

TITLE XII

PUBLIC SAFETY AND WELFARE

CHAPTER 162-K

MUNICIPAL ECONOMIC DEVELOPMENT AND REVITALIZATION DISTRICTS

Section 162-K:1

162-K:1 Local Option. –

Any city or town may adopt this chapter and shall thereafter have all the authority, powers, duties and responsibilities set forth in this chapter.

I. A city may adopt this chapter by majority vote of the legislative body of the city after notice and hearing as set forth in RSA 162-K:4.

II. A town may adopt this chapter by majority vote of the voters present and voting at any legal town meeting under a proper article and after notice and hearing as set forth in RSA 162-K:4.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:2

162-K:2 Definitions. – In this chapter:

I. "'Budget submission date" has the meaning set forth under RSA 273-A:1, III.

II. "'Development district" means a specific area within the corporate limits of any municipality which has been so designated and separately numbered by the legislative body of said municipality acting under this chapter.

III. "'Development program" means a statement of objectives of the municipality for improvement of a development district established under RSA 162-K:6.

IV. "'District administrator" means the head of the department, office agency, municipal housing and redevelopment authority or corporation designated under RSA 162-K:13.

V. "'Governing body" means the board of aldermen or city council in the case of a city and the board of selectmen in the case of a town.

VI. "'Legislative body" means the board of aldermen or city council in the case of a city and the town meeting in the case of a town.

VII. "'Maintenance and operation" means all activities necessary to maintain facilities after they have been developed and all activities necessary to operate the facilities including but not limited to informational and educational programs, and safety and surveillance activities.

VIII. "'Municipality" means a city or town.

IX. "'Parking structure" means any building the principal use of which is designed for and intended for parking of motor vehicles, and includes open air parking on parking lots.

[Paragraph IX-a effective January 1, 2007.]

IX-a. "Public use" means:

- (a) (1) The possession, occupation, and enjoyment of real property by the general public or governmental entities;
- (2) The acquisition of any interest in real property necessary to the function of a public or private utility or common carrier either through deed of sale or lease;
- (3) The acquisition of real property to remove structures beyond repair, public nuisances, structures unfit for human habitation or use, and abandoned property when such structures or property constitute a menace to health and safety; and
- (4) Private use that occupies an incidental area within a public use; provided, that no real property shall be condemned solely for the purpose of facilitating such incidental private use.

(b) Except as provided in subparagraphs (a)(2) and (4) of this paragraph, public use shall not include the public benefits resulting from private economic development and private commercial enterprise, including increased tax revenues and increased employment opportunities.

X. "Substantially residential development district" means any development district in which 40 percent or more of the land area, exclusive of streets and open space, is used for residential purposes at the time the district is designated.

XI. "Tax increment" means the amount of taxes raised in a development district due to increases in assessed value over the assessed value of the district at the time of its establishment.

Source. 1979, 175:2, eff. Aug. 5, 1979. 2006, 324:1, eff. Jan. 1, 2007.

Section 162-K:3

162-K:3 Authorization; Initial Adoption. – A municipality which adopts this chapter shall thereafter be authorized to establish one or more development districts. For each such district, the municipality shall establish a development program and a tax increment financing plan. A municipality that has not previously adopted this chapter may carry out the planning and hearing procedures for establishment of one or more development districts at the same time it is conducting the planning and hearing procedures on initial adoption of this chapter; provided that any vote on establishing a particular development district shall not be taken until after the legislative body shall have voted on the question of adopting this chapter.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:4

162-K:4 Hearing. – Prior to adopting this chapter or designating any development district, a hearing on the subject shall be conducted in the municipality. The hearing shall be conducted by the governing body. The hearing shall be held at least 15 days prior to

the date on which action on the proposal is scheduled to take place. Notice of the hearing, including a description of any proposed district, shall be posted in 2 appropriate places in the municipality or published in a newspaper of general circulation in the municipality at least 7 days prior to the hearing.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:5

162-K:5 Establishment of Districts; Limitations. – Upon a finding that such action will serve public purposes, the legislative body of the municipality may create, within its jurisdiction, development districts. The area of a district may be enlarged following the date of designation of the district. Municipalities establishing development districts shall comply with one of the following limitations:

I. The total acreage included in any one development district when designated shall not exceed 5 percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed 10 percent of the total acreage of the municipality.

II. The total assessed value of taxable real property of any one development district when designated shall not exceed 8 percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed 16 percent of the most recent total assessed value of taxable real property in the municipality.

Source. 1979, 175:2. 1985, 135:1. 1991, 362:10. 1998, 9:1, eff. May 29, 1998. 2004, 181:1, eff. July 31, 2004.

