

# **A Guide to Using Georgia's Urban Redevelopment Act**

**Prepared by the  
Georgia Department of Community Affairs**

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Disclaimer: While this publication has been reviewed by an advisory team of attorneys, legal opinions on some specific points may vary. All recommendations and legal opinions expressed herein should be discussed with a local government's or authority's legal counsel before taking any official action.

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## **History and Purpose of the Act**

The Urban Redevelopment Act (O.C.G.A. 36-61-1 et. seq.) was adopted in 1955 by the Georgia General Assembly. The 1950s were a period when many Federal resources were focused on improving living conditions and addressing poverty and blight in American cities. Most states, including Georgia, created state enabling legislation to access Federal Housing and Urban Renewal funds. Much has changed since O.C.G.A. 36-61-1 was adopted. Fewer federal funds are now available for community redevelopment, and over the last five decades many lessons have been learned about the economics of adaptive reuse and historic preservation, creating livable communities, and the positive and negative social impacts of physical design. Still, for Georgia cities and counties embarking on community revitalization projects, the Urban Redevelopment Act remains the most powerful, flexible and easy to use legislative tool governing the use of eminent domain and bond financing to support successful public/private revitalization partnerships.<sup>1</sup>

The Urban Redevelopment Act gives cities and counties in Georgia specific powers to rehabilitate, conserve or redevelop of any defined geographical area that is designated as a “slum area.” As a prerequisite to exercising these powers, the city council or county commission must adopt a resolution finding that the area constitutes a “slum area” as defined by the Act and that redevelopment of the area is “necessary in the interest of the public health, safety, morals, or welfare” of the residents of the jurisdiction. In addition to designating by resolution an “urban redevelopment area” appropriate for redevelopment projects, the Act requires adoption by the local government of an urban redevelopment plan for the target area.

The word “urban” in the title is actually misleading, since the Act is applicable to, and can be especially useful in, very small rural communities and even suburban settings. In fact, rural counties were among the first governments to use the Act for the purpose of rehabilitation of deteriorating neighborhoods or increasing their supply of affordable housing. Unfortunately, there is no actual record of how many urban redevelopment plans have been implemented using this statute, since the law does not require local governments using the Act to report to or seek approval from a state agency.<sup>2</sup>

Another factor that has reduced the use of this Act is that it is easily confused with the similarly titled Urban Redevelopment Powers Act (O.C.G.A. 36-44-1), which authorizes tax allocation districts. Although both laws have community development as their goals, the Urban Redevelopment Powers Act is more procedurally complex, more difficult to implement, and has a much narrower focus and applicability.

Because of its age, certain assumptions implicit in the Act are somewhat out of tune with the latest trends in city planning and community development. Since the era when this law was drafted, city planners and local governments have made costly mistakes and learned important lessons about development and redevelopment--and their potential unintended effects on neighborhoods and downtowns. For example, some language in the Act implies that neighborhood decline, crime, and economic problems are linked to too much population density. More recent research tends to contradict this assumption.

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<sup>1</sup> The power of local governments to do community redevelopment and create special districts is authorized in the Georgia Constitution.

And yet in spite of some dated language, the provisions of the law in no way prohibit a local government from encouraging higher density projects as part of a workable revitalization strategy.

Today, with suburban sprawl impinging on an ever-shrinking supply of undeveloped land, the pendulum of public policy and city planning theory have swung away from separation of land uses that characterized the zoning ordinances of the 1970's and 1980's. Land use patterns based primarily on accommodating automobiles are now being retrofitted successfully with denser, more pedestrian oriented and use-integrated development modeled on the layout and aesthetic components that are so livable in the historic cores of our Georgia cities. Neo-traditional development principles (often labeled "smart growth") include: traditional gridded street patterns, smaller lots, narrower streets and setbacks, pedestrian circulation systems and village style neighborhood commercial nodes. The residential densities and lot sizes drawn from Georgia's historic districts have also proved to be good patterns for building more neighborly neighborhoods. These design elements along with a synergistic mix of land uses, are proving very marketable. While suburbs still house a large percentage of America's population, there is growing evidence that many people are gravitating toward neighborhoods with more nightlife and cultural diversity as well as a less stratified socio-economic mix.<sup>3</sup>

The Urban Redevelopment Act can be used alone, or in combination with many of Georgia's other legislative redevelopment tools (see appendix) to support local comprehensive planning, revitalize faltering commercial corridors, recruit and nurture small businesses, rehabilitate older homes and neighborhoods, ensure architecturally compatible infill development, and generate new adaptive reuses for old industrial and agricultural facilities. O.C.G.A. 36-61-1 offers solid support for innovative and thoughtfully crafted development strategies needed to solve the problems of these designated target areas.

The Urban Redevelopment Act has become more relevant recently for a variety of reasons. First, some sectors of the population (especially aging baby boomers, younger singles, and couples) are becoming increasingly interested in moving from the suburbs, which require long commutes to work, back into neglected section of large cities or relocating to small, charming towns. Real estate prices are appreciating and housing demand is strong near reinvigorated town centers and "village" commercial nodes. Second, our supply of affordable housing is aging and shrinking while the population needing this housing is growing; so many governments are looking to provide moderate income residents with viable options to manufactured housing. Third, at the state policy level, legislators and state agencies are encouraging cities and counties to be more strategic and creative in combining the state's wide array of legislative, programmatic and funding tools for community revitalization. Accordingly, adopting an urban redevelopment plan pursuant to the Act has now been added as a threshold criterion for accessing some important development incentives. Communities are being encouraged to

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<sup>3</sup> Creating new housing within walking distance of downtown and neighborhood commercial nodes; adaptively reusing vacant mills, warehouses, and factories; and amending local fire and building codes to allow upstairs loft living in historic downtowns are common success stories based on re-integrating uses and exciting people places with varying levels of activity and interactivity.

focus multiple resources and tools in target areas that are economically disadvantaged or held back by impediments that discourage private sector investment.

