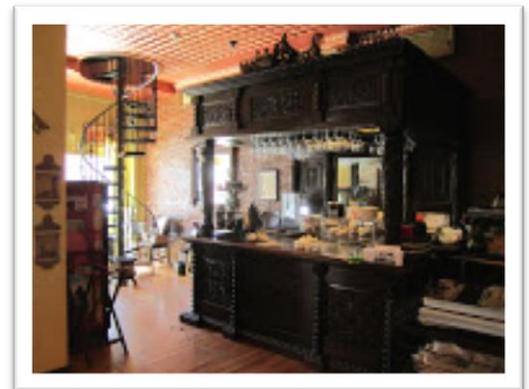
The Community Revitalization Tax Relief Incentive has been an important tool for the city and investors interested in reviving the heart of the city. A developer was ready to use the incentive as the city was voting to adopt it back in 2007. It motivated the city to put together an application form and a process. Since then there have been two more successful applicants. Renamed the Downtown Tax Incentive, the program's forms and information, which includes a map outlining the downtown district, can be found fairly easily on the city's website. Berlin's Main Street Program has been integral in promoting the tax relief incentive as well as local investors.



One of those projects was the rehabilitation of the Gilbert Building built in 1918, now called the Winterland Marketplace Building, at 151 & 157 Main Street across from City Hall. This building is in the heart of the downtown. It is a two story, brick, commercial block building with three storefront bays. It is owned by Scott and Heather Gregory. They are also the proprietors of the Tea Bird's Restaurant that occupies half of the first floor. The other half has three interior storefronts currently leased to individual retail and business proprietors. A hallway, where a local artist's work is featured each month, divides the restaurant and storefronts and is used by the public as a walkthrough to get from the rear parking lot on Pleasant Street to Main Street. The parking lot was a key purchase so that tenants and customers could have off-street parking. Its shared with the adjacent Rite Aid store. The second floor, accessed through a separate exterior door on Main Street, has eight office spaces, two restrooms – one with a shower -- a shared kitchen space and rear stairs to the back exit. The offices are on the perimeter of the building and are accessed by a circular, internal hallway. All of the office entrances have transoms and doors with a pane of frosted glass to allow as much natural light into the hallway as possible. The hallway and some offices have skylights, too. In the center of the circular hall are safety vaults that were installed when the building was constructed in 1918 for the use of the tenants on the second floor. The white "penny" tile floor, with its decorative red and green accented border, was restored along with the ash wainscoting and heavy oak doors.



When the Gilbert Building was constructed in 1918, according to a newspaper article in the Berlin Reporter written March 28 of that year, it was a "thoroughly up-to-date brick store and office building." It housed twelve merchants and professional men from the basement to the second floor. By the 1960's the Berlin Reporter itself was housed on the first floor of the building with printing presses in the basement, but the second floor was vacant. When the Gregorys purchased the building in 2008 the first floor had been chopped up into twenty-five office spaces with a loading dock added at the back door, and much of the woodwork and other architectural details on the second floor had been covered.



In 2009 the Gregorys applied for the Community Revitalization Tax Relief Incentive. In a recent interview, Mr. Gregory shared that the application process was straightforward and quite easy, including going in front of the City Council. His rehabilitation project of the Gilbert Building was quickly approved, as it was a project deemed to enhance the economic vitality of the downtown and promote development there.

The part of the process, however, that proved more challenging, was executing the covenant, which unfortunately took a little over one year to sort out. In the midst of that, too, Berlin re-assessed all of the buildings in the downtown, which it does every five years. However, this did not affect the tax relief received by the Gregorys, though it initially appeared as though it did. The Winterland Marketplace building was assessed at \$150,500 at the time of the Gregorys' application submittal in 2009. When the city reassessed the downtown, the property's assessed value went up to \$278,800. However, the tax rate for the approved tax relief incentive was based off of the initial assessment of \$150,500. The Gregorys were granted five years of tax relief, which began in 2012 following the completion of the project.



Despite the difficulty of executing the covenant, the rehabilitation of the Gilbert Building, renamed the Winterland Marketplace building, has made it, once again, a “thoroughly up-to-date brick store and office building.” The Gregorys updated the electrical and utilized low-energy lighting, added plumbing up through the attic for the future installation of solar panels to heat water, and added a thermal storage tank also for future use. They plan to install a pellet boiler and remove the oil boiler some time down the road. They currently have tenants for all three storefronts on the first floor and four of the eight offices on the second floor. Scott mentioned that he often receives comments about the rehabilitation of the building from patrons in the restaurant.

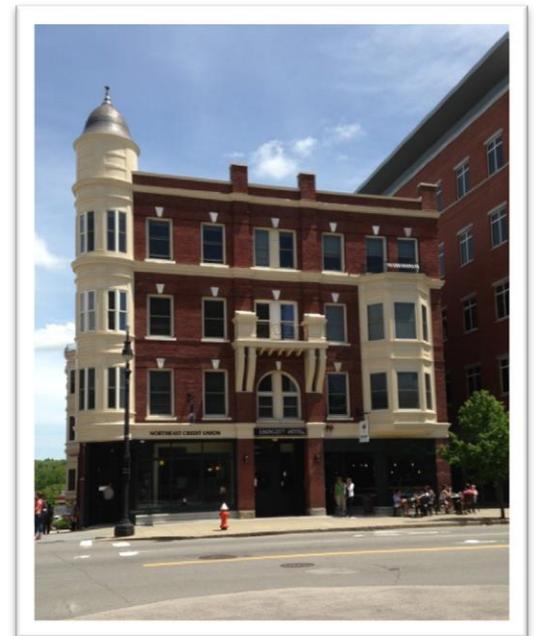
The public benefit of this project is apparent. The rehabilitated façade is a great help to revitalizing Main Street and is no longer dilapidated. It will hopefully encourage more rehabilitation downtown. Tea Birds Restaurant is a popular venue with the locals. The Gregory’s have encouraged people to utilize the interior hallway as a pass through from Main Street to Pleasant Street, which also helps their storefront tenants and the local artist of the month. The office spaces upstairs are places where local businesses can grow their businesses in Berlin. The whole project has had a positive impact on the city, enhancing downtown economic activity and rehabilitating the cultural and historic character of the building. It will hopefully inspire other developers and investors to look into the Downtown Tax Incentive Program in Berlin.

### Endicott Hotel - Concord, NH

The city of Concord adopted RSA 79-E in 2008. The state capital has roughly 43,000 citizens. The city’s goals in adopting the incentive were to provide additional incentives to the development community in order to get quality development in the downtown of Concord and Penacook Village. The city also sought redevelopment projects in order to expand the tax base.

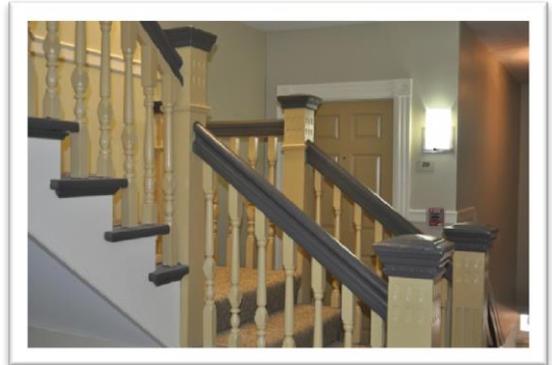
The city created an application package available to applicants on its website for download as a PDF. It includes the “Community Revitalization Tax Relief Incentive Map” as well as the full text of the RSA 79-E law. The city website has a section that briefly explains the incentive as well. Concord has promoted the incentive to area commercial real estate brokers, developers, the Concord Chamber of Commerce, Penacook Village Association, and Intown Concord, the city’s Main Street Program, all in hopes of bringing in new development suitable for the tax relief applicable areas.

To date the city has had four successful projects. Washington Street condominiums were a renovation of the former Hoyt Electric Lab, which received five years of tax relief. The Penacook Laundry Mat took advantage of the incentive for façade upgrades and received a one-year of tax relief. The large “SMILE” building on South Main Street used the tax incentive as a replacement of a non-historic structure and received five years of tax relief. The Endicott Hotel rehabilitation received two separate RSA 79-E incentives and is a great example of the incentive at work to incentivize historic preservation, rehabilitation and community revitalization.



The Endicott Hotel is a market rate apartment building with first floor commercial space located on the corner of Pleasant Street and the start of South Main Street in downtown Concord. It faces west onto South Main Street and is a focal point of the busy downtown intersection. The Endicott Hotel was built c. 1892 as commercial office space by Charles G. Blanchard, and was originally called The Blanchard Block. It was designed by Damon Brothers Architectural Firm from Haverhill, Massachusetts. In 1908 a former governor by the name of John B. Smith purchased the block and re-named it The Endicott. The Smiths turned the building into a hotel at this time. It operated as a hotel for nearly fifty years. The building is believed to have remained generally the same from 1920, when the hotel conversion was completed, up until 1985 when the current owner, CATCH (Concord Area Trust for Community Housing), purchased the building and rehabilitated it into low income housing apartments. CATCH kept much of the interior layout of the hotel and interior trim and woodwork. The exterior has remained largely the same since 1894. It remained as such until renovations in 2013.

The building is within the National Register designated Downtown Concord Historic District, and has also been listed individually on the National Register of Historic Places since 1987. The Endicott Hotel was listed on the National Register for its importance in the early commercial development of downtown Concord from the late 1800s to the early 1900s. It was also listed for its architectural significance; it is one of just a few surviving buildings designed by the Damon Brothers architectural firm.<sup>2</sup>



Following a building fire in February of 2012 the building was renovated to convert and rearrange thirty-five existing apartments into twenty-four market rate apartments. The commercial spaces and their storefronts on the west façade, first floor were rehabilitated, as well the storefronts damaged by fire on the north façade. Energy efficiency measures installed as part of the project included new windows, added insulation in the roof, and a new steam heat and domestic hot water system. The project was granted property tax relief from the city as part of the RSA 79-E Community Revitalization Tax Relief Incentive. The project received two separate RSA 79-E incentives because the upper floors of apartments are considered one condominium space and the commercial spaces on the first floor are considered a second condominium space. Therefore they are taxed as separate properties. A total of five years tax relief was awarded for the residential area, and a total of three years for the commercial spaces. This is the first rehabilitation of market rate housing in Concord's downtown.

