

## CHAPTER 197 DRAFT

### COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE

#### **Purpose:**

The Community Revitalization Tax Relief Incentive program permitted by RSA 79-E, allows a tax relief period intended to incentivize the development of Affordable Housing within Qualifying Structures provided said projects create certain public benefits. The Town of Conway hereby adopts RSA 79-E in the manner specified under RSA 79-E:3. In addition, the Town has modified the incentive program to best suit the needs of Conway.

#### **Declaration of Public Benefit:**

It is declared to be a public benefit to create long-term affordable housing through the development of underutilized structures and parcels within the Town of Conway. A protective covenant to maintain long-term and affordable residential units, as required under this ordinance, is considered to provide a demonstrated public benefit.

#### **Definitions:**

Affordable Housing. A long-term, non-transient housing unit or units constructed or rehabilitated and 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 designated for households with incomes as provided in RSA 204-C:57, IV.

Covenant. A formal and legally binding agreement such as a deed restriction or other acceptable agreement recorded at the Carroll County Registry of Deeds.

Qualifying Structure. A residential or mixed-use structure, or portion thereof, which consist of at least one Affordable Housing unit within a Housing Opportunity Zone. A minimum of one-third (1/3) of the total housing units in a structure shall be restricted as Affordable Housing.

Housing Opportunity Zone. An overlay district, as depicted on the Official RSA 79:E Map of the Town of Conway, which includes all zoning districts with the exception of land within the Floodplain Conservation Overlay District or non-buildable areas as outlined in applicable zoning regulations.

Replacement. The demolition or removal of a Qualifying Structure and the construction of a new structure on the same lot.

Substantial Rehabilitation. Rehabilitation of a structure which costs at least 10 percent of the pre-rehabilitation assessed valuation or at least \$35,000; whichever is less.

Tax Relief. A period of time, as determined by the Selectmen in accordance with this ordinance, which the property tax on a Qualifying Structure shall not increase pursuant to Chapter 197.

#### **Community Revitalization Tax Relief Incentive:**

- A. An owner of a proposed Qualifying Structure who intends to substantially rehabilitate, replace such structure, or create new Affordable Housing units may apply to the Selectmen for Community Revitalization Tax Relief. The applicant shall file a complete application, including,

a description of the intended rehabilitation, replacement, or construction; any changes in use of the property resulting from the rehabilitation or replacement, and associated application fee.

- B. 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 Selectmen approves the application for tax relief.
- C. The tax relief granted under this chapter shall only apply to substantial rehabilitation, replacement, or construction that commences after the Selectmen approves the application for tax relief and the owner grants to the Town the covenant to protect the public benefit as required in this chapter.

**Duration of Tax Relief Period:**

- A. The Selectmen may grant such tax assessment relief for a period of up to ten (10) years, beginning with the completion of the construction.
  - a. For the approval of a replacement of a Qualifying Structure, the Selectmen may grant such tax assessment relief for a period of up to ten (10) years, beginning only upon the completion of construction. For the purposes of this section, the issuance of a Certificate of Occupancy shall constitute completion of construction. 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 Selectmen for the replacement structure and the time the owner completes construction of the replacement structure and grants to the Town the covenant to protect the public benefit as required by this chapter. The Selectmen have no obligation to 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 NH RSA 75:1-a, Residential Property Subject to Housing Covenant Under the Low-Income Housing Tax Credit Program.
- B. The Selectmen may, at 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.
  - a. In order to assist the Town with the review and evaluation of an application for replacement or rehabilitation of a Qualifying Structure, an owner shall provide a completed review by the New Hampshire Division of Historical Resources.
- C. Upon receipt of an application, the Planning Department will review the proposal for any compliance or zoning issues.

- D. The Selectmen will hold a duly noticed public hearing to take place no later than 60 days from receipt of an application, to determine whether the structure at issue is a Qualifying Structure and whether there is a public benefit to granting the requested tax relief.
- E. Upon the determination of a Qualify Structure by the Selectmen, the property owner must consent to an inspection of the property by the Assessing Department to establish a property value prior to any proposed construction.
- F. No later than 45 days after the public hearing, the Selectmen shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.
- G. The Town may grant the tax relief, provided:
  - a. The Selectmen grant the request by a majority vote; and
  - b. The Selectmen finds a public benefit as defined in this chapter; and
  - c. The specific public benefit is preserved through a protective covenant; and
  - d. The Selectmen finds that the proposed use is consistent with the municipality's Master Plan and regulations; and
  - e. In the case of a replacement, the Selectmen specifically finds that the replaced Qualifying Structure does not possess significant historical, cultural, or architectural value, the replacement of a Qualifying Structure will achieve one or more of the public benefits identified in Chapter 197 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.
- H. If the Selectmen grants the tax relief, they shall identify the specific public benefit achieved under Chapter 197, and shall determine the precise terms and duration of the covenant to preserve the public benefit under this ordinance.
- I. The Selectmen shall have no obligation to grant an application for tax relief for properties when its determined, in the Boards sole discretion, that the granting of tax relief will impede, reduce, or negatively affect the community.

**Extent of Tax Relief:**

- D. Tax relief granted under this ordinance shall pertain only to assessment increases attributable to the substantial rehabilitation or construction of a Qualifying Structure performed under the conditions approved by the Selectmen and not to those increases attributable to other factors including but not limited to market forces.
- E. No commercial portion of a Qualifying Structure shall be eligible for tax relief.

**Covenant to Protect Public Benefit:**

- A. 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.
- B. The covenant shall be coextensive with the tax relief period. The covenant may, if required by the Town, be effective for a period of time up to twice the duration of the tax relief period.
- C. The covenant shall include provisions requiring the property owner to obtain and maintain a certificate of occupancy for the duration of the tax relief period.
- D. The covenant shall include provisions requiring the property owner to obtain casualty insurance, and flood insurance if appropriate. The covenant may include, at the Selectmen'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 the ordinance.
- E. The covenant shall restrict all residential units within a qualifying structure for long-term use with a minimum tenancy of six (6) months.
- F. The covenant must require the leasee of any unit restricted for affordability not be the property owner, including the member or owner of any company (LLC, S-corp, C-corp, partnership of any kind or the beneficiary of any trust) with an ownership interest in the property.
- G. To protect public benefits, the Town must record the covenant with the registry of deeds. It shall be a burden upon the property owner and must bind all transferees and assignees of such property.
- H. The applicant shall provide to the Town a draft covenant, prepared by legal counsel, prior to recording. The applicant shall be responsible for the cost of recording the covenant.

**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.

**Termination of Covenant; Reduction of Tax Relief; Penalty:**

- A. 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 this chapter, the Selectmen 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 Town shall assess all taxes to the owner as though no tax relief was granted.

- B. At any time during the tax relief period, the Town may demand current lease agreements or other applicable documents to verify the Public Benefit is maintained.
- C. 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 and be subject to penalties defined in RSA 79-E:9.