Recent changes to Georgia's brownfield regulations and new streamlined programs created by the Department of Natural Resources (DNR) now reduce liability for innocent investors (private or governmental) seeking to redevelop brownfield sites and offset site cleanup costs with tax incentives. These constructive changes should help Georgia attract private investors to sites that were not economically viable previously, many of which are in or near downtowns and older neighborhoods. The Act is a promising tool for brownfield redevelopment because it simplifies land acquisition and allows the public sector to help finance infrastructure or related improvements.

Additionally, several programs created or administered by the Georgia Department of Community Affairs (DCA) are being modified based on refinements to state planning statutes resulting from the 2004 legislative session. Progressive communities that adopt urban redevelopment plans (especially in combination with other innovative redevelopment tools) may now be eligible for higher job tax credits and more competitive scoring on Community Development Block Grant (CDBG) applications.<sup>4</sup> These program initiatives were designed to enable both urban and very rural communities to create more effective strategies to address pockets of poverty. DCA has observed an increase in requests for information, training and technical assistance related to the Act, and this publication is intended to outline the Act and provide practical advice on developing an urban redevelopment plan.

Compared to some of Georgia's other planning and community development statutes, the Urban Redevelopment Act is straightforward, flexible and free from unnecessary red tape. The Act also does a good job of balancing the community's need to remove the barriers to its overall economic development created by slum and blight with protection of the rights of property owners, and low income residents in particular.

It should also be emphasized here that the great majority of existing urban redevelopment plans implemented under this statute to date have entailed neither major displacement of residents nor the use of eminent domain to acquire private property. Most neighborhood residents have ended up with improved living conditions with equal or even lower housing costs. Home ownership opportunities have been expanded, and the vast majority of land transactions under these plans have been between willing buyers and sellers.

### **Promising Uses for the Urban Redevelopment Act**

- Deteriorating or underutilized sections of downtowns
- Brownfields
- Old warehouse or industrial districts
- Declining commercial corridors (grayfields)
- Deteriorating neighborhoods
- Mixed-use and neo-traditional developments
- Substandard or obsolescent mobile home parks
- Neighborhoods that might be negatively affected by facilities such as airports or water treatment facilities

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<sup>4</sup> See appendix and DCA's website for more information on Opportunity Zones related CDBG program changes and information on other state regulatory tools and redevelopment incentives.

## **Advantages and Powers of the Act**

O.C.G.A. 36-61 expands the normal powers of local governments in some important ways. Specifically, adopting the required resolution and a qualifying urban redevelopment plan:

- Provides a detailed blueprint of the public sector’s vision and goals for a mapped defined urban redevelopment area.
- Allows the implementing entity to attach design and use requirements or limitation to specific parcels as covenants which run with the land.
- Provides multiple options for designating the appropriate implementing entity. A local government may implement the plan directly, or assign it to a Downtown Development Authority (DDA), a Housing Authority created under O.C.G.A., or a specially created Urban Redevelopment Agency appointed by the local government.
- Simplifies the assembly (and possible replatting) of large enough tracts of land to attract private developers.
- Expands local government powers of eminent domain.
- Protects the rights of private property owners to participate in and benefit financially from the redevelopment strategy.
- Permits the local government or its designated redevelopment agency to issue tax exempt bonds for redevelopment purposes. These may be secured by loans, grants, leases, and other development revenues and do not count in the local government’s general indebtedness cap.
- Helps local governments plan, prioritize, and publicize local government infrastructure investments that will be provided to support revitalization of designated urban redevelopment areas.
- Allows a community to make exceptions to its development ordinances in order to achieve stated economic and aesthetic outcome in the redevelopment area.
- Expands access to some state grant and loan programs and allows the community to expand incentives for private investors.
- Provides a legal framework for binding intergovernmental contracts where communities elect to delegate redevelopment powers to a separate redevelopment agency. (O.C.G.A. 36-61-18)

## **Local Government Actions Required to Use the Act**

City and county elected officials are the only bodies authorized to establish Urban Redevelopment Areas as defined under this Act. Because of its origin and intent, using the Act requires a local legislative or “finding of necessity” specifying geographic areas that have been determined to meet the definition of “slum and blight” included in the Act.<sup>5</sup> Such a resolution should outline the negative conditions present in the proposed redevelopment areas and commit the local government to adopting a “workable” redevelopment plan for the area(s) to be revitalized.<sup>6</sup>

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<sup>5</sup> O.C.G.A. 36-61-5

<sup>6</sup> O.C.G.A. 36-61-2(18); O.C.G.A. 36-61-5; O.C.G.A. 36-61-7



Note that cities should be very careful to review their city charters when drafting the language of their enabling resolutions, because these charters may require specific formats, unique language or other requirements needed to make resolutions legal and binding.

The Act defines a “slum area” as:

an area which by reason of the presence of a substantial number of slum, deteriorated, *or deteriorating* structures; predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; *deterioration of site or other improvements*; tax or special assessment delinquency exceeding the fair value of the land; the existence of conditions which endanger life or property by fire and other causes; by having development impaired by airport or transportation noise or by other environmental hazards; *or any combination of such factors* substantially impairs or arrests the sound growth of a Governmental Entity, retards the provisions of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

The State Legislature asserted in the Act that the “existence of slum areas:

- Contributes substantially and increasingly to the spread of disease and crime; Constitutes an economic and social liability;
- Substantially impairs or arrests the sound growth of municipalities and counties;
- Retards the provision of housing accommodations; or
- Aggravates traffic problems, and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities;
- Are local centers of disease;
- Promote juvenile delinquency; and
- Contribute little to the tax income of the state and its municipalities and counties, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities.”