In speaking with the owner, CATCH, it was explained that the project also initially pursued the Federal Preservation Tax Incentives, which would have triggered a Section 106 review and adhering to the Secretary of the Interior's *Standards for Rehabilitation*. However the finances of the project could not incorporate both federal tax incentives and insurance funds from the fire. Therefore the rehabilitation changed in minor ways, such as the type of new windows installed, from plans reviewed by the Division of Historic Resources (DHR) under the federal tax incentive program.



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<sup>2</sup> National Register of Historic Places Inventory- Nomination Form "The Endicott Hotel," May 29, 1987.

CATCH found the RSA 79-E process with the city of Concord to be very easy. The straight forward application asks for building and owner information, the costs of the rehabilitation work, questions to identify the public benefit, and also notes that for the additional four years of tax relief, applicants must describe how the work being done meets the Secretary of Interior's *Standards* (which this project was not able to do, and therefore did not receive the additional four years). The contracts with construction contractors, plot plans, building plans, sketches and renderings and photographs to explain the planned work on the building are all also required to aid the City Council's decision in approving the application. CATCH explained that there were no issues in getting the project approved by the City Council for the tax incentive. Once any project is approved for the incentive, the building is then re-assessed by the City of Concord's assessor's office. CATCH found that the re-assessment of the building while it was vacant was higher than the previous assessment as a low income housing building. This lowered the development's incentive.

The public benefit of the project was that it repaired a fire-damaged commercial and residential space in the downtown. It houses 4 commercial spaces now used by three new businesses in Concord. A hair salon, a restaurant, and a bank (and one last space which is open) all call the Endicott Hotel home. The apartments also went from subsidized housing to market rate housing, allowing professionals the opportunity to reside in luxury apartments in downtown Concord, a long-time city-planning goal. The project enhances downtown economic activity, restored the cultural and historic character of the building and created a sense of community.

#### 44 Market Street - Somersworth, NH

The city of Somersworth, located in the southern part of Strafford County, adopted RSA 79-E in 2013. The city has a population of just fewer than 12,000 residents, which is the third-lowest population out of New Hampshire's thirteen cities. The main reason for adopting the incentive was to convince business and property owners to reinvest into its downtown area.

Before adopting RSA 79-E, the city hired an intern from the University of New Hampshire to do some research on the new incentive followed by a presentation on the results. He found that RSA 79-E would be a useful tool to encourage revitalization in the city's downtown, which was suffering from vacancy and neglect. The incentive gained public support as well as from city officials and developers in the surrounding area and was ultimately adopted. Information about the incentive along with application materials and contacts in the Economic Development department is posted on the city's website, under "resources and incentives."<sup>3</sup>

The adoption of RSA 79-E corresponds with the other updates that the city of Somersworth is currently undertaking downtown. Construction has been broken down into two phases. The first phase is the downtown infrastructure and enhancement project. The project encompasses upgrades to the water, sewer, and drainage systems along the portions of High and Market streets in the heart of the downtown. This phase is scheduled to be complete towards the end of June 2014. Immediately following will be



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<sup>3</sup> City of Somersworth, <http://www.somersworth.com/doing-business/resources-incentives/>

phase two of the enhancement project, which will include new sidewalks, the creation of new landscapes, and various other streetscape improvements. More information about the city's enhancement project is available on the city website.<sup>4</sup>

The city also has an additional incentive similar to RSA 79-E with two Economic Revitalization Zones (ERZ's) that offer a potential tax savings to employers who wish to invest in their buildings and facilities, and help create new jobs within the zones. The ERZ zones are classified by the two different business districts within the city of Somersworth. ERZ Tax Credits are explained as a short term, tax credit against profits from business and enterprise taxes. More information about this tax savings is available online.<sup>5</sup>

To date the city has had only one application, and completed project, under RSA 79-E. The two-story commercial building at 44 Market Street in the heart of downtown has a first floor commercial space and second floor residential space. The building was built in 1893 during the city's booming industrial era when its city center was active and prosperous. In the years prior to the new owner purchasing the property, it sat vacant and depressed. The building's commercial storefront was formerly used as a catering operations center with office space on the top floor that was later converted into a rental apartment. The first floor had been equipped with a commercial kitchen, but had outdated appliances and could no longer be used.



In 2013, Brian Caple purchased the building and applied for the RSA 79-E Community Revitalization Tax Relief Incentive through the city of Somersworth. The application was presented to City Council and approved because of its public benefits and support of the city's ongoing downtown revitalization enhancement project. Soon after the project's approval, Brian Caple began the renovations.

The renovations included stripping the building completely down to its studs on both floors. New electrical, plumbing, drywall, and appliances were added to both floors. A major part of the project was the addition of a supporting steel structure installed in the basement to support the building's weight. Mr. Caple also made energy efficiency a top priority for this renovation, though in this case it was not required in order to qualify for RSA 79-E. Mr. Caple mentioned that he strives to utilize energy efficient resources in all of his revitalization projects. He used spray foam insulation to help insulate the building, and also installed new argon gas filled thermal window sashes in order to help conserve heat. Although these windows are not common in restoration projects as they are not



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<sup>4</sup> City of Somersworth, <http://www.somersworth.com/downtown-construction-project/>, accessed May 20, 2014.

<sup>5</sup> City of Somersworth, <http://www.somersworth.com/doing-business/resources-incentives/>, accessed May 20, 2014.

historic in nature, energy efficiency was his number one goal in this rehabilitation.

Once completed, the building had an updated apartment unit on the second floor, and the first floor commercial space is now home to a new tenant, Leaven Beer and Bread House. Residents of Somersworth now have a new local spot downtown to meet, mingle, and enjoy great food and drinks with one another. The renovation of this building has indeed benefited the public. It enhances the vitality of the downtown by creating both housing, with a marketable residential apartment, and commercial space, which is being used as a pub. This young company has benefited from the project and in turn is having a positive impact on downtown Somersworth.

## Recommendations

### Marketing

Marketing was found to be an important aspect of the success of the incentive program in cities and towns that adopted it. Here is how best to “market” the community revitalization tax incentive in cities or towns.

- A. **Press releases.** Press releases when the town or city is considering it, when it will vote on it, and when it has passed it are important to let the public know. Local newspapers are likely the best options to inform citizens but also developers who may be from out of town. It should also be included in town reports, and citizens can be notified by mailings.
- B. **Websites with easy access to information.** Successful communities have included information on the tax incentive program on their websites. An explanation of the incentive, a link to download the application, and a map of the applicable areas are key. Easy to find information encourages people’s interest and willingness to pursue the program. A blank copy of the covenant language is helpful to have available as well. If the information is too hard to find, potential applicants may give up.
- C. **Connected and informed city/town offices.** All city and town employees should be aware of the program and be able to direct questions to the appropriate office. Training sessions can be provided for the staff who most commonly answer questions or whom will be working directly with this incentive. Have outgoing staff members teach new staff so that the knowledge is not lost. It may be beneficial to assign a single person as the point person for the incentive to champion the program.
- D. **Connect with planning commissions, realtors, developers, brokers, chambers of commerce.** Nonprofit organizations like the New Hampshire Preservation Alliance are a great resource for communities, and should also be notified of the town’s adoption of RSA 79-E. These people and organizations can be key players in getting the word out there that a city or town has adopted the incentive. They work closely with developers, real estate buyers and commercial business that could potentially use the incentive.

### The 2013 Amendment

Adopting the 2013 revision expands the incentive to anywhere in a city/town and may be what a town or city needs to increase applications to the program. Allowing buildings outside of downtown areas to receive the incentive opens up more opportunities to preserve historic buildings and will further revitalize the community and save embodied energy by reusing buildings.

### Creating That First Project

After combining all of the research from the questionnaire, a trend was



discovered among communities with successful projects. If a community had one successful project, it typically lead to another. New activity in an area tends to create interest with people. Activity tends to “stir up the pot” in the housing market, and this may be the reason as to why municipalities with a successful project usually had another down the road. Word of mouth is one of the strongest tools in the development/construction industry.

The big question, however, is once a community has adopted RSA 79-E, how does it get that first application? Marketing. Cities such as Concord, Somersworth, and Rochester have had successful projects because they aggressively promoted the incentive, reaching outside and contacting businesses, developers, real estate brokers, and sending out press releases about adopting the incentive. Marketing and activity create new activity and these groups are the biggest tools in your tool belt.

### Cities and Towns that Should Consider Adopting RSA 79-E

There are several municipalities that have not adopted RSA 79-E, but appear to be good candidates for this program. These communities appear to have the resources to implement the incentive, are seen as strong advocates for revitalization as well as historic preservation, have the right mix of building stock, and have been active with other economic development initiatives.

■ Ashland	■ Littleton	■ Milford
■ Brookline	■ Lebanon	■ Rindge
■ Jaffrey	■ Lancaster	■ Stratham

### Have a Thorough Understanding of the Covenant

Several of the interviews revealed that one of the most challenging parts of the RSA 79-E process was creating the legal document between the community and the property owner. Some communities waited to approve their first project before creating boilerplate language for one. One piece of advice would be to create the covenant shortly after adopting the incentive. It is helpful to have a boilerplate copy for potential applicants to read through in order to decide if the program is right for them. Another recommendation is to work closely with the town or city attorney to create this legal document to best protect the town/city and property owner in a clear concise way. An example of a covenant has been included in the appendix.

Since cities and towns reported that the covenant was difficult to draw up and confusing to many involved, the following description has been included. Below is a breakdown and summary of Sections 79-E:8 and 79-E:9 from the Title V Taxation Chapter 79-E Community Revitalization Tax Relief Incentive. These sections explain how the state law mandates the covenants be used, and how they help protect the community, applicant, and the public. The bold text should help bring better understanding to the various sections of the covenant and the benefits it can provide.

