

TOWN OF ALLENSTOWN, NEW HAMPSHIRE



RSA 79-E
Tax Relief for Renovations





Town of Allenstown Board of Selectmen

RSA 79-E, Community Revitalization Tax Relief Incentive: Fact Sheet

This legislation encourages investment in central business districts, neighborhood business districts, downtowns, and village centers. Its goal is to *encourage the rehabilitation or replacement and active reuse of under-utilized buildings* and, in so doing, to

- **promote strong local economies** and,
- **promote smart, sustainable growth, as an alternative to sprawl, in accordance with the purpose and objectives of RSA Ch. 9-B** (State Economic Growth, Resource Protection, and Planning Policy).

How it works:

- In a municipality that has adopted this enabling legislation (which Allenstown has), a property owner who wants to substantially rehabilitate or replace a building located in a designated district may apply to the local governing body for a period of temporary tax relief.
- The temporary tax relief, if granted, would consist of a finite period of time during which the property tax on the structure would not increase as a result of its substantial rehabilitation or replacement. In exchange for the relief, the property owner grants a covenant ensuring there is a public benefit to the rehabilitation.
- Following expiration of the finite tax relief period, the structure would be taxed at its full market value taking into account the rehabilitation.

The legislation offers strong community process and discretion:

- Applications by property owners are made to the Board of Selectmen and are accompanied by a public notice and public hearing.
- The Board of Selectmen may grant tax relief for up to five years if the application meets the guidelines and public benefit test.
- The Board of Selectmen may deny the application in its discretion: “such denial shall be deemed discretionary and shall not be set aside by the board or tax and land appeals or the superior court except for bad faith or discrimination.” (79-E:4 V)

Qualifying properties:

A property owner can apply for the tax relief only if:

- The building is located in the community’s downtown district (or equivalent neighborhood business district);
- The rehabilitation or replacement costs at least 15% of the building’s pre-rehab assessed value, or \$75,000, whichever is less; and,
- The rehabilitation or replacement is consistent with the municipality’s master plan or development regulations.

ALLENSTOWN RSA 79E APPLICATION PROCESS OVERVIEW

Application Review Process:

1. **79-E Application Form** is submitted to the Assessing Department
2. Staff reviews application to confirm completeness & substantial rehabilitation. Staff provides documentation on **79-E Town Hall – Application Review** sheet.
 - a. Town Administrator confirms submission of required documentation.
 - b. Building Inspector confirms validity of construction costs.
 - c. Assessor confirms construction costs meet substantial rehabilitation threshold (construction costs > 15% building assessed valuation or \$75,000)
 - d. Planning & Zoning Secretary confirms appropriate Planning Board and/or ZBA approvals have been granted.
3. Properly noticed public hearing is scheduled, within 60 days of application submission.
4. Staff discusses comments documented on **79-E Town Hall – Application Review** sheet and project specifics (e.g. public benefit, covenants, and tax relief period).
5. Town Administrator prepares draft covenants and recommendation for length of tax relief period.
6. Board of Selectmen hold public hearing within 60 days of application submission. Selectmen receive testimony from applicant, public, and staff recommendations.
7. Within 45 days of public hearing the Selectmen vote on application and use **79-E Board of Selectmen Review/Decision** sheet to document decision.



Town of Allenstown, NH

Community Revitalization Tax Relief Incentive

Application Instructions

INSTRUCTIONS TO THE APPLICANT:

The following documents contain everything you need to complete your application for tax relief to revitalize your building. PLEASE read everything carefully. The application materials are based upon the requirements set forth by NH RSA 79-E. You will need to fill out the application, take part in a public hearing with the Board of Selectmen, and execute a covenant with the Town. If you have any questions with the application, the process, or what to expect, please call the Allenstown Town Administrator at 485-8669.

Thank you for your interest in the Community Revitalization Tax Relief Incentive, and good luck with your application and restoration project.

