



City of Keene, N.H.  
*Transmittal Form*

December 13, 2017

**TO:** Mayor and Keene City Council  
**FROM:** Planning, Licenses and Development Committee  
**ITEM:** J.2.

**SUBJECT:** Relative to Adopting the Provisions of RSA 79-E “Community Revitalization Tax Relief Incentive”

---

**COUNCIL ACTION:**

In City Council December 21, 2017.  
Voted unanimously to adopt Resolution R-2017-41.

**RECOMMENDATION:**

On a vote of 4-0 the Planning, Licenses, and Development Committee recommends the adoption of Resolution R-2017-41.

**ATTACHMENTS:**

**Description**

Resolution R-2017-41  
R-2017-41 Map

**BACKGROUND:**

Rhett Lamb, ACM/Planning Director commented he and Tara Kessler are here to provide a summary of the drafted Resolution after the discussions at the last meeting. Mr. Lamb noted Dan Langille, of the Assessor’s Office was also present to answer questions. Ms. Kessler distributed copies of the map for the proposed district, dated December 2017, along with the four questions discussed at the previous meeting.

Ms. Kessler suggested beginning discussion with the map provided. She said the map is essentially an outline of the two recently adopted districts; Neighborhood Business District and the Business, Growth, and Reuse District with the exception of parcels in the Downtown TIF District. This is the area staff recommends the City start the 79-E District she said; adding it is possible to expand this area in the future.

Ms. Kessler moved onto and discussed the four definitions.

- A. Qualifying Structures
- B. Eligible Projects
- C. Public Benefit
- D. Tax Relief Period

Mr. Lamb pointed out some of the elements discussed by Ms. Kessler are the result of discussion at the previous meeting. Mr. Lamb reiterated City Council would have the authority under the application process to

approve a project and to determine the period of tax relief associated with it. Chair Richards said this seems like what we wanted and asked for questions from the Committee.

Referring to “Qualifying Structures” Councilor Jones said you mentioned qualifying as a non-residential building; so are we eliminating residential buildings. Mr. Lamb agreed the RSA does allow for residential buildings. Mr. Lamb also reiterated staff’s recommendation to set our priority on business development in this area. He said we have isolated this to zoning districts that are asking for and encouraging a business development concept. Councilor Jones continued there are non-conforming residential properties within those districts and asked if it would be better to include them now. Mr. Lamb reiterated earlier comments regarding business development.

Referring to the previous meeting, Councilor Sapeta noted his suggestion was to expand the district down south into the eastern Keene neighborhood. He continued even if it does not happen for the next five years it is there and available to the properties there. Councilor Sapeta suggested adding another bullet under A. Qualifying Structures that says “residential structures that are converted into 51% non-residential structures would qualify.” Councilor Sapeta added because it touches on Historic Structures which some of the properties in this expanded area would or could apply to.

Chair Richards clarified Councilor Sapeta is saying we would have to change or extend the map and change the language in A. Qualifying Structures. Mr. Lamb said he heard Councilor Sapeta speak to two areas of potential expansion; 1) to the south in the exclusively residential area which would overlap with our recently adopted Residential Preservation District. Mr. Lamb also heard 2) moving it easterly or closer to the Main Street in the area along Marlboro Street, which would extend into primarily Commercial zoning (intersection of Marlboro and Grove Streets). Mr. Lamb does not feel this can be done under the definition of 79-E with the need to be associated with a Downtown zoning district. Councilor Hansel said he agrees with staff’s recommendation to not include residential in this program. He sees this as an economic development tool and they could get in a sticky situation if we give tax relief to homeowners. Councilor Hansel does recommend taking a targeted approach to the proposed district.

Chair Richards agreed this was discussed at the previous meeting and then backed off of with the decision to focus on bringing in the economic development. He asked if there was anything that would stop us from expanding this district in the future. Mr. Lamb reiterated his comments to this question from the previous meeting noting the CBD overlays with the TIF District, which conflicts with 79-E. Mayor Lane commented he agrees with Councilor Jones’ concern for multi-family residential rehabilitation adding it is a mistake to not include this category as part of the program. Mayor Lane commented on the need to attract reinvestment into that neighborhood.