#### Section 79 – E:8 Covenant to Protect Public Benefit.

- I. Tax relief for qualifying structures is effective only after a property owner signs the covenant to the municipality. **(In doing so the property owner ensures to the town/city that he/she shall maintain and use it in a manner that furthers public benefit for which the tax relief was granted for.)**
- II. The covenant, depending on what the governing body officially decides to agree upon, can be effective for a period of time up to twice the duration of the tax relief period. **(Even though you may have only the tax relief period for 5 years, the covenant can stay in effect for up to 10 years. This helps to further protect the public and the community.)**
- III. The covenant requires that the property owner obtain casualty insurance, and flood insurance if needed in the area. The town can also require in the covenant, that a lien can be placed against the proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition of damaged structures

and property. If the property owner has not begun the process of restoration, rebuilding, or demolition of such structure within one year following the damage or destruction of the property, then owner shall be subjected to possible termination of provisions. **(What this means is that a property owner must get casualty and flood insurance if required locally, and that if there structure is damaged by either of these circumstances, that they follow through with either the restoration, rebuilding, or demolition within one year. If the owner does not act during this time period, then a lien may be placed by the town/city on the proceeds of the insurance claim.)**

- IV. The local governing body shall provide for the recording of the covenant to protect public benefit with the registry of deeds. **(This means the town/city will record the signed covenant from the property owner to the registry of deeds.)**
- V. The applicant shall pay for any reasonable expenses incurred by the municipality in the drafting, review, and or execution of the covenant. The applicant shall also be responsible for the cost of recording the covenant. **(These are all the things the applicant is responsible for paying for during the approval process)**

#### **Section 79 - E:9 Termination of Covenant; Reduction of Tax Relief; Penalty. –**

- I. If the owner fails to maintain or utilize the building according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction, the governing body shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation or replacement has been diminished and shall determine whether to terminate or reduce the tax relief period in accordance with such determination. **(If the applicant fails to maintain the building, or fails to take care of the building if it gets damaged in any way, then the town/city has the ability to assess the effect it will have on the project's public benefit and possibly terminate or reduce the original time period of granted tax relief.)** If the covenant is terminated, the governing body shall assess all taxes to the owner as though no tax relief was granted, with interest in accordance with paragraph II. **(If the town/city does choose to terminate the relief, then it has the ability to completely take away your tax relief, as if you were never given the incentive, and also add on interest.)**
- II. Any tax payment required under paragraph I shall be payable according to the following procedure:
  - a) The Commissioner of the department of revenue administration shall prescribe and issue forms to the local assessing officials for the payment due, which shall provide a description of the property, the market value assessment to RSA 75:1, and the amount payable.
  - b) The prescribed form shall be prepared in quadruplicate. The original, duplicate, and triplicate copy of the form shall be given to the collector of taxes for collection of the payment along with a special tax warrant authorizing the collector to collect the payment under the warrant. The local assessing officials for their records shall retain the quadruplicate copy of the form.
  - c) Upon receipt of the special tax warrant the prescribed forms, the tax collector shall mail the duplicate copy of the tax bill to the owner responsible for the tax as the notice payment. **(The applicant receives the bill and is responsible for paying those back taxes)**
  - d) Payment shall be due no later than 30 days after the mailing of the bill. Interest at the rate of 18 percent per annum shall be due thereafter on any amount not paid within the 30-day period. Interest at 12 percent per annum shall be charged upon all taxes that would have been due and payable on or before December 1 of each tax year as if no tax relief had been granted. **(Payment shall be due no later than 30 days upon receiving the bill in the mail. Interest of 18 percent will be tacked onto any amount that is left outstanding after 30 days. Interest of 12 percent can be charged on taxes the property owner would have been required to pay if he/she never received the tax relief.)**

## Closing

The RSA 79-E Community Revitalization Tax Relief Incentive is a tool for revitalizing main streets and downtowns by promoting the rehabilitation and re-use of old, and in some cases historically significant, buildings. Older buildings are an integral part of the fabric of village centers and downtowns. They create a sense of place, a neighborhood atmosphere, and they are venues for local commerce. These buildings and town centers are recognizable across several generations. The buildings can provide a range of different space/use types and appeal to a variety of developers or entrepreneurs. The reuse of older buildings can be beneficial to local economies as they lend themselves well to mixed use.<sup>6</sup>

All that is needed is that first project to generate excitement about revitalization in your downtown, and with proper marketing and planning, RSA 79-E can be a successful tool for your town's older building stock.

The goal for this report is that it will be a helpful guide for cities and towns who are looking to better utilize the RSA 79-E, who may have already adopted, or who are considering adopting.

 <p><b>How to adopt</b></p> <ul style="list-style-type: none"><li>• Read through the RSA 79-E Law</li><li>• Hold a meeting as the proper governing board</li><li>• Vote in any or all parts of RSA 79-E that fit the needs of the town/city</li></ul>	 <p><b>Creating the application and covenant</b></p> <ul style="list-style-type: none"><li>• As a board, discuss what guidelines property owners should meet</li><li>• Make sure that the application has information about the incentive and is clear cut in its explanation of what needs to be included</li><li>• Meet with town lawyers to come up with a legal covenant stating town/city obligations and property owner obligations</li></ul>	 <p><b>Market the Program</b></p> <ul style="list-style-type: none"><li>• Make sure a space on the town/city website is dedicated to RSA 79-E and its process</li><li>• Use press releases, mailings, and word of mouth to promote the adoption of the incentive and explain how it works</li><li>• Inform new developers of the incentive when looking at historic buildings</li></ul>	 <p><b>Applicants</b></p> <ul style="list-style-type: none"><li>• Read through the application carefully</li><li>• Make sure that the application is completed and approved before doing any work on the property</li><li>• Stay in contact with governing board about questions or problems that arise</li></ul>
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<sup>6</sup> Rocchi, Julia. "Preservation Tips & Tools: Older, Smaller, Better: New Findings from Preservation Green Lab."

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Behrendt, Michael, Chief Planner, Durham, NH

Caple, Brian, owner, 44 Market Street, Somersworth, NH

Dean, Russell, Town Manager, Exeter, NH

Fay, Jacqui, Executive Administrator to Board of Selectmen, Marlow, NH

Fournier, Steve, Newmarket, NH

Galligani, Thomas, Nashua, NH

Gregory, Scott, owner, Winterland Marketplace building, Berlin, NH

Gray, Elaine, Assessing Clerk, Northumberland/Groveton, NH

Home, Derek, Economic Development Coordinator, Goffstown, NH

Humphrey, Mary Ellen, Rochester, NH

LaFlamme, Pamela, Community Development Director, Berlin, NH

Lewis, Dick, Planning & Zoning Administrator, Franklin, NH

Mulholland, Shaun, Town Administrator, Allenstown, NH

Myers, Scott, City Manager, Laconia, NH

Northrup, Kathryn, chair, Heritage Commission, Hooksett, NH

Payson, Robyn, Planning Director, Hillsborough, NH

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# Appendix A: RSA-79 E Text



# TITLE V TAXATION

## CHAPTER 79-E COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE

### Section 79-E:1

#### **79-E:1 Declaration of Public Benefit. –**

I. It is declared to be a public benefit to enhance downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.

II. It is further declared to be a public benefit to encourage the rehabilitation of the many underutilized structures in urban and town centers as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern, in accordance with RSA 9-B.

II-a. In instances where a qualifying structure is determined to possess no significant historical, cultural, or architectural value and for which the governing body makes a specific finding that rehabilitation would not achieve one or more of the public benefits established in RSA 79-E:7 to the same degree as the replacement of the underutilized structure with a new structure, the tax relief incentives provided under this chapter may be extended to the replacement of an underutilized structure in accordance with the provisions of this chapter.

II-b. It is further declared to be a public benefit to encourage the rehabilitation of historic structures in a municipality by increasing energy efficiency in the preservation and reuse of existing building stock.

III. Short-term property assessment tax relief and a related covenant to protect public benefit as provided under this chapter are considered to provide a demonstrated public benefit if they encourage substantial rehabilitation and use of qualifying structures, or in certain cases, the replacement of a qualifying structure, as defined in this chapter.

**Source.** 2006, 167:1. 2009, 200:3, 4, eff. July 15, 2009. 2013, 78:1, eff. April 1, 2013.

### Section 79-E:2

#### **79-E:2 Definitions. –** In this chapter:

I. "Historic structure" means a building that is listed on or determined eligible for listing on the National Register of Historic Places or the state register of historic places.

II. "Qualifying structure" means a building located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center for purposes of this chapter. Qualifying structure shall also mean historic structures in a municipality whose preservation and reuse would conserve the embodied energy in existing building stock. Cities or towns may further limit "qualifying structure" according to the procedure in RSA 79-E:3 as meaning only a structure located within such districts that meet certain age, occupancy, condition, size, or other similar criteria consistent with local economic conditions, community character, and local planning and development goals. Cities or towns may further modify "qualifying structure" to include buildings that have been destroyed by fire or act of nature, including where such destruction occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town.

III. "Replacement" means the demolition or removal of a qualifying structure and the construction of a new structure on the same lot.

IV. "Substantial rehabilitation" means rehabilitation of a qualifying structure which costs at least 15 percent of the pre-rehabilitation assessed valuation or at least \$75,000, whichever is less. In addition, in the case of historic structures, substantial rehabilitation means devoting a portion of the total cost, in the amount of at least 10 percent of the pre-rehabilitation assessed valuation or at least \$5,000, whichever is less, to energy efficiency in accordance with the U.S. Secretary of the Interior's Standards for Rehabilitation. Cities or towns may further limit "substantial rehabilitation" according to the procedure in RSA 79-E:3 as meaning rehabilitation which costs a percentage greater than 15 percent of pre-rehabilitation assessed valuation or an amount greater than \$75,000 based on local economic conditions, community character, and local planning and development goals.

V. "Tax increment finance district" means any district established in accordance with the provisions of RSA 162-K.

VI. "Tax relief" means:

(a) For a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation thereof.

(b) For the replacement of a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a replacement structure shall not exceed the property tax on the replaced qualifying structure as a result of the replacement thereof.

(c) For a qualifying structure which is a building destroyed by fire or act of nature, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on such qualifying structure shall not exceed the tax on the assessed value of the structure that would have existed had the structure not been destroyed.

VII. "Tax relief period" means the finite period of time during which the tax relief will be effective, as determined by a local governing body pursuant to RSA 79-E:5.

**Source.** 2006, 167:1. 2009, 200:5-7. 2010, 329:1, 2. 2011, 237:1, 2, eff. July 5, 2011. 2013, 78:2, eff. April 1, 2013.

## Section 79-E:3

### **79-E:3 Adoption of Community Revitalization Tax Relief Incentive Program –**

I. Any city or town may adopt or modify the provisions of this chapter by voting whether to accept for consideration or modify requirements for requests for community revitalization tax relief incentives. Any city or town may do so by following the procedures in this section.

II. In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition under RSA 39:3.

III. In a city or town that has adopted a charter under RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such municipality may vote to place the question on the official ballot for any regular municipal election.

IV. If a majority of those voting on the question vote "yes," applications for community revitalization tax relief incentives may be accepted and considered by the local governing body at any time thereafter, subject to the provisions of paragraph VI of this section.

V. If the question is not approved, the question may later be voted on according to the provisions of paragraph II or III of this section, whichever applies.

