City of Berlin

# Memo

To: Mayor Grenier & City Council

CC: Phil Warren, City Manager

From: Pamela E Laflamme, Director of Strategic Initiatives

Date: December 1, 2022

Re: Downtown Tax Relief Application – application & request for 121Main Street – Aaron Throneberry-Perkins

---

Attached is an application for a new downtown tax relief incentive for property at 121 Main Street owned by Aaron Throneberry-Perkins. The amount of the renovations is estimated at $1,250,000.00. The value of the building is $226,700 which meets threshold of our criteria, which is the rehabilitation exceeds 15% of the pre-rehabilitation assessed valuation. The plans for the building are to renovate and remodel the property for a new bar & grille, gym, pool hall, and office spaces.

As with previous applications – we have the checklist for Council to review and go through, the application, the ordinance and the State RSA, 79:E. Mr. Throneberry-Perkins has been working on plans and estimates for the work and is aiming to start his reconstruction work next spring, 2023.

If the Council finds the application meets the criteria for the incentive, a public hearing will need to be scheduled and then a vote held to approve the request. The owners will need to sign the covenant with the City Manager and it will be filed at the Coos Registry of Deeds. All forms and language are similar and able to be duplicated for this application to the ones the Council has approved over the last two years, the most recent being back in June.

**COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE**
**MAYOR and COUNCIL CHECKLIST for 121 Main Street**

| | YES | NO |
|---|---|---|
| QUALIFYING STRUCTURE Sec. 19-18 Definitions | | |
| To be a *qualifying structure*, the structure must be located in the Downtown District. Is the structure located in the Downtown District? Sec. 19-18 Definitions | Yes | |
| Will the qualifying structure rehabilitation cost at least 15 percent of the pre-rehabilitation assessed valuation or at least $75,000, whichever is less. Sec. 19-18 Definitions | Yes | |
| PUBLIC BENEFIT (*Must provide at least one benefit*)Sec. 19-22 | | |
| Does the proposed rehabilitation enhance the economic vitality of downtown? Sec. 19-22; 1 | Yes | |
| Does the proposed rehabilitation enhance and improve 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 in which the building is located? Sec 19-22; 2 | N/A | |
| Does the proposed rehabilitation promote the development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B "smart growth"? Sec. 19-22; 3 | | |
| Appropriate to the traditional and historic use of the area? RSA 9-B;3 Definition | Yes | |
| Encourage denser development? RSA 9-B;3 Definition | Yes | |
| Encourage mixed use? RSA 9-B;3 Definition | Yes | |
| Bring a vibrant commercial activity to the City? RSA 9-B;3 I | Yes | |
| Bring a strong sense of community identity? RSA 9-B;3 I | Yes | |
| Preserve historic village centers? RSA 9-B;3 X | N/A | |
| Does the proposed rehabilitation increase residential housing in the Downtown District? Sec. 19-22; 4 | N/A | |
| COVENANT Sec, 19-23 | | |
| Is the applicant willing to sign and pay for all reasonable expenses incurred with the development of a covenant? Sec. 19-23; 1-5 | Yes | |
| Will the covenant be extended beyond the period of tax relief? Sec. 19-23; 2 | No | |
| MASTER PLAN | | |
| Is the proposed rehabilitation consistent with the Master Plan? Sec. 19-19; 6d | Yes | |

# Chapter 19

# DEVELOPMENT*



---

* **Cross References:** Code enforcement division, § 2-250 et seq.; Buildings and building regulations, Ch. 4; Housing Ch. 8; Site plan review, Ch. 11.5; Zoning and land use, Ch. 17.

**State Law References:** Community Revitalization Tax Relief Incentive, RSA 79-E, State Economic Growth, Resource Protection and Planning Policy, RSA 9-B, Appraisal of Taxed Property, RSA 75:1, Collection of Taxes, RSA 80:1-80:42-a, and Administrative Procedure Act, RSA 541-A.