Carl Jacobs, Ward 2 Councilor clarified there is a different map of the economic revitalization zone; Mr. Lamb confirmed. Councilor Jacobs referred to properties on Dunbar Street and asked why they are not on the map provided this evening. Ms. Kessler explained the economic revitalization zone (ERZ) program was recently adopted along the Marlboro Street corridor which encompassed the Business Growth Reuse and the Neighborhood Business Districts as well as well as two properties along Dunbar Street. This is an incentive program to reinvest in underutilized buildings or vacant industrial properties, it is administered at the state level, and is a tax credit program; not a tax relief program. The Dunbar Street properties exist in the TIF District as well as the Central Business District. Ms. Kessler explained the differences between the TIF District and 79-E. She added it would not be beneficial to the City to locate 79-E within the TIF District. Mr. Lamb reiterated the ERZ is a state run program for business taxes associated with the state and not associated with any local tax program; 79-E deals with property tax on a local level and the ERZ program is exclusively a business tax program through the state. Councilor Jacobs asked if the two districts could overlap. Mr. Lamb replied in the affirmative adding it just would not make sense. He reiterated how both programs work and the effects one would have on the other. Councilor Sapeta said he has the same dilemma; to him it is important to see an underdeveloped property developed. He suggested we could put the two districts together and let the

developer chose which one to utilize. Chair Richards commented it is not about a developer choosing which one to use; we use the increment in the TIF District to fund other things. Mr. Lamb agreed and adding all the incremental value collected on those properties is used to fund public projects in the TIF District. If you give that increment away under 79-E then that incremental value is not available to pay off the TIF bond. But only for five years Councilor Sapeta added. Mr. Lamb agreed adding he understands where Councilor Sapeta is going. He also suggested giving away the increment in the TIF is a slippery slope; investments in the TIF have been very successful. Mr. Lamb cited the development of Railroad Square as an example as well as the Library project.

Noting he hears what the Mayor and other Councilors have said about expanding the zone, Chair Richards asked what it would take to do that (changing the language, moving the lines, and the costs). Mr. Lamb started with the area noting the only area in that neighborhood eligible for 79-E would be the newly established Residential Preservation District. Referring to a previous map he noted it would also include some areas along Grove Street (shown in pink). The intent of this district is to transition from multi-family to single-family. Mr. Lamb continued Councilor Hansel hit the nail on the head with respect to concerns staff has in relation to residential incentives recognizing there are other areas in the city which need the same the same type of incentive as this neighborhood. It might be hard to justify doing it here and not somewhere else. Mr. Lamb suggested potentially 79-E is not the right mechanism to do that in other areas farther from downtown. Councilor Hansel said he does not remember one project utilizing 79-E throughout the state that was a residential structure.

Chair Richards asked for further questions or comments.

Councilor Jones asked if this would work on the Gilbo Avenue Overlay. Mr. Lamb said that is a good question and noted we did not look at that area because of the TIF Overlay and our concentration on Marlboro Street.

Referring to B. Eligible Projects Councilor Hansel asked if the replacement projects had to be included. Ms. Kessler indicated she would research the question further after the meeting. She also noted her understanding that the statute defines the requirement for a replacement; the owner would have to demonstrate the replacement would provide public benefit to a greater degree than rehabilitation. There are also other requirements the owner would have to meet.

Referring to the Resolution, Councilor Jones asked where the border was defined. Ms. Kessler said the Resolution refers to the map (distributed earlier) which outlines the boundaries of the 79-E District. The map will be attached to the Resolution when it goes to Council.

Councilor Sapeta said he is not convinced we should not include more properties in this round. He does not know what mechanism to use to look into more properties being added from that neighborhood. He suggested more time or going to Council with a modification.

Chair Richards shared his thoughts. He said basically we are creating these districts at will so we can come back later and create another one in that neighborhood. Mr. Lamb agreed the district could be amended. Noting others feel this should be included Chair Richards said he recognized staff was not asked to look at this information. He recommends moving forward on this and asking staff to look at the impacts of expanding the zone, and what benefits we would see from the expansion. Councilor Hansel agreed we should get this done and going. Councilor Sapeta agreed it should move forward with specific language added to bring it back. Mr. Lamb suggested this language be added to the recommendation regarding the resolution.

Ms. Kessler noted the end of the resolution points out it becomes effective 60 days after adoption, which was requested by staff to allow time to develop the application forms and process.

Chair Richards asked Councilor Jones if he had the specific language for adding in the Gilbo Avenue and the Neighborhood Revitalization Zone. Mr. Lamb suggested the motion would be to recommend City Council

adopt Resolution R-2017-41 and direct staff through the City Manager to research the application of 79-E in the other locations.

Rather than complicating the Resolution, Attorney Mullins suggested the background notes are clear regarding what you would like staff to do. It was Committee consensus to make only one motion with the understanding direction is given to staff through the background notes.

There being no further questions or comments Chair Richards asked for a motion.

