RSA 79-E: Community Revitalization Tax Relief Incentive

2009 Statute Revision: Allows for *replacement* of structures, in addition to rehabilitation; local legislative body must re-adopt the law if it wants to use this new power.
2010 Statute Revision: Allows for stricter local standards to identify "qualifying structures" and for higher local thresholds for costs of rehabilitation.
2011 Statute Revision: Allows for replacement of buildings destroyed by fire within 15 years prior to local adoption.
2013 Statute Revision: Allows statute to apply to structures listed on or eligible for the National or State Registers.

Step One: Local Authorization

Board of Selectmen places question on Special or Annual town meeting warrant; may also be placed on warrant by petition (RSA 39:3)

Town Meeting votes on question to allow RSA 79-E tax relief incentives

City or Town Council acts upon proposal to allow RSA 79-E tax relief incentives following procedures required by local charter; ***or*** the question may be placed on a municipal election ballot for voter approval

Governing Body (Selectmen or Council) authorized to grant tax relief incentives

Step Two: Application Process

Owner of ***qualifying structure*** intends to ***substantially rehabilitate*** or ***replace*** it

Owner applies to **Governing Body** for tax relief incentive

Governing Body holds a ***public hearing*** within 60 days of application receipt

3 Questions

1. Is it a qualifying structure? Located in a district designated by zoning or master plan as a downtown; ***or*** if there is no designation, in an area determined by the local governing body to be a downtown, based on compact development patterns; municipality may establish *stricter* thresholds

2. If for rehabilitation, is it substantial? (Rehab cost ≥ $75,000 ***or*** 15% of structure's assessed valuation, whichever is less; municipality may set *higher* thresholds); **if for replacement,** does the existing structure have no significant historical, cultural, or architectural value (DHR format), ***and*** does the public benefit of replacement exceed that of rehabilitation?

3. Is there a public benefit?
- Downtown economic vitality;
- Improves a culturally or historically important structure;
- Promotes downtown development; ***or***
- Increases downtown housing

Governing Body decides within 45 days of the hearing. To grant the tax relief, it must find the following: (1) there is a specifically identified public benefit that (2) will be preserved by a covenant; and (3) the proposed use is consistent with the local master plan or development regulations; and (4) if for ***replacement***, that the public benefit of replacement exceeds that of rehabilitation

Approval: no tax increases attributable to rehabilitation of the structure for up to 5 years and, at the governing body's discretion, an additional 2 years if new housing units are created (4 years for affordable housing), and an additional 4 years if structure is historically important.

Denial: must be accompanied by written explanation; denial may be appealed to superior court or board of tax and land appeals; denial may be based on conflict with a tax increment finance district

Covenant is recorded; may last 2X the term of tax relief; may include a **lien** against casualty insurance proceeds

Covenant and lien are released at end of term

Termination: the tax relief provided by a municipality may be terminated if the property owner fails to maintain or utilize the property according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction. The Governing Body holds a public hearing to determine the extent of the diminution of the public benefit; the tax relief may be reduced or terminated; if it is terminated, the property owner is liable for back taxes.