VI. The local governing body of any town or city that has adopted this program may consider rescinding its action in the manner described in paragraph II or III of this section, whichever applies. A vote terminating the acceptance and consideration of such applications shall have no effect on incentives previously granted by

the city or town, nor shall it terminate consideration of applications submitted prior to the date of such vote.

**Source.** 2006, 167:1. 2010, 329:3, eff. July 20, 2010.

## Section 79-E:4

### 79-E:4 Community Revitalization Tax Relief Incentive. –

I. An owner of a qualifying structure who intends to substantially rehabilitate or replace such structure may apply to the governing body of the municipality in which the property is located for tax relief. The applicant shall include the address of the property, a description of the intended rehabilitation or replacement, any changes in use of the property resulting from the rehabilitation or replacement, and an application fee.

I-a. In order to assist the governing body with the review and evaluation of an application for replacement of a qualifying structure, an owner shall submit to the governing body as part of the application, a New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian and a letter issued by the local heritage commission and if the qualifying structure is located within a designated historic district established in accordance with RSA 674:46, a letter from the historic district commission or, if such local commissions are not established, a letter issued by the New Hampshire division of historical resources that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which those structures are located. The application for tax relief shall not be deemed to be complete and the governing body shall not schedule the public hearing on the application for replacement of a qualifying structure as required under RSA 79-E:4, II until the inventory form and the letter, as well as all other required information, have been submitted.

II. Upon receipt of an application, the governing body shall hold a duly noticed public hearing to take place no later than 60 days from receipt of the application, to determine whether the structure at issue is a qualifying structure; whether any proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration.

III. No later than 45 days after the public hearing, the governing body shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.

IV. (a) The governing body may grant the tax relief, provided:

(1) The governing body finds a public benefit under RSA 79-E:7; and

(2) The specific public benefit is preserved through a covenant under RSA 79-E:8; and

(3) The governing body finds that the proposed use is consistent with the municipality's master plan or development regulations; and

(4) In the case of a replacement, the governing body specifically finds that the local heritage commission or historic district commission or, if such local commissions are not established, the New Hampshire division of historical resources has determined that the replaced qualifying structure does not possess significant historical, cultural, or architectural value, the replacement of the qualifying structure will achieve one or more of the public benefits identified in RSA 79-E:7 to a greater degree than the renovation of the underutilized structure, and the historical, cultural, or architectural resources in the community will not be adversely affected by the replacement. In connection with these findings, the governing body may request that the division of historical resources conduct a technical evaluation in order to satisfy the governing body that historical resources will not be adversely affected.

(b) If the governing body grants the tax relief, the governing body shall identify the specific public benefit achieved under RSA 79-E:7, and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8.

V. If the governing body, in its discretion, denies the application for tax relief, such denial shall be accompanied by a written explanation. The governing body's decision may be appealed either to the board of tax and land appeals or the superior court in the same manner as provided for appeals of current use classification pursuant to RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and shall not be set aside by the board of tax and land appeals or the superior court except for

bad faith or discrimination.

VI. Municipalities shall have no obligation to grant an application for tax relief for properties located within tax increment finance districts when the governing body determines, in its sole discretion, that the granting of tax relief will impede, reduce, or negatively affect:

- (a) The development program or financing plans for such tax increment finance districts; or
- (b) The ability to satisfy or expedite repayment of debt service obligations incurred for a tax increment financing district; or
- (c) The ability to satisfy program administration, operating, or maintenance expenses within a tax increment financing district.

**Source.** 2006, 167:1. 2009, 200:8-11, eff. July 15, 2009.

## Section 79-E:5

### 79-E:5 Duration of Tax Relief Period. –

I. The governing body may grant such tax assessment relief for a period of up to 5 years, beginning with the completion of the substantial rehabilitation.

I-a. For the approval of a replacement of a qualifying structure, the governing body may grant such tax assessment relief for a period of up to 5 years, beginning only upon the completion of construction of the replacement structure. The governing body may, in its discretion, extend such additional years of tax relief as provided for under this section, provided that no such additional years of tax relief may be provided prior to the completion of construction of the replacement structure. The municipal tax assessment of the replacement structure and the property on which it is located shall not increase or decrease in the period between the approval by the governing body of tax relief for the replacement structure and the time the owner completes construction of the replacement structure and grants to the municipality the covenant to protect the public benefit as required by this chapter. The governing body may not grant any tax assessment relief under this chapter with respect to property and structures for which an election has been made for property appraisal under RSA 75:1-a.

II. The governing body may, in its discretion, add up to an additional 2 years of tax relief for a project that results in new residential units and up to 4 years for a project that includes affordable housing.

III. The governing body may, in its discretion, add up to an additional 4 years of tax relief for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.

IV. The governing body may adopt local guidelines to assist it in determining the appropriate duration of the tax assessment relief period.

**Source.** 2006, 167:1. 2009, 200:12. 2010, 329:4, eff. July 20, 2010.

## Section 79-E:6

**79-E:6 Resumption of Full Tax Liability.** – Upon expiration of the tax relief period, the property shall be taxed at its market value in accordance with RSA 75:1.

**Source.** 2006, 167:1, eff. April 1, 2006.

## Section 79-E:7

**79-E:7 Public Benefit.** – In order to qualify for tax relief under this chapter, the proposed substantial rehabilitation must provide at least one of the public benefits, and the proposed replacement must provide one

or more of the public benefits to a greater degree than would a substantial rehabilitation of the same qualifying structure, as follows:

- I. It enhances the economic vitality of the downtown;
- II. It enhances and improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district, town center, or village center in which the building is located;
  - II-a. It promotes the preservation and reuse of existing building stock throughout a municipality by the rehabilitation of historic structures, thereby conserving the embodied energy in accordance with energy efficiency guidelines established by the U.S. Secretary of the Interior's Standards for Rehabilitation.
- III. It promotes development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B; or
- IV. It increases residential housing in urban or town centers.

**Source.** 2006, 167:1. 2009, 200:13, eff. July 15, 2009. 2013, 78:3, eff. April 1, 2013.

### **Section 79-E:7-a**

**79-E:7-a Public Benefit Determinations.** – Cities or towns may adopt according to the procedure in RSA 79-E:3 provisions that further define the public benefits enumerated in RSA 79-E:7 to assist the governing body in evaluating applications made under this chapter based on local economic conditions, community character, and local planning and development goals.

**Source.** 2010, 329:5, eff. July 20, 2010.

### **Section 79-E:8**

#### **79-E:8 Covenant to Protect Public Benefit. –**

I. Tax relief for the substantial rehabilitation or replacement of a qualifying structure shall be effective only after a property owner grants to the municipality a covenant ensuring that the structure shall be maintained and used in a manner that furthers the public benefits for which the tax relief was granted and as otherwise provided in this chapter.

II. The covenant shall be coextensive with the tax relief period. The covenant may, if required by the governing body, be effective for a period of time up to twice the duration of the tax relief period.

III. The covenant shall include provisions requiring the property owner to obtain casualty insurance, and flood insurance if appropriate. The covenant may include, at the governing body's sole discretion, a lien against proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition or damaged structures and property. If the property owner has not begun the process of restoration, rebuilding, or demolition of such structure within one year following damage or destruction, the property owner shall be subject to the termination of provisions set forth in RSA 79-E:9, I.

IV. The local governing body shall provide for the recording of the covenant to protect public benefit with the registry of deeds. It shall be a burden upon the property and shall bind all transferees and assignees of such property.

V. The applicant shall pay any reasonable expenses incurred by the municipality in the drafting, review, and/or execution of the covenant. The applicant also shall be responsible for the cost of recording the covenant.

**Source.** 2006, 167:1. 2009, 200:14, eff. July 15, 2009.

### **Section 79-E:9**

#### **79-E:9 Termination of Covenant; Reduction of Tax Relief; Penalty. –**

I. If the owner fails to maintain or utilize the building according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction as provided in RSA 79-E:8, III, the governing body shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation or replacement has been diminished and shall determine whether to terminate or reduce the tax relief period in accordance with such determination. If the covenant is terminated, the governing body shall assess all taxes to the owner as though no tax relief was granted, with interest in accordance with paragraph II.

II. Any tax payment required under paragraph I shall be payable according to the following procedure:

(a) The commissioner of the department of revenue administration shall prescribe and issue forms to the local assessing officials for the payment due, which shall provide a description of the property, the market value assessment according to RSA 75:1, and the amount payable.

(b) The prescribed form shall be prepared in quadruplicate. The original, duplicate, and triplicate copy of the form shall be given to the collector of taxes for collection of the payment along with a special tax warrant authorizing the collector to collect the payment under the warrant. The quadruplicate copy of the form shall be retained by the local assessing officials for their records.

(c) Upon receipt of the special tax warrant and prescribed forms, the tax collector shall mail the duplicate copy of the tax bill to the owner responsible for the tax as the notice of payment.

(d) Payment shall be due not later than 30 days after the mailing of the bill. Interest at the rate of 18 percent per annum shall be due thereafter on any amount not paid within the 30-day period. Interest at 12 percent per annum shall be charged upon all taxes that would have been due and payable on or before December 1 of each tax year as if no tax relief had been granted.

**Source.** 2006, 167:1. 2009, 200:15, eff. July 15, 2009.

### **Section 79-E:10**

**79-E:10 Lien for Unpaid Taxes.** – The real estate of every person shall be held for the taxes levied pursuant to RSA 79-E:9.

**Source.** 2006, 167:1, eff. April 1, 2006.

### **Section 79-E:11**

**79-E:11 Enforcement.** – All taxes levied pursuant to RSA 79-E:9 which are not paid when due shall be collected in the same manner as provided in RSA 80.

**Source.** 2006, 167:1. 2007, 42:3, eff. July 20, 2007.

### **Section 79-E:12**

**79-E:12 Rulemaking.** – The commissioner of the department of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the payment and collection procedures under RSA 79-E:9.

**Source.** 2006, 167:1, eff. April 1, 2006.

### **Section 79-E:13**

**79-E:13 Extent of Tax Relief.** –

I. (a) Tax relief granted under this chapter shall pertain only to assessment increases attributable to the substantial rehabilitation performed under the conditions approved by the governing body and not to those increases attributable to other factors including but not limited to market forces; or

(b) Tax relief granted under this chapter shall be calculated on the value in excess of the original assessed value. Original assessed value shall mean the value of the qualifying structure assessed at the time the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect public benefit as required in this chapter, provided that for a qualifying structure which is a building destroyed by fire or act of nature, original assessed value shall mean the value as of the date of approval of the application for tax relief of the qualifying structure that would have existed had the structure not been destroyed.