Councilor Jones made the following motion which was seconded by Councilor Hansel.

On a vote of 4-0 the Planning, Licenses, and Development Committee recommends the adoption of Resolution R-2017-41.



# CITY OF KEENE

R-2017-41

Seventeen

In the Year of Our Lord Two Thousand and .....

RELATING TO ADOPTING THE PROVISIONS OF RSA 79-E

A RESOLUTION ..... "COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE"

*Resolved by the City Council of the City of Keene, as follows:*

WHEREAS, RSA 79-E "Community Revitalization Tax Relief Incentive" (hereinafter "RSA 79-E) declares it a public benefit to enhance downtown 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; and

WHEREAS, RSA 79-E further declares it a public benefit to encourage the rehabilitation of 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.; and

WHEREAS, RSA 79-E also declares it a public benefit to provide short-term property assessment tax relief and a related covenant to protect public benefit in order to encourage substantial rehabilitation and use of qualifying structures, or in certain cases, the replacement of qualifying structures, as described herein; and

WHEREAS, RSA 79-E:3 permits municipalities to adopt modifications of the provisions of RSA 79-E, as set forth within the Statute.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Keene that the Council hereby adopts and implements the provisions of RSA 79-E, with certain modifications, as follows:

A. For purposes of administering a RSA 79-E program within Keene, the City hereby defines that a "qualifying structure" shall mean a non-residential building or mixed use building with residential uses occupying less than 50% of the gross living area that is located within the area depicted on the map labeled "City of Keene Community Revitalization Tax Relief Incentive (RSA 79-E) District" dated December 2017 attached hereto and made part of this Resolution.

B. For purposes of administering a RSA 79-E program within Keene, the City Council shall ensure that the proposed substantial rehabilitation provides one or more of the following public benefits, or that the proposed replacement provides one or more of the public benefits to a greater degree than would substantial rehabilitation of the same qualifying structure

- I. It enhances the economic vitality of downtown areas;
- 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 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;
- IV. It promotes efficient design, safety, and a greater sense of community in a manner consistent with the Keene Comprehensive Master Plan;
- V. It will add to the City's employment base by creating at least one new, full-time job in Keene's downtown area;
- VI. It directly supports the integration of public art in the downtown; or
- VII. It promotes development of a sustainable building stock in the downtown that achieves a nationally or internationally recognized green building standard (e.g. LEED, Green Globes, National Green Building Standard, and International Green Construction Code).

C. "Substantial Rehabilitation" shall mean rehabilitation of a qualifying structure which costs at least \$75,000 and, in certain cases, replacement of a qualifying structure which costs at least \$75,000;

D. "Tax Relief Period" shall mean that for a period of up to five (5) years the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation or reconstruction thereof, beginning only upon completion of substantial rehabilitation or, in the case of a replacement structure, upon completion of its construction;

E. In accordance with RSA 79-E:5, the duration of the tax relief period for applications filed in Keene shall be considered in the context of each specific application and shall only provide that level of tax relief necessary in the discretion of the City Council to effectuate the specific targeted public benefit(s) outlined as determined by the City Council. By way of example, a qualifying project that is deemed by the City Council to provide one or two of the public benefits listed above may be granted a tax relief period of up to two years, and a qualifying project that provides three or more public benefits may be granted a tax relief period of up to five years;

BE IT FURTHER RESOLVED that a property owner, as a condition of being granted such tax relief, shall

A. Document the proposed public benefit(s) at the time of the application for tax relief under the Keene RSA 79-E program; and

B. Provide the City promptly with all information and documentation that the City may deem relevant for review of the application for such tax relief, as well as for review of the rehabilitation or replacement project under federal, state, and local laws, codes and regulations, as may be applicable; and

C. Grant to the City a Covenant ensuring that the structure shall be maintained and used in a manner that furthers the public benefit(s) for which the property tax relief was granted and shall require the property owner to obtain casualty insurance, and flood insurance, if appropriate, for twice the term of the tax relief granted; and

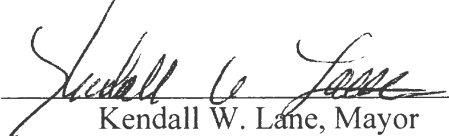
D. Grant to the City a lien against the property for the purpose of ensuring proper restoration or demolition of damaged structures and property; and

E. Maintain the property as taxable, regardless of whether the property owner is otherwise subject to property taxes under RSA Chapter 72; and

BE IT FURTHER RESOLVED that if the Covenant is terminated for any reason, the City shall assess all current and arrears taxes, with interest, to the property owner as though no tax relief was granted in accordance with RSA 79-E:9,II; and

BE IT FURTHER RESOLVED that the City Manager or her or his designee, is hereby authorized to execute all documents and undertake all actions as may be required to implement this resolution.