While it might seem politically unpalatable to brand any part of a community with this somewhat dated and pejorative label, it is sufficient (and essential) to include this finding in the written resolution of intent to use the Act. Handled sensitively, the urban redevelopment area designation need not be a subject of extensive public debate, community friction, or negative press coverage. Instead, the positive economic, aesthetic, and functional results of proposed revitalization should be the focus of community consensus building.

All of the above conditions need not exist in an area in order for a local government to invoke the powers of the Act. Any combination of these conditions would likely be sufficient to designate an urban redevelopment area. Obviously some of these slum and blight indicators are quite specific while others are more subjective. The key finding is

that such conditions “substantially impairs or retards the sound growth of the municipality or county.”

The good news is that Georgia case law has consistently affirmed the principle that local governments must define slum and blight for themselves in the context of their local economies and thus communities have broad latitude to define appropriate target area boundaries. While a well written urban redevelopment plan will identify and provide examples of such conditions, Georgia courts have ruled that:

“Under this section, it is not required that any evidence or proof be taken or considered but simply that a resolution be adopted. This can only mean that the officials concerned exercise their own judgment based upon what they know or believe and make their findings. The very nature of matters required to be found by the resolution shows them not capable of being brought under judicial determination.”<sup>7</sup>

These rulings mean that courts are unlikely to step in and second guess a local governing body’s legislative intent. This may also be the reason that the Act does not actually dictate quantifiable measurements of blight or research methodologies, either in the authorizing local resolution or in the plan. Nevertheless, there are a number of useful and reasonably accessible indicators of physical and economic decline that should not only help local governments evaluate and identify appropriate urban redevelopment area boundaries, but also inform the development of more effective remediation strategies. These indicators can also be used as benchmarks for measuring long range success as conditions in the target area begin to improve.

### **Possible Blight Indicators**

Examining some of the following data should help a community identify and target appropriate redevelopment areas:

- Lower than average growth in assessed tax value
- Low real estate values
- Lower numbers of building permits than surrounding areas
- Deteriorated or poorly maintained housing stock
- Obsolescent buildings or facilities
- Visual Blight (examples might include poor quality strip commercial buildings, barren parking lots, broken or missing sidewalks and curbs, poor drainage, garish or poorly maintained signage, excessive and distracting utility poles and overhead lines and wires, junk, graffiti, and litter)
- High crime statistics
- Higher unemployment rates than the surrounding area
- High commercial vacancy rates (or a concentration of vacant or underutilized buildings)
- Lower than average (per square foot) rents
- High rental vacancy rates
- Greater percentage of the population below the poverty level
- Many bankruptcies and business closures

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<sup>7</sup> Allen v. City Council, 215 Ga. 778, 113 S.E.2 d621(1960)

- Substandard public infrastructure (lack of sidewalks and pedestrian amenities, lighting, recreational facilities or open space, poor water quality or drainage)
- Confusing, dangerous or inefficient street layout (look at accident statistics)
- Fragmented, inappropriate or commercially nonviable subdivision platting or lot layout
- Unclear property ownership (clouded titles) inhibiting investment in the area
- High rate of delinquent property taxes
- Situations in which the high land to building value makes properties economically viable for redevelopment

While it is prudent for communities to back up subjective impressions of slum and blight by reviewing these indicators and trends, it may prove counterproductive to include massive amounts of point-in-time data in the actual redevelopment plan, because 1) extensive data gathering is likely to increase the cost and time needed to prepare a plan, 2) many of the data sources change rapidly and thus might require updating the plan frequently with little practical benefit, and 3) there is some possibility that incorrect or questionable data used to justify the actions proposed in the plan might provide grounds for legally challenging the plan. A reasonable and balanced approach to this issue is to look carefully at all the data available and then summarize relevant findings in more general terms in both the resolution and the plan.<sup>8</sup>

### **Planning Requirements of the Act**

Fortunately, the specific planning requirements of the Act are not excessive or overly complicated. It is also helpful that the minimum information required for an urban redevelopment plan is actually specified in the Act. The plan is primarily intended to provide citizens, existing landowners, and potential developer/investors with unambiguous details concerning the local government's vision for the revitalization area.

The amount of detail and complexity required of the plan may differ widely based on the size of the redevelopment area(s), the complexity and types of activities envisioned, and the entities chosen to carry out the plan. Plans may vary from a few pages if an urban redevelopment area will only address a single public facility or clean up deteriorated housing in a single neighborhood to many pages for a complex mixed use commercial development. The amount of detail in the plan should be appropriate to the community's specific goals and intentions for the target area.

Removing uncertainty is one key to spurring private market investment in target redevelopment areas. Once potential private partners and residents understand the long-range vision for the area, as well as the constraints, incentives and special financial tools available within these target areas, it will be easier for all parties to arrive at realistic and equitable land prices, project costs and potential profit margins for alternative build-out scenarios and secure construction and development financing for revitalization projects from banks and lenders.

Under the definition of "urban redevelopment plan" contained in O.C.G.A. 36-61-1(21)8 a plan must:

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<sup>8</sup> Communities' first data source should be their Comprehensive Plans which will likely contain information on many of the listed indicators.