II. The tax relief granted under this chapter shall only apply to substantial rehabilitation or replacement that commences after the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect the public benefit as required in this chapter, provided that in the case of a qualifying structure which is a building destroyed by fire or act of nature, and which occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town, the tax relief may apply to such qualifying structure for which replacement has begun, but which has not been completed, on the date the application for relief under this chapter is approved.

**Source.** 2006, 167:1. 2010, 329:6. 2011, 237:3, eff. July 5, 2011.

### **Section 79-E:14**

**79-E:14 Other Programs.** – The provisions of this chapter shall not apply to properties whose rehabilitation or construction is subsidized by state or federal grants or funds that do not need to be repaid totaling more than 50 percent of construction costs from state or federal programs.

**Source.** 2006, 167:1, eff. April 1, 2006.

## Appendix B: Application Examples





**CITY OF CONCORD**  
**NEW HAMPSHIRE**  
*Community Development Department*

City Hall • 41 Green Street • Concord, NH 03301 • tel. 603/225-8595 • fax 603/228-2701

**COMMUNITY REVITALIZATION TAX RELIEF PROGRAM (RSA 79-E)**  
**(To be completed by the Applicant)**

<p><b>Building Name (if any)</b></p>  <p><b>Building Address</b></p>	<p><b>Owner Name(s)</b></p>  <p><b>Applicant Name(s) (if different from owner)</b></p>
<p><b>Owner Address(es)</b></p>  <p><b>Phone #</b> <b>Email address</b></p>	<p><b>Applicant Address (if different from owner)</b></p>  <p><b>Phone #</b> <b>Email address</b></p>
<p><b>City Tax Map</b> <b>Map #</b> <b>Block #</b> <b>Lot #</b></p>	<p><b>Merrimack County Registry of Deeds</b> <b>Book#</b> <b>Page #</b></p>
<p><b>Year Built</b> _____</p>  <p><b>Square Footage of Building</b> _____</p>	<p><b>Is the building eligible for listing or listed individually on the State or National Register of Historic Places or located within a locally designated, State, or National Register Historic district?</b> ____ Yes ____ No</p> <p><b>If yes, provide a copy of the approved designation by the State or National Register of the building or the district.</b></p>
<p><b>Existing Uses (describe number of units by type and size )</b></p>   <p><b>Proposed Uses (describe number of units by type and size)</b></p>	<p><b>Is there a change of use associated with this project?</b>          ____ Yes ____ No      <b>If yes, please describe:</b></p>
<p><b>Will the project include new residential units?</b>          ____ Yes ____ No      <b>If yes, please describe:</b></p>	<p><b>Will the project include new subsidized residential units?</b>          ____ Yes ____ No      <b>If yes, please describe:</b></p>

**Note: Application must be accompanied by a \$100 application fee made payable to "City of Concord."**

Is the project in an existing Tax Increment Finance (TIF) District? \_\_\_\_\_ YES \_\_\_\_\_ NO

*(TIF maps are available by contacting the Community Development Department at (603) 225-8595 or by visiting the City's website at <http://www.concordnh.gov/index.aspx?NID=378>)*

Will any state or federal grants or funds or low income subsidies or tax credits be used in this project? \_\_ YES \_\_ NO  
 If so, what is the amount of the aid? \$ \_\_\_\_\_ Describe and detail any terms of repayment (if applicable):

Describe the work to be done and estimated cost. Please attach additional sheets, if necessary, as well as any written construction cost estimates.

<b>Structural:</b>	\$
<b>Exterior Alterations (storefront, walls, windows, doors, etc.)</b>	\$
<b>Interior Alterations (walls, ceilings, moldings, doors, etc.)</b>	\$
<b>Electrical:</b>	\$
<b>Plumbing/Heating:</b>	\$
<b>Mechanical:</b>	\$
<b>Fire Protection:</b>	\$
<b>Other:</b>	\$
<b>Total:</b> Note: To be considered for this tax relief incentive, the costs of the project must be at least 15% of the pre-rehabilitation assessed value or \$75,000, whichever is less.	\$

Please attach any construction contracts, plot plans, building plans, sketches, renderings or photographs that would help explain this application.

For the additional four (4) year tax relief for historic buildings, the work described must include how it meets the Secretary of Interior's Standards

**Historical Requirement for Replacement of Qualifying Structures**

In the case of replacement of a qualifying structure, the applicant shall submit a New Hampshire Division of Historical Resources Individual Inventory Form prepared by a qualified architectural historian and a letter issued by the Concord Heritage Commission that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which those structures are located. This application shall not be considered complete until such time as the Individual Inventory Form and letter are submitted.

**Affidavit**

I have read and understand the Community Revitalization Tax Relief Incentive RSA Ordinance (see attached) and am aware that this will be a public process including a public hearing to be held to discuss the merits of this application and the subsequent need to grant a covenant in the deed to the property to the City and pay any reasonable expenses associated with the drafting of the covenant. I understand the application will not be determined as complete and recommended to the City Council until all of the necessary information is provided.

**IMPORTANT**

PER RSA 79-E: 13(II), THE BASE OR "ORIGINAL" ASSESSED VALUE FOR ANY TAX RELIEF PERIOD IS ONLY SET AFTER THE FOLLOWING TWO CONDITIONS ARE MET:

1. APPROVAL BY THE CITY COUNCIL AND;
2. THE APPLICANT'S ENTERING INTO A COVENANT WITH THE CITY OF CONCORD TO PROTECT THE PUBLIC BENEFIT.

THEREFORE, THE APPLICANT AND/OR PROPERTY OWNER SHALL NOT COMMENCE ANY OF THE IMPROVEMENTS INCLUDED IN THIS APPLICATION UNTIL SUCH TIME AS HE/SHE HAS SECURED THE ABOVE. THIS PROHIBITION SHALL INCLUDE ANY DEMOLITION TO THE EXISTING STRUCTURE.

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Applicant: (signed) \_\_\_\_\_ (name printed) \_\_\_\_\_ Date \_\_\_\_\_

Expected project start: \_\_\_\_\_ Expected project completion: \_\_\_\_\_

TITLE V  
TAXATION  
**CHAPTER 79-E**  
**COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE**  
**Section 79-E:1**

**79-E:1 Declaration of Public Benefit. –**

I. It is declared to be a public benefit to enhance downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.

II. It is further declared to be a public benefit to encourage the rehabilitation of the many underutilized structures in urban and town centers as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern, in accordance with RSA 9-B.

II-a. In instances where a qualifying structure is determined to possess no significant historical, cultural, or architectural value and for which the governing body makes a specific finding that rehabilitation would not achieve one or more of the public benefits established in RSA 79-E:7 to the same degree as the replacement of the underutilized structure with a new structure, the tax relief incentives provided under this chapter may be extended to the replacement of an underutilized structure in accordance with the provisions of this chapter.

III. Short-term property assessment tax relief and a related covenant to protect public benefit as provided under this chapter are considered to provide a demonstrated public benefit if they encourage substantial rehabilitation and use of qualifying structures, or in certain cases, the replacement of a qualifying structure, as defined in this chapter.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:3, 4, eff. July 15, 2009.

**Section 79-E:2**

**79-E:2 Definitions. –** In this chapter:

I. "Qualifying structure" means a building located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center for purposes of this chapter.

I-a. "Replacement" means the demolition or removal of a qualifying structure and the construction of a new structure on the same lot.

II. "Substantial rehabilitation" means rehabilitation of a qualifying structure which costs at least 15 percent of the pre-rehabilitation assessed valuation or at least \$75,000, whichever is less.

II-a. "Tax increment finance district" means any district established in accordance with the provisions of RSA 162-K.

III. "Tax relief" means:

(a) For a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation thereof.

(b) For the replacement of a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a replacement structure shall not exceed the property tax on the replaced qualifying structure as a result of the replacement thereof.

IV. "Tax relief period" means the finite period of time during which the tax relief will be effective, as determined by a local governing body pursuant to RSA 79-E:5.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:5-7, eff. July 15, 2009.

**Section 79-E:3**

**79-E:3 Adoption of Community Revitalization Tax Relief Incentive Program –**

I. Any city or town may adopt the provisions of this chapter by voting whether to accept for consideration requests for community revitalization tax relief incentives. Any city or town may do so by following the procedures in this section.

II. In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition under RSA 39:3.

III. In a city or town that has adopted a charter under RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such municipality may vote to place the question on the official ballot for any regular municipal election.

IV. If a majority of those voting on the question vote "yes," applications for community revitalization tax relief incentives may be accepted and considered by the local governing body at any time thereafter, subject to the provisions of paragraph VI of this section.

V. If the question is not approved, the question may later be voted on according to the provisions of paragraph II or III of this section, whichever applies.

VI. The local governing body of any town or city that has adopted this program may consider rescinding its action in the manner described in paragraph II or III of this section, whichever applies. A vote terminating the acceptance and consideration of such applications shall have no effect on incentives previously granted by the city or town, nor shall it terminate consideration of applications submitted prior to the date of such vote.

**Source.** 2006, 167:1, eff. April 1, 2006.

#### **Section 79-E:4**

##### **79-E:4 Community Revitalization Tax Relief Incentive. –**

I. An owner of a qualifying structure who intends to substantially rehabilitate or replace such structure may apply to the governing body of the municipality in which the property is located for tax relief. The applicant shall include the address of the property, a description of the intended rehabilitation or replacement, any changes in use of the property resulting from the rehabilitation or replacement, and an application fee.

I-a. In order to assist the governing body with the review and evaluation of an application for replacement of a qualifying structure, an owner shall submit to the governing body as part of the application, a New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian and a letter issued by the local heritage commission and if the qualifying structure is located within a designated historic district established in accordance with RSA 674:46, a letter from the historic district commission or, if such local commissions are not established, a letter issued by the New Hampshire division of historical resources that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which those structures are located. The application for tax relief shall not be deemed to be complete and the governing body shall not schedule the public hearing on the application for replacement of a qualifying structure as required under RSA 79-E:4, II until the inventory form and the letter, as well as all other required information, have been submitted.

II. Upon receipt of an application, the governing body shall hold a duly noticed public hearing to take place no later than 60 days from receipt of the application, to determine whether the structure at issue is a qualifying structure; whether any proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration.

III. No later than 45 days after the public hearing, the governing body shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.