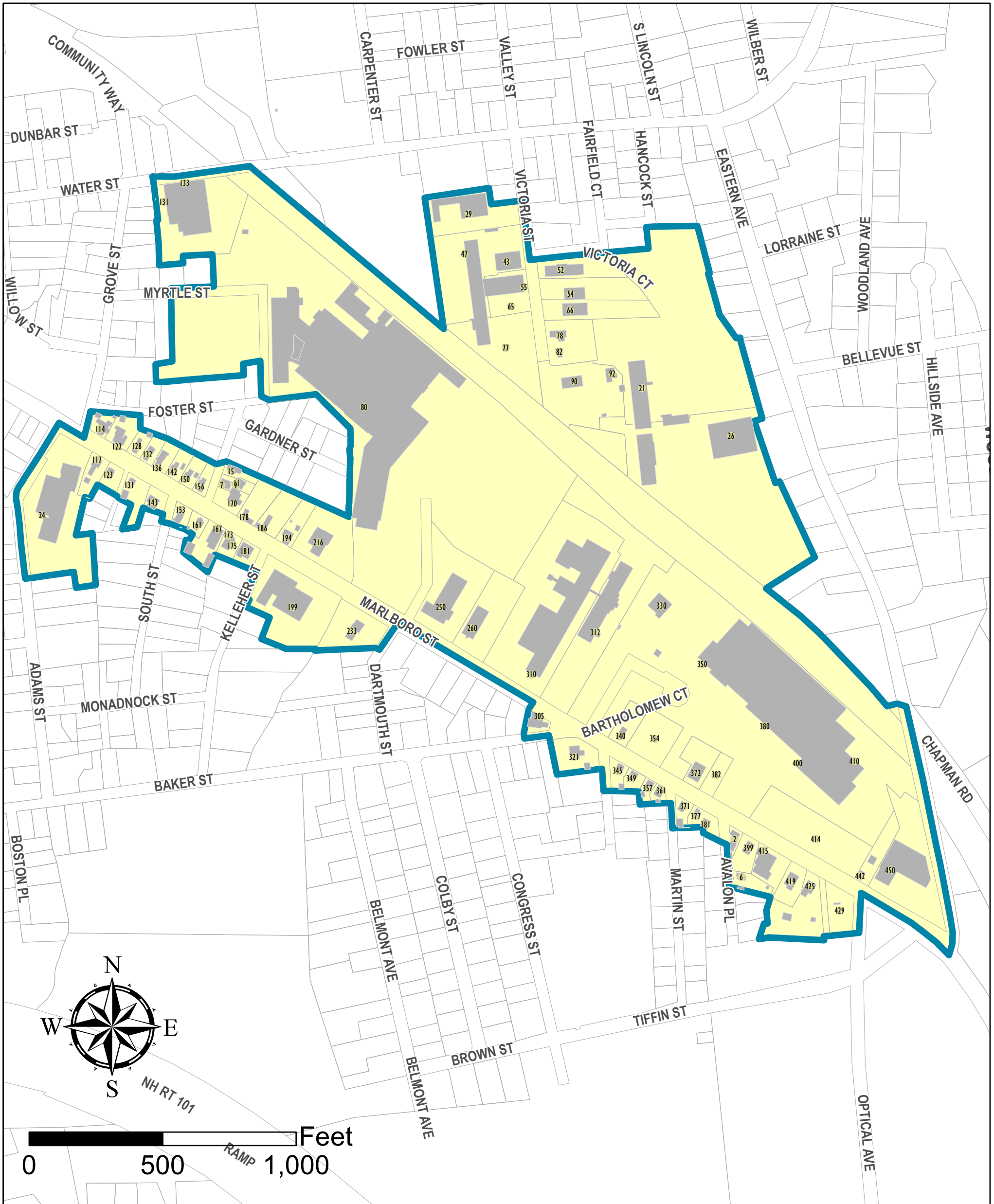
This resolution shall take effect upon sixty (60) days following approval by City Council.

  
Kendall W. Lane, Mayor





A true copy;  
Attest:

  
Patricia Castle  
City Clerk

# CITY OF KEENE COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE (RSA 79-E) DISTRICT



## Legend

-  79-E District Boundary
-  Building Footprint
-  Parcel Boundary
-  ## Address Number



December 2017