Section 162-K:6

162-K:6 District Establishment and Development Programs. – A municipality which has adopted this chapter and which intends to establish a development district shall, in addition to establishing the district, establish a development program under this section and a tax increment financing plan under RSA 162-K:9 and 10.

I. The development program shall contain a complete statement as to the public facilities to be constructed within the district, the open space to be created, the environmental controls to be applied, the proposed reuse of private property, and the proposed operations of the district after the capital improvements within the district have been completed.

II. The development program shall also provide for carrying out relocation of persons, families, business concerns, and others displaced by the project, pursuant to a relocation plan, including the method for the relocation of residents in decent, safe and sanitary dwelling accommodations, and reasonable moving costs, determined to be feasible by the municipality.

III. In conformity with the development program, within the district, the municipality may:

(a) Acquire, construct, reconstruct, improve, alter, extend, operate, maintain or promote developments aimed at improving the physical facilities, quality of life and quality of transportation;

[Paragraph III(b) effective until January 1, 2007; see also paragraph III(b) set out below.]

(b) Acquire land or easements through negotiation or through powers of eminent domain;

[Paragraph III(b) effective January 1, 2007; see also paragraph III(b) set out above.]

(b) Acquire real property or easements through negotiation or through powers of eminent domain, except that property acquired through powers of eminent domain shall be put to public use, as defined in RSA 162-K:2, IX-a;

(c) Adopt ordinances regulating the use of public parking structures and other facilities constructed within the development district and access to them and the conditions under which such access is allowed. Traffic regulations may include, but shall not be limited to, direction and speed of traffic, kinds of service activities that will be allowed in arcades, parking structures and plazas, and rates to be charged in the parking structures;

(d) Require construction of buildings within the district so as to accommodate and support pedestrian systems which are part of the program for the development district. When the municipality requires for the public benefit the construction of columns, beams or girders with greater strength than required for normal building purposes, the municipality shall reimburse the owner for the added expense from development district funds;

(e) Install lighting systems, street signs and street furniture, landscaping of street and public property, and snow removal systems compatible with the character of the district;

(f) Acquire property for the district;

(g) Lease air rights over public property and spend public funds for constructing the foundations and columns in the public buildings strong enough to support the buildings to be constructed on air rights;

(h) Lease all or portions of basements, ground and second floors of the public buildings constructed in the district; and

(i) Negotiate the sale or lease of property for private development if the development is consistent with the development program for the district.

Source. 1979, 175:2, eff. Aug. 5, 1979. 2006, 324:2, eff. Jan. 1, 2007.

Section 162-K:7

162-K:7 Grants. – A municipality may accept grants or other financial assistance from the government of the United States, the state of New Hampshire or any other entity

to do studies and to construct and operate the public improvements authorized by this chapter.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:8

162-K:8 Issuance of Bonds. – The municipality may authorize, issue and sell general obligation bonds, which shall mature within 30 years from the date of issue, to finance the acquisition and betterment of real and personal property needed to carry out the development program within the development district together with all relocation costs incidental thereto. Bonds issued under authority of this chapter shall be payable in annual payments which shall be so arranged that the amount of annual payment of principal and interest in any year on account of any bond shall not be less than the amount of principal and interest payable in any subsequent year by more than 5 percent of the principal of the entire bond. The total amount of such payments shall be sufficient to extinguish the entire bond on account of which they are made at maturity. The first payment of principal on any bond shall be made no later than 5 years and the last payment not later than 30 years after the date thereof. Each authorized issue of bonds shall be a separate loan. All dedicated tax increments received by the municipality pursuant to RSA 162-K:10 shall be pledged for the payment of these bonds and used to reduce or cancel the taxes otherwise required to be extended for that purpose, and the bonds shall not be included when computing the municipality's net debt under RSA 33.

Source. 1979, 175:2. 2000, 280:1, eff. August 20, 2000.

Section 162-K:9

162-K:9 Tax Increment Financing Plan. – The municipality shall adopt a tax increment financing plan for any development district established under this chapter. The plan shall allocate use of tax increments for retirement of bonds and notes, operation, maintenance and improvements in the district and for general municipal purposes.

I. A tax increment financing plan shall contain a statement of objectives of a municipality for improvement of a development district. Such plan shall be incorporated into the development program for the district. It shall contain estimates of the following: cost of the development program; sources of revenues to finance those costs including estimates of tax increments; amount of bonded indebtedness to be incurred; and the duration of the program's existence. The plan shall also contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the district is located.

II. Before approving any tax increment financing plan, a public hearing shall be held as part of the hearing on the development district under RSA 162-K:4.