IV. (a) The governing body may grant the tax relief, provided:

(1) The governing body finds a public benefit under RSA 79-E:7; and

(2) The specific public benefit is preserved through a covenant under RSA 79-E:8; and

(3) The governing body finds that the proposed use is consistent with the municipality's master plan or development regulations; and

(4) In the case of a replacement, the governing body specifically finds that the local heritage commission or historic district commission or, if such local commissions are not established, the New Hampshire division of historical resources has determined that the replaced qualifying structure does not possess significant historical, cultural, or architectural value, the replacement of the qualifying structure will achieve one or more of the public benefits identified in RSA 79-E:7 to a greater degree than the renovation of the underutilized structure, and the historical, cultural, or architectural resources in the community will not be adversely affected by the replacement. In connection with these findings, the governing body may request that the division of historical resources conduct a technical evaluation in order to satisfy

the governing body that historical resources will not be adversely affected.

(b) If the governing body grants the tax relief, the governing body shall identify the specific public benefit achieved under RSA 79-E:7, and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8.

V. If the governing body, in its discretion, denies the application for tax relief, such denial shall be accompanied by a written explanation. The governing body's decision may be appealed either to the board of tax and land appeals or the superior court in the same manner as provided for appeals of current use classification pursuant to RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and shall not be set aside by the board of tax and land appeals or the superior court except for bad faith or discrimination.

VI. Municipalities shall have no obligation to grant an application for tax relief for properties located within tax increment finance districts when the governing body determines, in its sole discretion, that the granting of tax relief will impede, reduce, or negatively affect:

(a) The development program or financing plans for such tax increment finance districts; or

(b) The ability to satisfy or expedite repayment of debt service obligations incurred for a tax increment financing district; or

(c) The ability to satisfy program administration, operating, or maintenance expenses within a tax increment financing district.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:8-11, eff. July 15, 2009.

#### **Section 79-E:5**

##### **79-E:5 Duration of Tax Relief Period. –**

I. The governing body may grant such tax assessment relief for a period of up to 5 years, beginning with the completion of the substantial rehabilitation.

I-a. For the approval of a replacement of a qualifying structure, the governing body may grant such tax assessment relief for a period of up to 5 years, beginning only upon the completion of construction of the replacement structure. The governing body may, in its discretion, extend such additional years of tax relief as provided for under this section, provided that no such additional years of tax relief may be provided prior to the completion of construction of the replacement structure. The municipal tax assessment of the replacement structure and the property on which it is located shall not increase or decrease in the period between the approval by the governing body of tax relief for the replacement structure and the time the owner completes construction of the replacement structure and grants to the municipality the covenant to protect the public benefit as required by this chapter. The governing body may not grant any tax assessment relief under this chapter with respect to property and structures for which an election has been made for property appraisal under RSA 75:1-a.

II. The governing body may, in its discretion, add up to an additional 2 years of tax relief for a project that results in new residential units and up to 4 years for a project that includes affordable housing.

III. The governing body may, in its discretion, add up to an additional 4 years of tax relief for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:12, eff. July 15, 2009.

#### **Section 79-E:6**

**79-E:6 Resumption of Full Tax Liability.** – Upon expiration of the tax relief period, the property shall be taxed at its market value in accordance with RSA 75:1.

**Source.** 2006, 167:1, eff. April 1, 2006.

#### **Section 79-E:7**

**79-E:7 Public Benefit.** – In order to qualify for tax relief under this chapter, the proposed substantial rehabilitation must provide at least one of the public benefits, and the proposed replacement must provide one or more of the public

benefits to a greater degree than would a substantial rehabilitation of the same qualifying structure, as follows:

- I. It enhances the economic vitality of the downtown;
- II. It enhances and improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district, town center, or village center in which the building is located;
- III. It promotes development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B; or
- IV. It increases residential housing in urban or town centers.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:13, eff. July 15, 2009.

#### **Section 79-E:8**

##### **79-E:8 Covenant to Protect Public Benefit. –**

- I. Tax relief for the substantial rehabilitation or replacement of a qualifying structure shall be effective only after a property owner grants to the municipality a covenant ensuring that the structure shall be maintained and used in a manner that furthers the public benefits for which the tax relief was granted and as otherwise provided in this chapter.
- II. The covenant shall be coextensive with the tax relief period. The covenant may, if required by the governing body, be effective for a period of time up to twice the duration of the tax relief period.
- III. The covenant shall include provisions requiring the property owner to obtain casualty insurance, and flood insurance if appropriate. The covenant may include, at the governing body's sole discretion, a lien against proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition of damaged structures and property. If the property owner has not begun the process of restoration, rebuilding, or demolition of such structure within one year following damage or destruction, the property owner shall be subject to the termination of provisions set forth in RSA 79-E:9, I.
- IV. The local governing body shall provide for the recording of the covenant to protect public benefit with the registry of deeds. It shall be a burden upon the property and shall bind all transferees and assignees of such property.
- V. The applicant shall pay any reasonable expenses incurred by the municipality in the drafting, review, and/or execution of the covenant. The applicant also shall be responsible for the cost of recording the covenant.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:14, eff. July 15, 2009.

#### **Section 79-E:9**

##### **79-E:9 Termination of Covenant; Reduction of Tax Relief; Penalty. –**

- I. If the owner fails to maintain or utilize the building according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction as provided in RSA 79-E:8, III, the governing body shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation or replacement has been diminished and shall determine whether to terminate or reduce the tax relief period in accordance with such determination. If the covenant is terminated, the governing body shall assess all taxes to the owner as though no tax relief was granted, with interest in accordance with paragraph II.
- II. Any tax payment required under paragraph I shall be payable according to the following procedure:
  - (a) The commissioner of the department of revenue administration shall prescribe and issue forms to the local assessing officials for the payment due, which shall provide a description of the property, the market value assessment according to RSA 75:1, and the amount payable.
  - (b) The prescribed form shall be prepared in quadruplicate. The original, duplicate, and triplicate copy of the form shall be given to the collector of taxes for collection of the payment along with a special tax warrant authorizing the collector to collect the payment under the warrant. The quadruplicate copy of the form shall be retained by the local assessing officials for their records.
  - (c) Upon receipt of the special tax warrant and prescribed forms, the tax collector shall mail the duplicate copy of the tax bill to the owner responsible for the tax as the notice of payment.
  - (d) Payment shall be due not later than 30 days after the mailing of the bill. Interest at the rate of 18 percent per annum shall be due thereafter on any amount not paid within the 30-day period. Interest at 12 percent per annum shall

be charged upon all taxes that would have been due and payable on or before December 1 of each tax year as if no tax relief had been granted.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:15, eff. July 15, 2009.

#### **Section 79-E:10**

**79-E:10 Lien for Unpaid Taxes.** – The real estate of every person shall be held for the taxes levied pursuant to RSA 79-E:9.

**Source.** 2006, 167:1, eff. April 1, 2006.

#### **Section 79-E:11**

**79-E:11 Enforcement.** – All taxes levied pursuant to RSA 79-E:9 which are not paid when due shall be collected in the same manner as provided in RSA 80.

**Source.** 2006, 167:1, eff. April 1, 2006. 2007, 42:3, eff. July 20, 2007.

#### **Section 79-E:12**

**79-E:12 Rulemaking.** – The commissioner of the department of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the payment and collection procedures under RSA 79-E:9.

**Source.** 2006, 167:1, eff. April 1, 2006.

#### **Section 79-E:13**

##### **79-E:13 Extent of Tax Relief.** –

I. Tax relief granted under this chapter shall pertain only to assessment increases attributable to the substantial rehabilitation performed under the conditions approved by the governing body and not to those increases attributable to other factors including but not limited to market forces; or

II. Tax relief granted under this chapter shall be calculated on the value in excess of the original assessed value. Original assessed value shall mean the value of the qualifying structure assessed at the time the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect public benefit as required in this chapter.

**Source.** 2006, 167:1, eff. April 1, 2006.

#### **Section 79-E:14**

**79-E:14 Other Programs.** – The provisions of this chapter shall not apply to properties whose rehabilitation or construction is subsidized by state or federal grants or funds that do not need to be repaid totaling more than 50 percent of construction costs from state or federal programs.

**Source.** 2006, 167:1, eff. April 1, 2006.

# RSA 79-E

## Community Revitalization Tax Relief Incentive Map

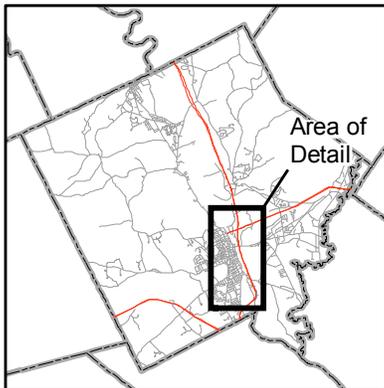
December 2007 Enclosure (1)  
Amended August 2009