(A) Conform to the general plan for the municipality or county as a whole; and  
(B) Be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban redevelopment area; zoning and planning changes, if any; land uses; maximum densities; building requirements; and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

Plan elements should include:

- A Statement that the URP is consistent with the city's comprehensive plan
- Clearly defined boundaries of the redevelopment area(s) (which need not be contiguous)
- Explanation of negative conditions in the area necessitating redevelopment and an explication of how the area meets the act's definition of slum and blight
- The city's land use objectives for the area (types of uses, building requirements, zoning changes, and development densities)
- Description of land parcels to be acquired
- Structures to be demolished or rehabilitated
- A workable plan for leveraging private resources to redevelop the area
- A strategy for relocating any displaced residents
- Any covenants or restrictions to be placed on properties in the redevelopment area in order to implement the plan
- Public infrastructure to be provided – transportation, water, sewer, sidewalks, lighting, streetscapes, public recreational space, parking, etc., to support redevelopment of the area
- A workable strategy for implementing the plan.

In addition, the plan must provide for:

- A feasible method for the relocation of families who will be displaced into decent, safe, and sanitary housing within their means, and
- Maximum opportunity for the rehabilitation or redevelopment of the area by private enterprise.

As a general rule, communities will benefit by providing more than the minimum required information in their plans, including using appropriate graphics and conceptual illustrations of the desired redevelopment outcome. Since the plan may place limitations on the possible uses of private property, it is important to have a reasonably detailed conceptual design and desired land use mix for the area. Also, to ensure that the community's vision for a redevelopment area can actually be crafted into a realistic and workable plan, local governments should seriously consider spending some of their planning budget on a professional commercial/retail market analysis or (depending on the particular focus of the redevelopment district) assessing the meaning and implications of local housing conditions, demands, and preferences.<sup>9</sup> If cost is a concern, local

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<sup>9</sup> Experience with plans produced pursuant to the Atlanta Regional Commission's Livable Centers Initiative suggests that almost every redevelopment effort has required some sort of market analysis in order to determine the feasibility and relative economic benefits of various future development scenarios.

governments may be able to reduce consultants' fees by doing in-house data collection or using staff to conduct related public meetings.<sup>10</sup>

### **Developing a Vision**

The decision to use the Urban Redevelopment Act as a revitalization tool should be begin with identification of problem areas and developing clear goals and a shared long range vision for each area under consideration. It is impossible to develop a meaningful plan until there is general consensus on the end results desired.

### **Assembling an Urban Redevelopment Team**

Regardless of whether a urban redevelopment plan is prepared in-house or with help from consultants, key local decision makers should be involved (and communicating with each other) from the start. Depending on the specific focus of the redevelopment goals, elected officials, city manager, downtown/economic development staff, planning commission members, housing and public works departments, city/county attorney, fiscal planners, grant writers and administrators and park and recreation planners may need to collaborate at some point during the planning or implementation stage of the revitalization process. It is a good idea to have a brainstorming session with these sorts of local actors before making the decision to use the Act. Early on in the process, local governments should develop a project timetable and even a "to do" list for all members of the team. In addition, it is important to communicate with, and seek feedback from, key stakeholders such as neighborhood advocacy groups, merchants' associations, various development authorities, major property owners and employers located in or near the urban redevelopment area.

At some point in the planning process it may even be productive to solicit suggestions for alternative development scenarios from potential public/private partners, although care should be taken not to make any actual or implied verbal commitments to prospective developers about the details of the plan before it is adopted. Collaboration with non-profits and social service agencies can also help implement the plan, and their input should be valuable in understanding the needs and priorities of disadvantaged residents.

### **Consensus Building Strategies**

Although it is procedurally simple to adopt an urban redevelopment plan, trouble free implementation and long term success will require building broad public support around the community's vision for the urban redevelopment plan (as well as that of occupants and property owners within the proposed redevelopment area). A readable, practical, detailed (and hopefully inspired) plan can help to set priorities and deadlines and promote the collaboration and hard work that will be needed to make that vision a reality.

It is critically important to get input from affected stakeholders and potential developers, but community experience has proven that there are risks to extended public discussion of the plan. There is a danger that people will over focus on the issue of eminent domain,

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<sup>10</sup> A qualifications-based selection process for choosing and negotiating fees with professionals is recommended by DCA as well as many organizations representing both governments and professional groups because it allows frank discussion about different aspects of the proposed work items and input from consultants about where costs can best be cut.

even if it is not a major aspect of the redevelopment strategy. It is also vital to educate the media about the urban redevelopment plan and its positive benefits and to work with local reporters to increase the chances that press coverage of the project will be accurate and positive.

Some key steps to creating consensus include:

- Identifying and communicating with key stakeholders
- Examining potential barriers to plan implementation
- Working with neighborhood organizations and non-profits serving the area
- Creating enthusiasm and good press with design charettes, resource teams, and community character workshops
- Developing press releases and educating the media
- Ensuring that elected officials and other community leaders and volunteers supporting the plan get public credit for their good work

### **Procedural Requirements and the Designation Process**

The Act requires a local government to adopt a resolution with a “finding of necessity” before adoption of the urban redevelopment plan and to hold a single public hearing. Following the public hearing, a local government is free to adopt the plan. At this point, the local government will also need to formally designate an implementing entity for each redevelopment area and clearly identify redevelopment district boundaries. Unlike Tax Allocation Districts created under the Urban Redevelopment Powers Act O.C.G.A. 36-44, creating urban redevelopment areas under this act does not require approval from property owners within the target area or a public referendum. Although not required by the Act, the plan should probably be available for public review and comment for a couple of weeks before its adoption.