III. Before formation of a development district, the municipality shall provide a reasonable opportunity to the county commissioners of any county in which any portion of the development district is located and to the members of the school board of any school district in which any portion of the development district is located to meet with the

governing body. The governing body shall fully inform the county commissioners and the school boards of the fiscal and economic implications of the proposed development district. The county commissioners and the school boards may present their recommendations at the public hearing. A municipality's tax increment financing plan may include agreements with the county commissioners and the school boards in which the district is located to share a portion of the captured tax increments of the district.

IV. A tax increment financing plan may be modified provided such modification shall be approved by the legislative body upon such notice and hearing and agreements as are required for approval of the original plan. Any modification shall maintain use of dedicated tax increments for retirement of bonds and notes as required.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:10

162-K:10 Computation of Tax Increments. –

I. Upon formation of a development district, the assessors of the municipality in which it is situated shall determine the current assessed value of the real property within the boundaries of the development district. The current assessed value so determined shall be known as the "original assessed value." Property exempt from taxation at the time of the determination shall be included at zero, unless it later becomes taxable, in which case its most recently determined assessed valuation shall be included. Each year thereafter, the assessors shall determine the amount by which the assessed value has increased or decreased from the original assessed value. The assessors shall also determine the proportion which any increase or decrease bears to the total assessed value of the real property in that district for that year.

II. Any amount by which the current assessed value of a development district exceeds the original assessed value is referred to as the captured assessed value. The assessors shall determine the amount of the captured assessed value each year.

(a) The tax increment financing plan shall designate the portion of captured assessed value which will be dedicated for retirement of bonds and notes and the portion of captured assessed value which will be dedicated to the operation and further development of the tax increment financing district.

(b) The portion of captured assessed value which is not used either for the purpose of retirement of bonds and notes or for the purpose of the operation and development of the tax increment financing district shall be deemed excess captured assessed value. Excess captured assessed value shall be returned to the tax lists.

III. (a) Each subsequent year the assessors shall determine current assessed valuation, and tax increments and shall report them to the commissioner of the department of revenue administration according to the following method:

(1) If the municipality retains the full captured assessed value for the development district the assessors shall certify to the commissioner of revenue administration, for the purposes of the report required by RSA 41:15, the current assessed value, as the basis to equalize annually the valuation of property throughout the state, and the full captured assessed value, to be deducted from the current assessed valuation for the calculation of the property tax rate. The assessors shall extend all rates as established by the

commissioner of revenue administration under the provisions of RSA 41:15 against the current assessed value, including all captured assessed value. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes paid that year on real property in the district which the captured assessed value bears to the total current assessed value. The amount so remitted each year is referred to in this section as the tax increment for that year.

(2) If the municipality retains only a portion of the captured assessed value for the development district and returns the remaining portion to the tax lists, the assessors shall include the current assessed value, to be used as a basis to equalize annually the valuation of property throughout the state, and that portion of the captured assessed value which the municipality does retain, to be deducted from the current assessed valuation for the calculation of the property tax rate. The assessors shall extend all rates against the total current assessed value. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes billed on real property in the district that the retained captured assessed value bears to the total current assessed value in the district. The amount so remitted each year is referred to as the tax increment.

(b) The general court finds that municipalities that have adopted a tax increment financing plan and issued tax increment financing plan bonds under this chapter before April 29, 1999, or which have adopted a tax increment financing plan and entered into contracts and incurred liabilities in reliance upon the tax increment plans under this chapter before April 29, 1999, have incurred obligations which must be honored. The general court recognizes also that in accordance with the intent of this chapter, such obligations were entered into in order to accomplish a public purpose and for the improvement of development in municipalities. Accordingly, the provisions of subparagraph III(a) shall not apply to tax increment financing plan districts which authorized and issued tax increment bonds under this chapter before April 29, 1999 or which adopted a tax increment financing plan under this chapter and entered into contracts and incurred financial liabilities in reliance upon such tax increment plan before April 29, 1999. This subparagraph shall only apply to tax development districts as they existed as of April 29, 1999. To the extent such tax increment financing plan is amended to increase the amount of bonded indebtedness, to increase the cost of the development program, or to extend the duration of the program's existence, this subparagraph shall not apply. The assessors shall determine assessed valuation and tax increments according to the following method:

(1) If the municipality retains the full captured assessed value for the development district, the assessors shall certify to the commissioner of revenue administration for the purposes of the report required by RSA 21-J:34, no more than the original assessed value of the real property in the development district. The assessors shall extend all rates as established by the commissioner of revenue administration under the provisions of RSA 21-J:35 against the current assessed value, including all captured assessed value. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes billed that year on real property in the district which the captured assessed value bears to the total current assessed value. That amount is referred to in this section as the tax increment

for that year.