## ARTICLE I.

## IN GENERAL

### Secs. 19-1--19-15. Reserved.

## ARTICLE II.

## COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE

* **Cross References:** Code enforcement division, § 2-250 et seq.; buildings and building regulations, Ch. 4; Housing, Ch 8, Site plan review, Ch. 11.5; Zoning and land use, Ch. 17.
**State Law References:** Community Revitalization Tax Relief Incentive, RSA 79-E, State Economic Growth, Resource Protection and Planning Policy, RSA 9-B, Appraisal of Taxed Property, RSA 75:1, Collection of Taxes, RSA 80:1-80:42-a, and Administrative Procedure Act, RSA 541-A.

### Sec. 19-16. Declaration of Public Benefit

(a) It is declared to be a public benefit to enhance Berlin's Downtown Zone with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.

(b) It is further declared to be a public benefit to encourage the rehabilitation of the many underutilized structures in the downtown as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern, in accordance with RSA9-B.

(c) Short-term property assessment tax relief and a related covenant to protect public benefit as provided under this ordinance are considered to provide a demonstrated public benefit if they encourage the substantial rehabilitation and use of qualifying structures as defined in this ordinance.

### Sec. 19-17. Tax Relief Authority.

The City of Berlin herby adopts RSA 79-E in the manner specified under RSA 79-E:3. In addition, the City has modified the incentive program to best suit the needs of the City and its constituents.

### Sec. 19-18. Definitions.

In the interpretation and enforcement of this article, all words other than those defined specifically below shall have the meanings implied by their context in the ordinance or the ordinarily accepted meanings. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Covenant.* A formal and legally binding agreement or contract such as a lease, or one of the clauses in an agreement of this kind.

*Qualifying Structure.* A building located in the Downtown Zone District as depicted in the official Zoning Map of the City of Berlin which is incorporated in the Zoning Ordinance of Berlin, NH.

*Substantial Rehabilitation.* 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.

*Tax Relief.* A period of time, as determined by the Mayor and City Council in accordance with this ordinance, the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation thereof.

*Tax Relief Period.* The finite period of time during which the tax relief will be effective, as determined by the Mayor and City Council pursuant to Chapter 19, Sec. 19-20.

**Sec. 19-19. Community Revitalization Tax Relief Incentive.**

1) An owner of a qualifying structure who intends to substantially rehabilitate such structure may apply to the Mayor and City Council through the City Planning Department.

2) The applicant shall complete the application form including the address of the property, a description of the intended rehabilitation, any changes in use of the property resulting from the rehabilitation, and submit the required non-refundable application fee of $50.

3) Upon receipt of an application, the application will be reviewed by the City Planner, Zoning Officer and Building Inspector for any compliance issues. The applicant must satisfactorily answer any questions they may have.

4) The Mayor and City Council will 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 the 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.

5) No later than 45 days after the public hearing, the Mayor and City Council shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.

6) The Mayor and City Council may grant the tax relief, provided:

(a) The Mayor and City Council grant the request by a two thirds (2/3) majority vote; and
(b) The Mayor and City Council find a public benefit under Chapter 19, Sec. 19-22; and
(c) The specific public benefit is preserved through a covenant under Chapter 19, Sec. 19-23; and
(d) The Mayor and City Council find that the proposed use is consistent with the municipality's master plan or development regulations.

7) If the Mayor and City Council grant the tax relief, they shall identify the specific public benefit achieved under Chapter 19, Sec. 19-22 and shall determine the precise terms and duration of the covenant to preserve the public benefit under Chapter 19, Sec. 19-23.

8) If the Mayor and City Council, in its discretion, denies the application for tax relief, such denial shall be accompanied by a written explanation. The Mayor and City Council'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.

**Sec. 19-20. Duration of Tax Relief Period.**

1) The Mayor and City Council may grant such tax assessment relief for a period of up to 5 years, beginning with the completion of the substantial rehabilitation.

2) The Mayor and City Council may, in its discretion, add up to an additional 2 years of tax relief for a project that results in new non-subsidized residential units if the rehabilitation is done in conjunction with the retail/commercial portion of the building.