Urban redevelopment plans are also quite simple to amend, allowing local governments to respond appropriately to changing economic conditions or evolving public concerns, “provided that, if modified after the lease or sale by the municipality or county of real property in the urban redevelopment project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser or his successor or successors in interest may be entitled to assert.”<sup>11</sup> Care should be taken to honor commitments or contracts executed under the original version of the plan. Changes to the redevelopment plan will require a second public hearing and resolution adopting the amended plan

### **Ensuring Consistency with Other Local Plans**

The Urban Redevelopment Act requires that redevelopment plans be consistent with “local general plans” (O.C.G.A. 35-61-7(d)(2) ). Although the act predates the Georgia Planning Act of 1989, presumably, at a minimum, the redevelopment plan should not directly conflict with a community’s local Comprehensive Plan. Comprehensive Plans enjoy special legal status in Georgia as opposed to other kinds of master plans and development proposals, because once adopted, they represent the official policies, goals and objectives of each city and county in Georgia.

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<sup>11</sup> O.C.G.A 36-61-7

This being said, it is probably not generally advisable for local governments to adopt urban redevelopment plans as integral components of their local comprehensive plans or append them to the plan by reference. The reason is practical. Procedural requirements established by the Georgia Planning Act, including multi-jurisdictional review, update and plan amendment procedures required for comprehensive plans are significantly more complex than those specified in 36-61-1, so changing a redevelopment plan adopted into a comprehensive plan could be complicated by this approach.

On the other hand, minor amendments to local comprehensive plans to assure consistency, and addition of specific work items called for in the redevelopment plan to the comprehensive plan's short term work program should definitely be considered.

### **Typical Planning and Implementation Costs**

Urban redevelopment plans need not be prohibitively expensive or complex. Factors affecting planning costs include the size and number of designated areas, the diversity and complexity of the plan's scope, data collection and mapping expenses, and professional services (legal, planning, design and engineering). Existing urban redevelopment plans adopted in Georgia have run from five or six pages to hundreds of pages in length depending on their purpose and scope. Developing a plan meeting the minimum legal requirement should be possible in a relatively short time frame. Local governments should carefully consider whether it has qualified staff that has time to prepare the plan in-house or whether specialized consultants should be employed to develop some or all of the document.

In many cases, communities have excellent preexisting planning documents at their disposal. Before drafting an urban redevelopment plan, communities should take time to find and review previous documents that cover the potential redevelopment areas such as small area development plans, neighborhood housing plans, other physical design master plans, tourism or housing documents, etc. While some information from these documents may be outdated, they often include excellent ideas and design solutions that are still entirely relevant, but were never acted upon. It may be possible to integrate, update or expand such documents to meet the requirements of the Act with minimal investment of time and money.

While the Act does not require the inclusion of maps, photographs, diagrams or drawings in the plan, much of the information it does require may be more easily and fully explained (especially to the public and potential developers and investors) by the addition of graphic components rather than with pages of text. "Before and after" renderings of problem areas, sketches or architectural models are also good tools to explain development plan proposals to the public.<sup>12</sup>

It is extremely important to be precise about the boundaries of the urban redevelopment area(s). Whether this is done by attaching legal descriptions to the plan or coding specific parcels with a GIS mapping system, the public must be able to determine which individual properties are affected by the designation. If a single parcel is split by a redevelopment area boundary (not generally recommended) a survey may be required.

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<sup>12</sup> Visual preference surveys, photometric inventories of visual blight and computer generated before and after drawings of the same site are all excellent tools for illustrating existing and desired conditions in an urban redevelopment area.

The most expensive part of realizing a community's vision for a target area may not be the redevelopment plan itself but creating or modifying existing (and often outdated) development regulations, design guidelines, zoning categories and/or modifying development review procedures in order to implement the community's revitalization strategy in a way that produces the desired type of development and creates the desired aesthetic character of the area. However, if the community's land development regulations are generally current and well written it may be possible to minimize code revisions. In addition, previously adopted development policies, design standards or special review procedures that have been applied in other areas of a jurisdiction may usually be extended to target areas by referencing them in the redevelopment plan and making minor amendments to existing ordinances.

### **Considerations for Choosing Target Areas**

There is no limit to the size or number of redevelopment areas that can be included in a single urban redevelopment plan, nor are target areas required to be contiguous. However, since the legal basis for the Act is addressing slum and blight, communities should be careful about including prosperous parts of the community or focusing primarily on undeveloped "greenfield" property as redevelopment target areas.<sup>13</sup> This would be particularly inappropriate if more obviously blighted or declining areas of the community are being ignored or left out of the plan.

Many communities initially consider using the Act in response to very specific problem sites or facility needs. However, designating appropriate redevelopment area boundaries should be a thoughtful and deliberate process. Before establishing an urban redevelopment area boundary designed to address a unique site, it is important to step back and seriously consider any systemic factors that may be contributing to blighted, economically challenged or unattractive areas throughout the jurisdiction. While not prohibited in the Act, defining a redevelopment area comprised of one parcel of land owned by a particular difficult property owner might be viewed as harassment, whereas including parcels owned by the same landowner within in a larger target area boundary exhibiting similar physical and social problems might promote the preservation and improvement (or at least motivate the sale or lease) of blighted or long-vacant property.

Creating a plan for multiple redevelopment areas at one time may have several benefits. Defining redevelopment areas with large parcels suitable for major developments will likely make it easier to attract large developers with access to private funding. Drawing boundaries with consideration for major infrastructure projects that may be on the drawing board may also make these simpler to fund and coordinate.

