

AREA IN NEED OF REDEVELOPMENT DESIGNATION PROCESS

Authority to declare an area in need of redevelopment or an area in need of rehabilitation is created pursuant to 40A:12A-1 et seq. the "Local Redevelopment and Housing Law" (Redevelopment Law). This review will focus on the area in need of redevelopment designation process.

Under Redevelopment Law, the Governing Body has the power to:

1. Initiate an investigation to determine whether an area is need of redevelopment;
 2. Make a determination that an area is in need of redevelopment (after an investigation and recommendation from the Planning Board);
 3. Adopt a redevelopment plan; and
 4. Carry out a redevelopment plan or create a redevelopment authority to carry out redevelopment plans.
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Under Redevelopment Law, the Planning Board has the power to:

1. Conduct, when authorized by the Governing Body, an investigation to determine whether an area is need of redevelopment and conduct a public hearing and make a recommendation to the Governing Body concerning the designation; and
 2. Make recommendations concerning a redevelopment plan or prepare a redevelopment plan, if so requested by the Governing Body.
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Primary Benefits of a Establishing an Area in Need of Redevelopment:

1. The Redevelopment Plan for the area can be developed specifically for the area and even for a specific project.
2. The redevelopment authority may provide long term tax abatements on improvements to the site and may also create a Payment in Lieu of Taxes or PILOT for the area.
3. The redevelopment authority may issue Redevelopment Area Bonds to assist in financing development of the site.
4. The redevelopment authority may select a redeveloper for the site and enter into agreements and contracts with the redeveloper in support of effectuating the redevelopment.

Criteria for Determining an Area in Need of Redevelopment

At least one of the following criteria must be met in order for an area to be deemed an area in need of redevelopment (N.J.S.A. 40A:12A-5):

- a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.
- b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.
- d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.
- e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real [property] properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant [or] and [not fully productive] unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.
- f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.
- g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development

plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

- h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

Process for Designating an Area in Need of Redevelopment

The following process must be followed in order to designate an area in need of redevelopment (N.J.S.A. 40A:12A-6):

- a. The Governing Body adopts a resolution authorizing the Planning Board to undertake a preliminary investigation of a proposed area to determine if the area is in need of redevelopment. The resolution must designate whether the area being considered is proposed as a “Condemnation Redevelopment Area” or a “Non-Condemnation Redevelopment Area”. The Condemnation Redevelopment Area permits the Governing Body to use the power of eminent domain in a designated redevelopment area. The Governing Body forwards a map of the proposed study area to the Planning Board.
- b. The Planning Board “prepares” a map and appends a statement setting forth the basis for the investigation. This must be on file with the Municipal Clerk.
- c. A study of the proposed area in need of redevelopment is prepared for review by the Planning Board.
- d. The Planning Board sets a date for a public hearing on the study and provides notice and opportunity for the public and those that would be affected by the determination to provide input on the study. The hearing notice must identify the general boundaries of the area and that a map is on file with the municipal clerk. The hearing notice must also identify whether the area is being considered as a condemnation or non-condemnation area. Notice must be published for two weeks prior to the hearing in the newspaper of record. Notice must also be mailed to all property owners in the study area and anyone who has expressed interest in the designation.

- e. After completing the hearing, the Planning Board makes a recommendation to Governing Body whether the area, in whole or in part, should be designated an area in need of redevelopment.
- f. The Governing Body, after receiving recommendation from the Planning Board, may adopt a resolution determining that the delineated area, in whole or in part, is designated as an area in need of redevelopment.
- g. The Clerk must transmit a copy of the resolution to the Commissioner of the State Department of Community Affairs (NJDCA) for review and approval. NJDCA has 30 days to approve or disapprove the area. If NJDCA does not respond in 30 days, the area is approved.
- h. Notice of the determination must be provided to all property owners within the delineated area within 10 days of the determination. If the area was determined to be a condemnation area the following language must be in the notice:
 - a. the determination operates as a finding of public purpose and authorizes the municipality to exercise the power of eminent domain to acquire property in the redevelopment area, and
 - b. legal action to challenge the determination must be commenced within 45 days of receipt of notice and that failure to do so shall preclude an owner from later raising such challenge.
- i. Following the 45 day appeal period and approval or no comment from NJDCA, then the area is designated as a redevelopment area and the municipality may exercise all of the powers set forth in the Redevelopment Law.
- j. In order to carry out a redevelopment of the site, a redevelopment plan must be adopted by the Governing Body. The plan may be prepared by the Governing Body and adopted pursuant to an ordinance with a referral to the Planning Board. Alternatively, the Governing Body may ask the Planning Board to prepare the plan, after which the Governing Body may adopt the plan pursuant to an ordinance.
- k. The Redevelopment Plan, once adopted, acts as the zoning on the site.