RSA 79-E APPLICATION FORM

TOWN OF ALLENSTOWN

COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE (RSA 79-E) APPLICATION FORM

OFFICE USE ONLY

(do not write in shaded area)

Date Application Submitted: _____ Application & Fee (\$50) Received by: _____

Building Information

Building Name (if any): _____

Building Address: _____

Allenstown Tax Map: _____ Lot: _____ Zoning District: _____ HCRD Book: _____ Page: _____

Contact throughout this application process will be made through the applicant listed below.

The property owner may designate an agent as the coordinator for the project. This person (the applicant) shall attend public hearings, will receive comments, recommendations, staff reports, and will communicate all case information to other parties as required.

The Property Owner may act as the Applicant. If so, list under Applicant's Name, "Owner", and complete owner's information as requested.

Applicant's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Owner's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Existing Building Information

Existing Uses (describe current use, size, and number of employees): _____

Gross Square Footage of Building: _____ Year Building was Built: _____

Is the building listed on or eligible for listing on the National Register of Historic Places? ☐ Yes ☐ No

Is the building listed on or eligible for listing on the state register of historic places? ☐ Yes ☐ No

Is the building located within and important to a locally designated historic district? ☐ Yes ☐ No

Project Description

Proposed Uses (describe use, size, and number of employees): _____

Is this a change of use associated with this project? ☐ Yes ☐ No

Will the project include new residential units? ☐ Yes ☐ No

If yes, please describe: _____

Will the project include affordable residential units? ☐ Yes ☐ No

If yes, please describe: _____

Has an abatement application been filed or has an abatement been awarded on this property within the past year? ☐ Yes ☐ No

Will any state or federal grants be used with this project? ☐ Yes ☐ No

If yes, describe and detail any terms of repayment: _____

Replacement of Qualifying Structure

Does the project involve the replacement of a qualifying structure? ☐ Yes ☐ No

If yes, the owner shall submit with this application the following:

1. A New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian.
2. A letter from the Allenstown Historic District 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.

Note: 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, if required.

Public Benefit (RSA 79:E-7)

In order to qualify for tax relief under this program, the proposed substantial rehabilitation must provide at least one of the public benefits listed below. Any proposed replacement must provide one or more of the public benefits listed below to a greater degree than would a substantial rehabilitation of the same qualifying structure.

Does the project provide the following public benefits?
(Check all that apply)

- Enhances the economic vitality of the designated area. ☐ Yes ☐ No

If yes, please describe: _____

- Enhances and improves a culturally or historically important structure. ☐ Yes ☐ No

If yes, please describe: _____

- Promotes development of the designated area, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B. ☐ Yes ☐ No

If yes, please describe: _____

- It increases residential housing in urban or town centers. ☐ Yes ☐ No

If yes, please describe: _____

Other issues and matters applicant deems relevant to this request: _____

Substantial Rehabilitation

Describe the work to be done and estimated costs.

1. Attach additional sheets if necessary and any written construction estimates.
2. Attach any project narratives, plot plans, building plans, sketches, renderings, or photographs that will help explain this application.

Structural: _____

\$

Electrical: _____

\$

Plumbing/Heating: _____

\$

Mechanical: _____

\$

Other: _____

\$

Total Estimated Project Cost:

\$0.00

Expected project start date: _____

Expected project completion date: _____

Applicant/Owner Signature

To qualify 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.

I/we certify the estimated costs are reasonable and the costs of the project meet the above requirement.

Initial here: _____

I/We understand that failure to meet this threshold or the listing unreasonable construction costs will result in the denial of the application and forfeiture of the application fee.

Initial here: _____

I/we have read and understand the Community Revitalization Tax Relief Incentive, RSA 79-E, and am/are aware that this will be a public process including public hearing to be held to discuss the merits of this application and the subsequent need to enter into a covenant with the Town and pay all reasonable expenses associated with the drafting/recording of the covenant.