Under a single urban redevelopment plan, projects may be phased over time so that the community can focus on the most critical areas first, while laying out long range build-out concepts for target areas that can be used by planning commissions and/or community development staff in reviewing and negotiation development proposals. The Act does not define strict schedules or deadlines for fully implementing the plan; however, a prudent community should be prepared to demonstrate steady progress toward

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<sup>13</sup> The act provides the implementing agency to provide for affordable housing development within a five mile radius around a designated redevelopment area, and this could include some greenfield development.



its proposed redevelopment scenario. This is only fair since the urban redevelopment plan will impose some limits on development options for private properties in the target area.

The decision of whether to have a single phased plan versus adopting new ones over time depends on various factors. It will likely be somewhat less expensive to create a phased redevelopment plan covering all the community's proposed target areas than to commission individual redevelopment plans for each new target area identified. On the other hand, if no action at all is to be taken for five or ten years on in an area under consideration, it may be better to wait and cover that area under a separate plan or amend the original plan to change boundaries once the first priority redevelopment areas are achieving success.

In addition to reviewing the relevant local comprehensive plan recommendations, local governments should consult their development staff and planning commission and carefully review current ordinances and administrative procedures (which often contain outmoded provisions that actually disallow or discourage some of the best new ideas in neo-traditional urban design). It may also be useful to get the perspective of an external party to provide a visitor or tourist eye view of what might be considered slum or blight.

Some questions to consider are:

- Are there areas in the community that are significantly more blighted or underdeveloped than the specific area the city want to designate?
- Has sufficient thought been given to alternative future uses of the chosen target area?
- Are the residents or landowners in the proposed redevelopment area likely to support the local government's vision and implementation strategy for the proposed target area?
- Are there demographic conditions (such as high poverty or unemployment rates) in certain parts of the community that, if included, would allow leveraging significant state or federal resources?
- Do the boundaries being considered divide existing neighborhoods or run down the middle of major corridors? (It is almost impossible to effectively revitalize one side of a corridor without working on the other side simultaneously. This would seem obvious, but it is a common mistake found even in corridor plans prepared by urban design and planning professionals.)
- Are the various development scenarios being considered for the target area(s) informed by accurate, timely market analysis or housing data?

### **Choosing the Appropriate Plan Implementation Structure**

Choosing the most effective and appropriate legal entity to oversee the redevelopment area is one of the most important decisions affecting the successful implementation of a redevelopment area plan. There are four basic entities that can assume development powers under the act as described by O.C.G.A. § 36-61-17, each of which has advantages and limitations:

- The local governing body can itself exercise urban redevelopment powers

- A county or city can establish and delegate powers to a new urban redevelopment agency<sup>14</sup>
- A housing authority can be designated as the redevelopment entity
- Municipalities may also delegate redevelopment powers to a new or preexisting downtown development authority.

The “urban redevelopment project powers” that a local government may confer on an urban redevelopment agency, DDA or Housing Authority, as well as the powers that cannot be delegated are described in O.C.G.A 36-61-17. It should also be noted that local governments can customize the bundle of redevelopment powers they choose to delegate to an urban redevelopment agency or other public body. For example, a local government could delegate all power but that of eminent domain. It is also important to realize that once powers in an urban redevelopment area are delegated, they may no longer belong to the city or county. Therefore, if a local government wishes to delegate these power for a finite period of time this should be covered in the resolution and/or through an intergovernmental agreement.

The powers of an urban redevelopment agency do not extend beyond those defined by the Act. The powers of DDAs and Housing Authorities designated by a local government to serve as urban redevelopment agencies under the act are a little more complicated because these entities are also governed and limited by their own enabling statutes, or in the case of constitutional created DDAs, by their individual charters. Georgia case law for DDAs and Housing Authorities will also affect what these bodies can and cannot do to implement a redevelopment strategy. In general, once a local government delegates its powers under the act to an authority, the authority can use these powers in any way consistent with the act and not prohibited by its own charter or statutory enabling legislation.

Urban redevelopment agencies are defined as distinct “public bodies” under the Act, and O.C.G.A 36 61(7) authorizes local governments to enter into binding agreements with such public bodies for up to 50 years just as they can with other types of authorities. The ability to enter into such long term agreements is important because they are binding on local governments even should commissions and city councils change at election time and also because local governments can contract with other public bodies to do things they cannot legally do themselves.

O.C.G.A. 36-61-18 describes how local governments set up urban redevelopment agencies, appoint and remove members and also covers eligibility requirements, conflicts of interest and reporting procedures. Some local governments may like the flexibility offered by an urban redevelopment agency because:

- unlike DDAs, urban redevelopment agencies may be abolished or sunset provision may be applied<sup>15</sup>

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<sup>14</sup> The Act automatically creates a redevelopment agency in each local jurisdiction, but it is not activated until the local government adopts a resolution declaring the need for such an agency.

<sup>15</sup> If an urban redevelopment agency issues bonds, or enters into other intergovernmental agreements, it cannot be abolished by a local government while these legal commitments are still in effect. Abolishing an urban redevelopment agency would also require holding a public hearing and amending the urban redevelopment plan.

- the local government specifies number of members and term limits and appoints the chairman
- members need only be residents of the jurisdiction, not necessarily live in the redevelopment area (allowing maximum flexibility in putting together the right skills to get the plan implemented)
- urban redevelopment agencies can work on any type of project that advances the redevelopment plan—residential, commercial, housing, public facilities or infrastructure, etc, whereas DDA’s and Housing Authorities have their own statutory limitations.

One possible reason for delegating redevelopment powers to a DDA or Housing Authority rather than a redevelopment agency is that there are many more project models and more established case law for these entities than for redevelopment agencies created under this Act. In some cases, local government attorneys concerned about entering relatively uncharted legal territory may feel more comfortable advising local governments on what these more common legal entities can do. Also, if such authorities are already active in a community, it may be important to avoid creating multiple public bodies charged with the same mission for an overlapping target area. Creating mission overlap is very likely to create political difficulties and confusion for land owners and developers.