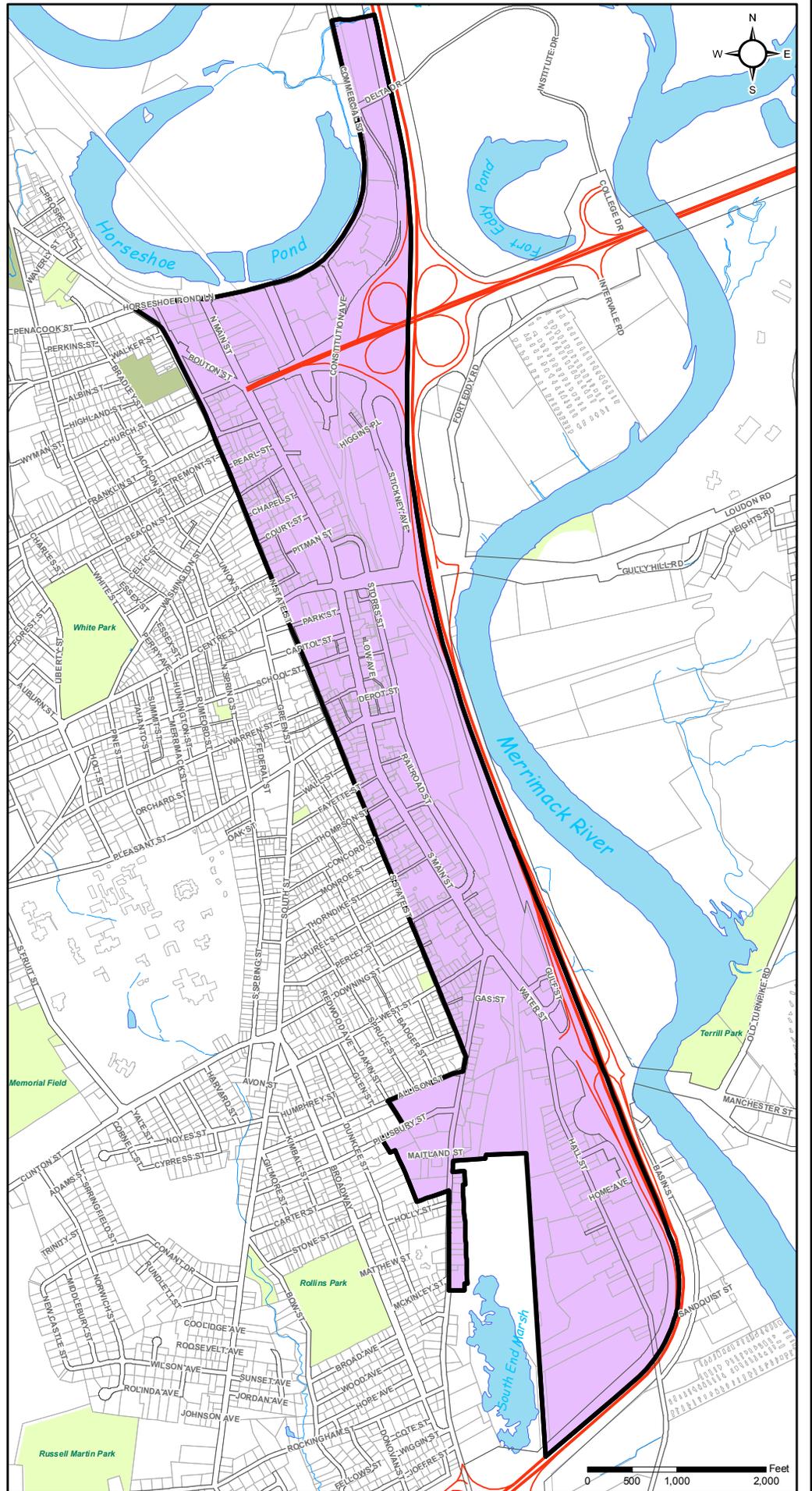
**City of Concord, New Hampshire**  
Community Development Department  
Engineering Services Division &  
Business Development Division

### Legend

- Right-of-Way
- Municipal Boundary
- Streams
- Tax Relief Incentive District
- Parcels
- Water Bodies
- Cemetery
- Park



This map was prepared for use by the City of Concord and is not intended for legal boundary interpretation. The City makes no representations or guarantees of its accuracy or its suitability for use other than by the City. Users other than the City, do so at their own risk.  
Date Produced: August 2009



# RSA 79-E

## Community Revitalization Tax Relief Incentive Map

January 2008 Enclosure (2)  
Amended March 2008

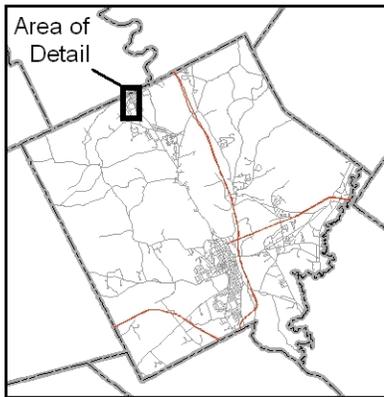


Penacook Opportunity Corridor  
Performance District (OCP)  
Central Business Performance  
District (CBP)  
Urban Commercial District (CU)  
Industrial District (IN)

**City of Concord, New Hampshire**  
Community Development Department  
Engineering Services Division &  
Business Development Division

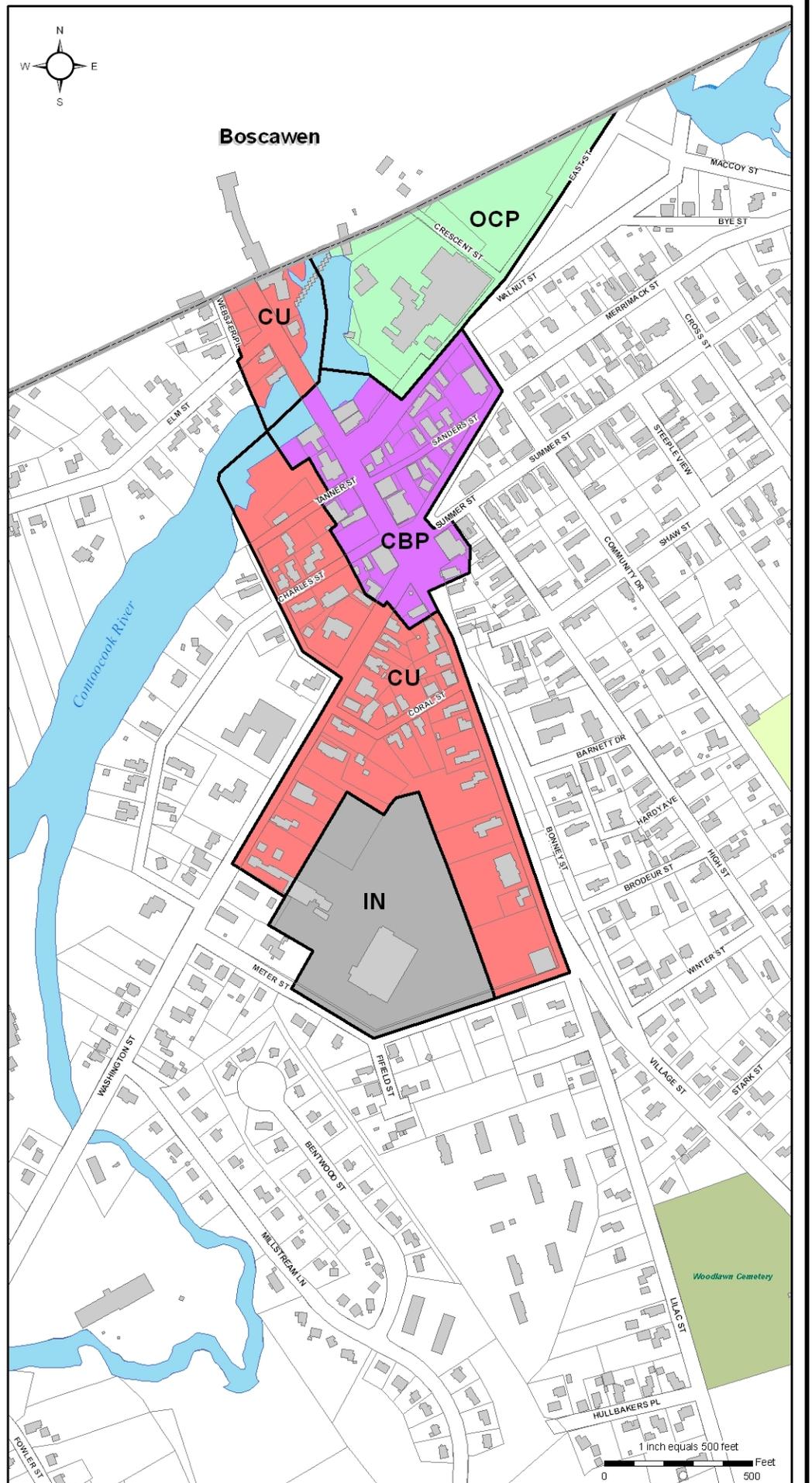
### Legend

-  OCP-Opportunity Corridor Performance
-  IN-Industrial
-  CBP-Central Business Performance
-  CU-Urban Commercial
-  Right-of-Way
-  Municipal Boundary
-  Streams
-  Parcels
-  Water Bodies



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Date Produced: February, 2008





# The City of Berlin

## Application for Downtown Tax Relief Incentive

City Planning, 168 Main Street, Berlin, NH 03570  
 603-752-8587, fax 603-752-8550  
 Email: [plaflamme@berlinnh.gov](mailto:plaflamme@berlinnh.gov)

A \$50.00 application fee must accompany this application upon submission. Application date: \_\_\_\_\_

Building Name	(Primary) Owner's Name
Building Address	(Primary) Owner's Address
Map # _____ Lot# _____	
Book # _____ Page# _____	

The application is for:    Substantial Rehabilitation Tax Relief Incentive \_\_\_\_\_

Tax Relief Incentive for New Residential Units \_\_\_\_\_

Tax Relief Incentive for Rehabilitation of Historic Places \_\_\_\_\_

(Please check all that apply)    In accordance with the U.S. Secretary of interior's Standards for Rehabilitation \_\_\_\_\_

Will there be a change of use? Please explain: \_\_\_\_\_

Describe the work to be done and estimated cost:

<b>Structural:</b>	\$
<b>Electrical:</b>	\$
<b>Plumbing/Heating:</b>	\$
<b>Mechanical:</b>	\$
<b>Other:</b>	\$
<b>Total</b> Note: To qualify for this incentive, the costs of the project must be at least 15% of the current pre-rehabilitation assessed value or at least \$75,000, whichever is less. <b>In completing this form, you certify that the estimates are reasonable and that you meet the above requirement. Failure to meet the threshold or the listing of unreasonable construction costs will result in denial of the application and forfeiture of the application fee.</b>	\$

Expected project start: \_\_\_\_\_

Expected project completion: \_\_\_\_\_

I/we have read and understand the Community Revitalization Tax Relief Incentive Ordinance and am aware that this will be a public process including a public hearing to be held to discuss the merits of this application and the subsequent need to enter into a covenant with the City and pay any reasonable expenses associated with the drafting of the covenant.

Type or Print Name (in black ink)	Signature (in black ink)	Date
Type or Print Name (in black ink)	Signature (in black ink)	Date
Type or Print Name (in black ink)	Signature (in black ink)	Date

**TO BE COMPLETED BY LOCAL ASSESSOR**

Pre-rehabilitation assessed valuation:	_____
Estimated Cost from Application Above:	_____
Percent cost to valuation:	_____ %
Does the cost of rehabilitation exceed 15% of pre-rehabilitation assessed valuation Or \$75,000:        YES _____    NO _____	
If the answer to the above is no, the application is automatically denied.	

**MAYOR AND COUNCIL REVIEW**

The application is:                      Granted: _____      Denied _____
Substantial Rehabilitation Tax Relief Incentive will be for _____ years
Tax Relief Incentive for New Residential Units will be for _____ years
Tax Relief Incentive for Rehabilitation of Historic Places In accordance with the U.S. Secretary of interior's Standards for Rehabilitation _____ years
Specific terms of covenant:
Specific public benefit(s) achieved or reason(s) for denial:

The above decision was rendered by a motion of the Mayor and Council at a meeting held on \_\_\_\_\_.