(2) If the municipality retains only a portion of the captured assessed value for the development district and returns the excess to the tax lists, the assessors shall certify to the commissioner of revenue administration for the purposes of the report required by RSA 21-J:34 the original assessed value and that portion of the captured assessed value which is shared with all the affected taxing districts for the purposes of determining the assessed value for computing property tax rates. The commissioner of revenue administration shall compute the rates of all taxes levied by the state, county, municipality, school district and every other taxing district in which the district is located on this aforementioned assessed value. The assessors shall extend all rates against the total current assessed value, including that portion of the captured assessed value which the municipality is retaining for the development district only. In each year for which the current assessed value exceeds that original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes paid on real property in the district that the retained captured value bears to the total current assessed value in the district. That amount is referred to as the tax increment for that year.

(c) In any year in which the current assessed value of the development district is equal to or less than the original assessed value, the assessors shall compute and extend taxes against the current value. Taxes shall be distributed from the affected property to each of the taxing authorities as determined by the current levy and there is no tax increment.

IV. The municipality shall expend the tax increments received for any development program only in accordance with the tax increment financing plan. Tax increments shall be used only to pay off costs and administrative expenses incurred in developing the district.

Source. 1979, 175:2. 1999, 303:13. 2000, 222:1-3, eff. April 1, 2000.

Section 162-K:11

162-K:11 Annual Report. – The municipality's annual report shall contain a financial report for any development district in the municipality. The report shall include at least the following information: the amount and source of revenue of the district, the amount and purpose of expenditures, the amount of principal and interest on any outstanding bonded indebtedness, the original assessed value of the district, the captured assessed value retained by the district, the tax increments received and any additional information necessary to demonstrate compliance with the tax increment financing plan.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:12

162-K:12 Maintenance and Operation. – Maintenance and operation of the systems and improvements constructed under this chapter shall be under the supervision of the district administrator. The cost of maintenance and operation of the non-revenue-producing facilities together with excess of costs of operation and maintenance of

revenue-producing facilities, if any, shall be charged against the development district in which it is located. The charges against each property within the district shall be in proportion to the benefit to the properties within the district 60 days before the budget submission date. The district administrator shall submit to the governing body of the municipality the maintenance and operating budget for the following year, and the prorated share of the budget to be charged to each property in the district. The budget for the district as approved by the municipality shall contain necessary appropriations and provisions for collecting charges against affected properties in the district.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:13

162-K:13 Administration. – The municipality may create a department or designate an existing department or office or agency or municipal housing and redevelopment authority, or form a corporation under RSA 292, to administer development districts. The district administrator may, subject to such rules and limitations as may be adopted by the governing or legislative body, be granted the power to:

- I. Acquire property or easements through negotiations;
- II. Enter into operating contracts on behalf of the municipality for operation of any of the facilities authorized to be constructed under this chapter;
- III. Lease space to private individuals or corporations within the buildings constructed under this chapter;
- IV. Lease or sell land and lease or sell air rights over structures constructed under this chapter;
- V. Enter into contracts for construction of several facilities or portions thereof authorized under this chapter;
- VI. Contract with the housing and redevelopment authority of the municipality for the administration of any or all of the provisions of this chapter;
- VII. Certify to the governing body of the municipality, for acquisition through eminent domain, property that cannot be acquired by negotiation, but is required for implementation of the development program;
- VIII. Certify to the governing body of the municipality the amount of funds, if any, which must be raised through sale of bonds to finance the program for development districts;
- IX. Apply for grants from the government of the United States or other source.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:14

162-K:14 Advisory Board. –

- I. The legislative body of the municipality shall create an advisory board for each development district. The board shall consist of such number of members appointed or elected as determined by the legislative body. A majority of members shall be owners or occupants of real property within or adjacent to the development district. In a

substantially residential development district, however, the board shall consist solely of owners or occupants of real property within or adjacent to the district.

II. The advisory board shall advise the governing body and district administrator on planning, construction and implementation of the development program and on maintenance and operation of the district after the program has been completed.

III. The governing body shall by resolution delineate the respective powers and duties of the advisory board and the planning staff or agency. The resolution shall establish reasonable time limits for consultation by the advisory board on the phases of the development program, and provide a mechanism for appealing to the governing body for a final decision when conflicts arise between the advisory board and the planning staff or agency, regarding the development program in its initial and subsequent stages.

Source. 1979, 175:2, eff. Aug. 5, 1979.

Section 162-K:15

162-K:15 Relocation. – Unless they desire otherwise, provision shall be made for relocation of all persons who would be displaced by a proposed development district prior to displacement in accordance with the provisions of RSA 162-K:6. Prior to undertaking any relocation of displaced persons, the municipality shall insure that housing and other facilities of at least comparable quality be made available to the persons to be displaced.

Source. 1979, 175:2, eff. Aug. 5, 1979.