Another important advantage is that Georgia Courts have consistently held that obligations under intergovernmental agreements are not “debt” as defined by the constitution and are therefore not subject to local government debt limitation provisions. Since, in the exercise of their powers under the Urban Redevelopment Act, redevelopment agencies are specifically authorized to provide or develop certain public improvements, the Act can provide a means of financing public facilities or improvements through lease arrangements between redevelopment agencies and local government. (This is in contrast to the limited powers of DDAs to finance public facilities under the DDA law). Alternately, where the community has existing agencies such as a DDA, the local government may choose to serve as its own implementing agency and contract with the DDA or Housing Authority to implement specific portions of the plan rather than delegating its redevelopment powers; however, it should be noted that simply contracting with these agencies does not vest them with the powers of the Act so that they must perform their duties within the powers granted by their own enabling legislation. For example, a local government could not contract with a DDA to implement projects outside of its legally established DDA boundaries.

The Act does not specifically allow for a local government to delegate redevelopment powers to two different entities within in a single urban redevelopment area. One option might be to prepare a single plan designating separate redevelopment areas and delegating each to the appropriate implementing entity. Or, while adopting a single plan, a local government or its designated urban redevelopment agency could contract, under the intergovernmental contract provisions of the Georgia Constitution, with various authorities or even non-profits to perform different functions within the redevelopment area.

Apart from the formal powers of these various entities there are also human and political factors to consider that may be just as important to a successful revitalization process. Some questions to consider are:

- How interested and experienced are the local housing authority or DDA in taking charge of revitalization activities?
- Are there already several competing entities, organizations or departments with overlapping responsibilities in the community, do they work well together, and if not, how can the redevelopment process steer clear of old business?
- Do the eligible preexisting authorities have the appropriate skill set or clout on their boards to bring the community's vision to fruition?
- Is the local government desirous of keeping tight staff control of the project, or are the political and legal firewalls that come with designating decision making to a separate agency more important?
- Would the redevelopment strategy be strengthened by the ability to execute intergovernmental contracts?
- Will financing any public facilities or buildings be part of its redevelopment strategy?<sup>16</sup>
- Does the logical redevelopment area boundary include both city and county parcels?
- Will the project require floating bonds?
- Does the local government need provide a new urban redevelopment agency with any start up funds, office, or operations budget?

The chart below organizes some of the pros and cons of each option and what specific situations might guide a local government to choose one option over the other.

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<sup>16</sup> DDAs are prohibited by Georgia case law from acquiring land for, or participating in the development of, government buildings, whereas urban redevelopment agencies are specifically enabled to do this.

<b>Management Entity</b>	<b>Appropriate Situations</b>	<b>Pros</b>	<b>Cons</b>	<b>Other considerations</b>
City or County Government	Simple and limited projects with willing landowners Redevelopment projects with primary funding from traditional public sources, or proposed projects that will require complex, ongoing administrative support	Avoids creating new political entities, especially in smaller cities with small volunteer pool  May reduce conflict when multiple local organizations already work on community development.	Provides less legal separation and political cover for the local government than a separate entity	May be in appropriate if intergovernmental contracts are a critical part of the strategy
Housing Authorities	Projects focused on neighborhoods and housing	Existing relationships with neighborhood groups, state and access to state and federal housing resources	Not appropriate for redevelopment plans with minimal housing components	Can be a regional or multi-government authority  Certain aspects of development may be delegated to housing non- profits
Downtown Development Authorities	Projects located in central business districts and their outskirts	Many DDAs have prior real estate experience DDA powers are very similar to redevelopment agency powers	DDA may not possess necessary skill set if it has been inactive or never purchased property.	The DDA should not be distracted from focusing primarily on downtown.
Urban Redevelopment Agency	Where no other development or housing authorities exist or are working in target area  City/County Collaborations Mixed use projects Corridor Revitalization Brownfield  When a redevelopment area will be used primarily to develop government facilities and buildings	Local government can customize bylaws, terms, power, etc. and choose the most effective members  New urban redevelopment agency has no past political history  A new urban redevelopment agency (unlike other development authorities) can be established with sunset date and the powers delegated may be customized	May create turf conflicts or be redundant if the redevelopment area is within the boundaries of an active, experienced DDA.	Good for major brownfields and grayfield development  Effective when the redevelopment area is slated for mixed use, new urbanist or entertainment/ tourism areas.  May be formulated to dealing with large, sophisticated private development partners

## **Historic Preservation Issues**

Again because of its age and history, the Act is not overly focused on historic preservation. However, O.C.G.A 36-61-5 does specify that “to the extent feasible, salvable slum areas should be conserved and rehabilitated through voluntary actions and the regulatory process.” One of the sad legacies of Urban Renewal was the loss of so many significant landmark buildings and the utilization of important and beautifully designed urban green spaces as low cost real estate to be filled with new public buildings. Many Urban Renewal projects implemented in the name of progress, prosperity, and modernization have paradoxically diminished many communities’ tourism potential as well as destroying the integrity and ambiance of older neighborhoods. Some of the communities that failed to pursue urban renewal projects in decades past are now building very successful economic development strategies around intact historic properties and neighborhoods that might have been lost or damaged had they made physical changes that were in vogue decades ago.