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

## Appendix C: Covenant Example



COVENANT TO PROTECT PUBLIC BENEFIT  
FILED WITH DEED Per RSA 79-E:8 (Community Revitalization Tax Relief Incentive)

I (We) \_\_\_\_\_ (owner) of \_\_\_\_\_ located in the Town of Pittsfield, County of Merrimack \_\_\_\_\_ and the State of New Hampshire, for [myself/ourselves] successors and assigns, for consideration of tax relief granted, agree to the following Covenants imposed by The Town of Pittsfield, County of Merrimack, State of New Hampshire, in exchange for property tax relief due to the substantial rehabilitation of said property this Covenant to Protect Public Benefit in accordance with the provisions of RSA 79-E for a term of \_\_\_\_ years or other agreed time up to twice the period of tax relief on the following historic or other structure located within the Pittsfield Center Historic District (as depicted by Map 6-3 in the Town of Pittsfield 2000 Master Plan), including the land necessary for the function of the building (the PROPERTY), described as follows.

The Property is described as a portion of Tax Map \_\_\_\_\_ Lot \_\_\_\_\_ in the Town of Pittsfield. Also reference Grantor's title by [Warranty] deed recorded at Book \_\_\_\_\_ Page \_\_\_\_\_ , Merrimack County Registry of Deeds.

The GRANTEE agrees that the PROPERTY provides a demonstrated public benefit in accordance with the provisions of RSA 79-E:7 insomuch as the substantial rehabilitation of said property:

- I. Enhances the economic vitality of downtown
- II. Enhances or improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district, town center, or village center in which the building is located
- III. Promotes development of municipal centers, providing for efficiency, safety and a greater sense of community consistent with RSA 9-B or
- IV. It increases residential housing in urban or town centers

[insert particular findings if desired].

The terms of the Covenant hereby granted with respect to the above-described PROPERTY are to be coextensive with the tax relief period and are as follows:

MAINTENANCE OF THE PROPERTY. The GRANTOR agrees to maintain the PROPERTY in a use and condition that furthers the public benefits for which the tax relief was granted and accepted during the term of the tax relief under RSA 79-E.

[Here insert any particular restrictions such as signage, maintenance of building and its surroundings, other structure and so forth, as may be agreed upon between the Grantor and Grantee.]

REQUIRED INSURANCE, USE OF INSURANCE PROCEEDS, AND TIMEFRAME TO REPLACE OR REMOVE DAMAGED PROPERTY. The Property Owner is required to obtain and maintain casualty insurance, as well as flood insurance if appropriate. The TOWN requires a lien

against proceeds for any insurance claims to ensure proper restoration or demolition of any damaged structures and property. The TOWN further requires that the restoration or demolition commence within one year following any insurance claim incident otherwise the Property Owner shall be subject to the provisions set forth in RSA 79-E:9, I.

RECORDING. The Town shall provide for the recording of this covenant to protect public benefit with the Merrimack County Registry of Deeds. It shall be a burden upon the property and bind all transferees and assignees of such property. Applicant will be solely responsible for the recording fees.

ASSESSMENT OF THE PROPERTY. The Grantee agrees that the PROPERTY shall be assessed, during the term of the Tax Relief Granted based on the pre-rehabilitation value or another value agreed upon by both parties to address improvements not covered by RSA 79-E. If the terms of these covenants are not met, the Property Tax Relief will be discontinued. Furthermore, the TOWN will assess all taxes to the owner as though no tax relief was granted, with interest in accordance with RSA 79-E:9, II.

RELEASE, EXPIRATION, CONSIDERATION.

I. RELEASE. The GRANTOR may apply to the local governing body of the Town of Pittsfield for a release from the foregoing discretionary tax relief and associated covenant upon a demonstration of extreme personal hardship.

Upon release from such covenants, the GRANTOR shall pay the following consideration to the Tax Collector of the Town of Pittsfield

(a) For a release within the duration of the tax relief period of the RSA 79 E, full value assessment of such structure(s) and land.

II. EXPIRATION. Upon final expiration of the terms of the tax relief and associated covenants tax assessment will convert to present valuation and these covenants will be concluded

III. The Tax Collector shall issue a summary receipt to the owner of such property and a copy to the governing body of the Town of Pittsfield for the sums of tax relief deferred. The local governing body shall, upon receiving a copy of the above-mentioned consideration, execute a release of the Covenant to the GRANTOR who shall record such a release with the Merrimack County Registry of Deeds. A copy of such release or renewal shall also be sent to the local assessing officials if they are not the same parties executing the release or renewal.

IV. If, during the term of the tax relief, the GRANTOR shall fail to maintain the structure in conformity with the foregoing agreement, or shall cause the structure(s) to significantly deteriorate or be demolished or removed, the covenants shall be terminated and a penalty assessed in accordance with Paragraph I(a) above.

ENFORCEMENT.

When a breach of this Covenant to the attention of the GRANTEE, it, shall notify the owner of the property subject to the covenant, in writing of such breach, delivered in hand or by certified mail, return receipt requested.

The Owner shall have 30 days after receipt of such notice to undertake those actions, including restoration, which are reasonably calculated to cure the conditions constitution said breach and to notify the Grantee thereof.

If the owner fails to take such curative action, the Grantee may undertake any actions that are reasonably necessary to cure such breach, and the cost thereof, including Grantee's expenses, court costs and legal fees, shall be paid by the owner, provided the said Owner is determined to be directly or indirectly responsible for the breach.

The Grantee, by accepting and recording this Covenant to the deed agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein provided for and incumbent upon the Grantee, all in furtherance of the economic development purposes for which this Tax Relief and associated Deed Covenant is delivered. WITNESS MY HAND this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Grantor

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

Appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
the above signed \_\_\_\_\_, known to me or satisfactorily proven to  
be the same, and acknowledged that he [they] executed the same for the purposes contained  
therein.

Notary Public/Justice of the Peace  
My commission expires:

ACCEPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Town of Pittsfield NH

By its Board of Selectmen[or authorized officer]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Appendix D: New Hampshire Preservation Alliance RSA 79-E Fact Sheet





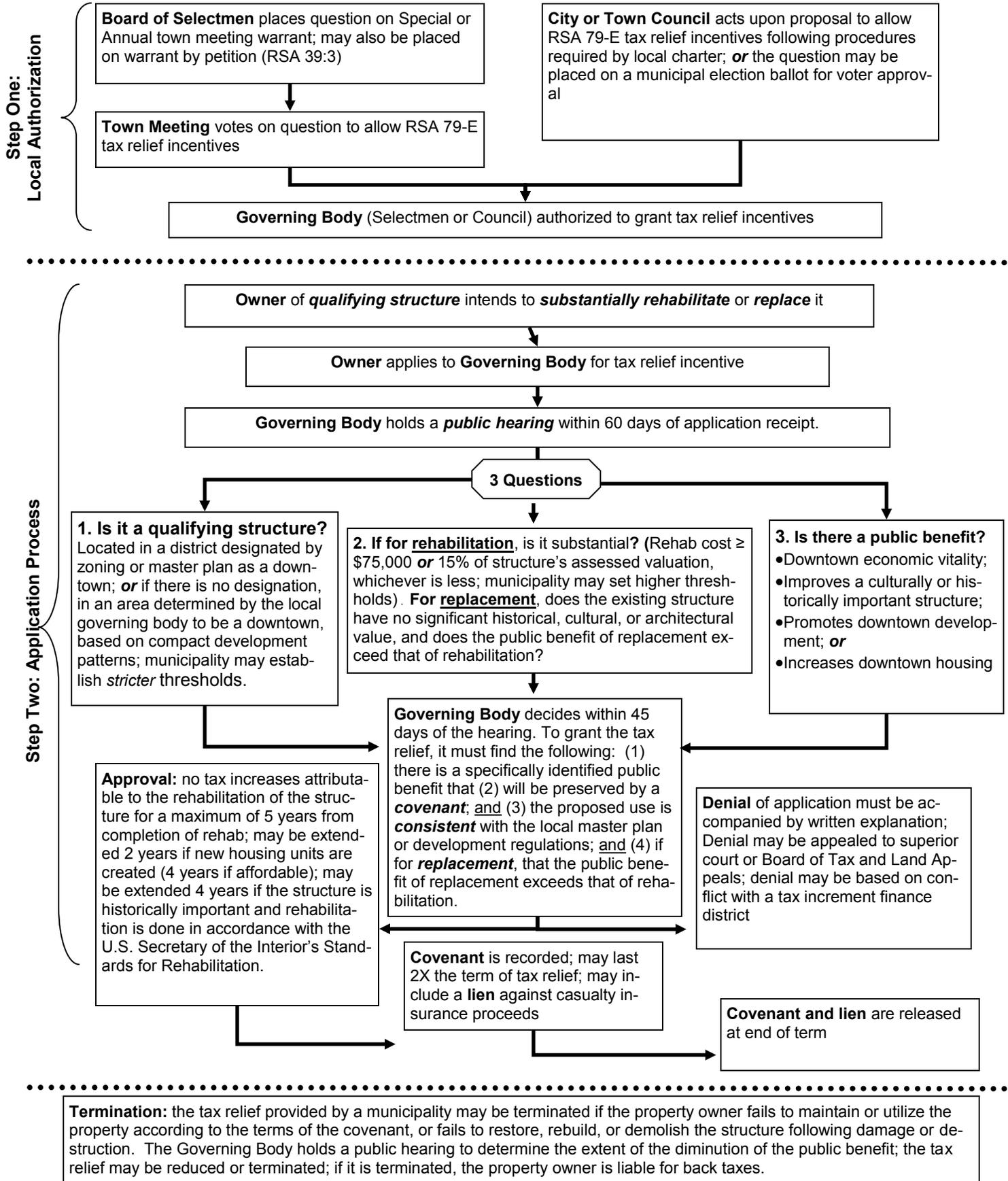
# RSA 79-E Community Revitalization Tax Relief Incentive

2009 Revision: Allows for *replacement* of structures, in addition to rehabilitation.

2010 Revision: Allows for stricter local standards to identify "qualifying structures" and higher local thresholds of costs for rehabilitation.

2011 Revision: Allows for buildings which have been destroyed by fire or act of nature to be qualifying structures.

2013 Revision: Extends qualifying properties to include historic structures outside of downtowns. See p. 2





**Plymouth State Graduate Studies Historic Preservation Program**