Tax relief for the rehabilitation of upper floor non-subsidized residential units, as a stand alone project, will be eligible for tax relief for a period of 2 years.

3) The Mayor and City Council 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.

**Sec. 19-21. 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.

**Sec. 19-22. Public Benefit.**

The proposed substantial rehabilitation must provide at least one of the following public benefits in order to qualify for tax relief under this ordinance:

1) It enhances the economic vitality of the downtown;
2) 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 in which the building is located;
3) It promotes development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B; or
4) It increases residential housing in the Downtown Zone.

**Sec. 19-23. Covenant to Protect Public Benefit.**

1) Tax relief for the substantial rehabilitation 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.

2) The covenant shall be coextensive with the tax relief period. The covenant may, if required by the Mayor and City Council, be effective for a period of time up to twice the duration of the tax relief period.

3) The covenant shall include provisions requiring the property owner to obtain casualty insurance, and flood insurance if appropriate. The covenant may include, at the Mayor and City Council'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 Chapter 19, Sec. 19-24.

4) To protect public benefit, the Mayor and City Council shall provide for the recording of the covenant with the registry of deeds. It shall be a burden upon the property and shall bind all transferees and assignees of such property.

5) 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.

**Sec. 19-24. Termination of Covenant; Reduction of Tax Relief; Penalty.**

1) 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 Chapter 19, Sec. 19-23 paragraph 3, the Mayor and City Council shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation 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 Mayor and City Council shall assess all taxes to the owner as though no tax relief was granted, with interest in accordance with paragraph 2.

2) Any tax payment required under paragraph 1 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.

**19-25. Lien for Unpaid Taxes.**

The real estate of every person shall be held for the taxes levied pursuant to Chapter 19, Sec. 19-24.

**19-26. Enforcement.**

All taxes levied pursuant to Chapter 19, Sec. 19-24 which are not paid when due shall be collected in the same manner as provided in RSA 80:1-80:42-a.

**Sec. 19-27. Rulemaking.**

The City of Berlin will abide by any rules the commissioner of the department of revenue administration adopts, pursuant to RSA 541-A, relative to the payment and collection procedures under Chapter 19, Sec. 19-24 (RSA 79-E:9).

**Sec. 19-28. Extent of Tax Relief.**

1) Tax relief granted under this ordinance shall pertain only to assessment increases attributable to the substantial rehabilitation performed under the conditions approved by the Mayor and City Council and not to those increases attributable to other factors including but not limited to market forces; or

2) Tax relief granted under this ordinance 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 Mayor and City Council approves the application for tax relief and the owner grants to the municipality the covenant to protect public benefit as required in this ordinance. The amount of tax relief will not exceed the projected construction costs estimated at the time of application.

**Sec. 19-29. Other Programs.**

The provisions of this ordinance 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.

**Sec. 19-30-19-45. Reserved**

## ARTICLE III

## PARTIAL TAX EXEMPTION FOR NEW INDUSTRIAL AND COMMERCIAL CONSTRUCTION

**Sec. 19-46. Declaration of Public Benefit**

(a) It is declared to be a public benefit to encourage commercial and industrial construction as a means add to and diversify the City's economic base. New or additional industrial business not only adds to the tax base of the City but also provides new employment and economic activity in the City.

(b) Short-term property tax exemption is a means to encourage this type of added economic activity and employment growth in the City.

**Sec. 19-47. Tax Exemption Authority.**

# 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. (a) "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.
(b) Qualifying structure shall also mean:
(1) Historic structures in a municipality whose preservation and reuse would conserve the embodied energy in existing building stock.
(2) A one or 2-family home or an attached multi-family home with not more than 4 units located in a residential property revitalization zone designated under RSA 79-E:4-b and which is at least 40 years old.
(c) 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.
(d) 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.
(e) In a city or town that has adopted the provisions of RSA 79-E:4-a, "qualifying structure" also means potentially impacted structures identified by the municipality within the coastal resilience incentive zone established under RSA 79-E:4-a.

[Paragraph II(f) effective April 1, 2022.]