Initial here: _____

The undersigned hereby certifies the foregoing information is true and correct:

Signature	(printed name)	Date
Signature	(printed name)	Date
Signature	(printed name)	Date
Signature	(printed name)	Date

NOTES: Property must be located in downtown Allenstown (see map in this packet); ALSO, please attach any plans, sketches, renderings or photographs that would help explain the application.

TOWN OF ALLENTOWN

COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE (RSA 79-E)

BOARD OF SELECTMEN

REVIEW/DECISION

Does the project provide at least one of the following public benefits?
(Check all that apply)

- Enhances the economic vitality of the designated area. ☐ Yes ☐ No
- Enhances and improves a culturally or historically important structure. ☐ Yes ☐ No
- Promotes development of the designated area, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B. ☐ Yes ☐ No
- It increases residential housing in urban or town centers. ☐ Yes ☐ No

THE APPLICATION IS:	<input type="checkbox"/> Granted <input type="checkbox"/> Denied
Substantial Rehabilitation Tax Relief Incentive granted for: (up to 5 years beginning with completion of rehabilitation)	_____ years
Tax Relief Incentive for New Residential Units granted for: (up to an additional 2 years, 4 years if affordable housing)	_____ years
Tax Relief Incentive for Rehabilitation of Historic Places in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation granted for: (up to an addition 4 years)	_____ years
Total Relief Period	0 years

The above decision was made by majority vote of the Allentown Board of Selectmen on _____ after a public hearing held on _____.

Chair, Allentown Board of Selectmen

Date

Copies to: Applicant/Owner
 Assessing Department
 Tax Collector
 Administration

TOWN OF ALLENSTOWN

COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE (RSA 79-E)

TOWN HALL – APPLICATION REVIEW

Applicant: _____ Address: _____ Tax Map: _____ Lot: _____

_____ Date application filed

_____ Date fee (\$50) received

_____ Date of public hearing
(within 60 days of application receipt)

_____ Notice for public hearing
(at least seven days before hearing)

_____ Date Board of Selectmen to issue decision (within 45 days of hearing)

DEPARTMENT REVIEW

(Initial & Date)

Building Department:
(review of total
estimated project cost &
comments)

Comment(s):

Initial Date

Planning/Zoning:
(ZBA & PB approvals,
site plan conditions, &
comments)

Comment(s):

Initial Date

DEPARTMENT REVIEW (Initial & Date)	
Town Administrator: <div> <div>Initial</div> <div>Date</div> </div>	Comment(s):

ASSESSING DEPARTMENT	
Pre-Rehabilitation Assesses Valuation of Building	\$
Estimated Cost of Rehabilitation (application page 2)	\$
Percentage – Cost of project to valuation	
Is the structure located in one of the designated areas? <input type="checkbox"/> Yes <input type="checkbox"/> No Does the cost of rehabilitation exceed 15% of the pre-rehabilitation assessed value of the structure or \$75,000, whichever is less? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Assessor: <div> <div>Initial</div> <div>Date</div> </div>	Comment(s):

**RSA 79-E COVENANT TO PROTECT PUBLIC
BENEFIT**

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 Allenstown, 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 Allenstown, County of Merrimack, State of New Hampshire, in exchange for property tax relief of any increase in assessment 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 Allenstown Center Historic District (as depicted by Map 6-3 in the Town of Allenstown 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 Allenstown. 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. Applying the provisions of RSA 79-E will not prevent an increase in assessment that would have resulted otherwise; property seeking relief under RSA 79-E will only be protected from the increase in value that improvements bring. 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. 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

II. 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 Allenstown 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.

III. 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 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 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.

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.

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 Allenstown NH

By its Board of Selectmen[or authorized officer]

TEXT OF RSA 79-E

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. 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.

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. 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.

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. 2010, 329:1, 2, eff. July 20, 2010.

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, eff. April 1, 2006. 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, 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.

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, eff. April 1, 2006. 2009, 200:12, eff. July 15, 2009. 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;

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: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 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.

III. 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.

Source. 2006, 167:1, eff. April 1, 2006. 2010, 329:6, eff. July 20, 2010.

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.