(f) In a city or town that has adopted the provisions of RSA 79-E:4-c, "qualifying structure" also means a housing unit or units constructed in a housing opportunity zone established under RSA 79-E:4-c.
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. 2017, 203:2, eff. Sept. 3, 2017. 2021, 200:2, Pt. I, Sec. 2, eff. Oct. 9, 2021; 200:2, Pt. I, Sec. 4, eff. Apr. 1, 2022.

## 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:4-a

**79-E:4-a Coastal Resilience Incentive Zone. –**
I. A city or town may adopt the provisions of this section by vote of its legislative body, according to the procedures described in RSA 79-E:3, to establish a coastal resilience incentive zone (CRIZ). Municipalities may use storm surge, sea-level rise, and extreme precipitation projections in the 2016 report of the New Hampshire Coastal Risk and Hazards Commission, "Preparing New Hampshire for Projected Storm Surge, Sea-Level Rise, and Extreme Precipitation," and its successor projections, to identify potentially impacted structures.
II. The municipality implementing a CRIZ shall determine the resilience measures it deems qualifying, such as, but not limited to, elevation and free-board renovations, elevation of mechanicals, construction of resilient natural features, enhancement or creation of tidal marshes, elevation of private driveways and sidewalks, construction or enlargement of private culverts and other structures to enable increased water flow and storm-surge, and movement of property to higher elevation on the property or to a newly acquired property at a higher elevation within the municipality. Municipalities may grant tax relief to the qualifying structure and property as described in RSA 79-E:4.
III. Municipalities may provide other relief to properties in a coastal resilience incentive zone that are subject to repeated inundation, by acquiring preservation or water control easements or establishing tax increment financing districts.
IV. Municipalities may create a nonlapsing CRIZ fund as a capital reserve fund under RSA 34 or RSA 35, or a town-created trust fund under RSA 31:19-a, to provide funding for projected municipal costs associated with projected storm surge, sea-level rise, and extreme precipitation, and such funds may be used to support the coastal resilience incentive zone purpose established in this section.

**Source.** 2017, 203:3, eff. Sept. 3, 2017.

## Section 79-E:4-b

**79-E:4-b Residential Property Revitalization Zones. –**
I. A city or town may adopt the provisions of this section by vote of its legislative body, according to the procedures described in RSA 79-E:3, to establish tax relief for the owners of a one or 2-family home or an attached multi-family home with not more than 4 units and which is at least 40 years old, who significantly improves the quality, condition, and/or use of an existing residential structure in a designated residential property revitalization zone.
II. The governing body of a municipality shall designate the area of a residential property revitalization zone in which the tax relief for qualifying structures shall apply. Municipalities may further establish criteria for the public benefits, goals, and measures that will determine the eligibility of qualifying structures for tax relief located within a designated residential property revitalization zone.
III. Municipalities may grant tax relief to the qualifying structure and property as described in RSA 79-E:4 for the period of tax relief under RSA 79-E:5, provided that no property may be granted tax relief under this chapter more than once in a 20 year period.

**Source.** 2021, 200:2, Pt. I, Sec. 3, eff. Oct. 9, 2021.

## Section 79-E:4-c

[RSA 79-E:4-c effective April 1, 2022.]

**79-E:4-c Housing Opportunity Zone.** – A city or town may adopt the provisions of this section by vote of its legislative body, in accordance with the procedures described in RSA 79-E:3, to establish a housing opportunity zone. To be eligible for tax relief under this section, the qualifying structure and property shall be located within the housing opportunity zone established by the municipality. No less than one-third of the housing units constructed shall be designated for households with an income of 80 percent or less of the area median income as measured by the United States Department of Housing and Urban Development, or the housing units in a qualifying structure shall be designated for households with incomes as provided in RSA 204-C:57, IV. A qualifying structure under this section shall be eligible for tax assessment relief for a period of up to 10 years, beginning upon issuance of the certification of occupancy.

**Source.** 2021, 200:2, Pt. I, Sec. 5, eff. Apr. 1, 2022.

## 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 may 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. 2016, 85:2, eff. July 18, 2016.

## 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.