It would be unfortunate to see similar well intended but costly mistakes repeated now. Both The DNR’s Office of Historic Preservation and DCA have programs and resources that can help homeowners and local governments rehabilitate and preserve historic homes. Communities should also evaluate the public support and potential benefits of designating local historic districts in their redevelopment areas as part of their overall revitalization strategies, as well as making potential investors and property owners in the areas aware of state and federal historic tax credit programs.

## **Land Values and Property Sales in Urban Redevelopment Areas**

Local governments may “sell lease or transfer property in redevelopment areas for residential, commercial, industrial, or other uses or for public use.” A local government selling, leasing or otherwise transferring property in the redevelopment area must advertise the sale for two weeks in a general circulation local newspaper and is “authorized to seek requests for proposals for such properties and accept the proposal that it deems to be in the public interest and in furtherances of the purpose” of the Act. In other words, property offered by local governments need not be sold to the highest bidder. This allows the development entity to describe the desirable uses of a parcel and choose the redeveloper who presents the most attractive “build to suit” development proposal.

Property acquired for redevelopment by local governments under the Act must be sold at fair market value. Conditions should be attached to the deed limiting development of the property to the uses specified in the urban redevelopment plan. A local government should probably attach more specific conditions from the Request for Proposals (or as subsequently negotiated) as well as specifying that the new owner or lease holder to begin any agreed upon improvements within a reasonable time.<sup>17</sup>

In determining fair market value, the parties should consider the value of the land with all the attached conditions and use limitations. So, for example, if a parcel zoned for industrial uses were sold to a developer with the requirement that it be developed as affordable housing, the selling price should be based on comparable parcels with

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<sup>17</sup> The development entity may also require performance or payment bonds and take the buyer’s qualifications, past performance and financial capabilities into considerations in disposing of property.

residential zoning even though that price might be lower than for an unencumbered sale of industrial property.

This gives the local government or urban redevelopment agency some leeway to balance the sales price of the property with the redeveloper's proposed investments in amenities, infrastructure and desirable features above and beyond those required by local codes. These considerations might include any desirable outcomes defined in the urban redevelopment plan including expanded public amenities, dedication of parks and open space, inclusion of desirable architectural details, small business creation and retention, and even likely increases in sales and property tax revenues. Thus, to provide firm support for land sales decisions, it is important to clearly enumerate the community's specific redevelopment goals and objectives in the plan.

Note that the law specifies that these requirements are applicable to a sale to "private persons," but does not address sales or transfers to other public agencies such as DDAs. It would appear clear from the limited case law that should a DDA acquire the property in the exercise of its powers as the redevelopment agency, it must comply with this provision in disposition of property from private citizens. However, the Act does not address what is required where the DDA acquires the property directly from the local government. It is possible that under such circumstances the property would then be disposed of pursuant to the requirements of the Downtown Development Authorities Law.

### **Use of Eminent Domain Under the Act**

Acquiring property through eminent domain is sometimes a highly charged political issue. The use of eminent domain in implementing community revitalization projects can usually be avoided or at least minimized. Since property values are likely to be relatively low in redevelopment areas, it will often be cheaper and less politically traumatic for a local government or redevelopment entity to offer reluctant property owners slightly more than the actual market value of their assets as well as some reasonable compensation for relocation costs. This will typically save both money and political capital compared to the potential costs of a forced sale through condemnation

Sometimes, landowners have very unrealistic perceptions of the speculative value of their property. Property owners also tend to have a wide variety of personal reason for letting their property sit vacant or deteriorate. Sometimes it is the owner's lack of redevelopment capital or reluctance to oversee renovation. Other times more critical priorities or family infighting about what to do with the property. Some older neighborhoods have such fractured property ownership and so many clouded titles that the difficulty of assembling land for infill projects is a barrier to private investments in the neighborhood. When property is owned by out of town landlords or large corporations, as in the case of some abandoned big box retail locations, businesses often prefer to continue to pay rent on an empty building to avoid the threat of competition moving nearby. These are all examples of when having eminent domain as a tool of last resort can put a community in a much stronger bargaining position or facilitate revitalization strategies that would otherwise be impossible.

O.C.G.A. 36-61-8, which details the eminent domain powers provided under the Act, specifically grants property owners the right to keep their property and develop it consistent with the urban redevelopment plan if they have the willingness and means to

do so. This section also contains rule for notification, written agreements with property owners and remedies if they fail to live up to their agreements.

### **Attaching Conditions That Run with the Land**

All land use and community planning regulations are based on the police powers of the government to promote the health, safety and welfare of the public. However, because the powers of the Act derive from a legislative finding of serious existing undesirable conditions of “slum and blight” rather than more general goals of improving overall economic and social conditions, the permissible impositions on private property rights under the Act can be even more specific and prescriptive than a community’s general development regulations.

It is not necessary to file deed restrictions on every property in an urban redevelopment area for the plan to be binding on property in the redevelopment area. Once actions are taken by local governments to adopt a resolution creating urban redevelopment areas and an urban redevelopment plan is adopted, the public and the development community has constructive notice of the land uses allowed the plan, proposed changes to roads and the locations designated for future public facilities, Buyers of property in the area are presumed to have access to this information. However, there are situations when deed restrictions or restrictive covenants on specific parcels should be filed. When the local government enters into agreements with existing property owners to redevelop their own property, these should be filed with the deed. When local governments or their designated redevelopment agencies sell property to a developer based on an RFP or development agreement, these should also be attached to deeds.<sup>18</sup>

### **Phasing and Administrative Issues in the Redevelopment Process**

Typically some aspects of the redevelopment plan will need to be addressed right away, whereas other construction projects or changes in land uses will be temporary or incremental with the private market dictating when land uses actually change. Similar to the idea of “grandfathering” preexisting uses in the adoption of zoning ordinances, current businesses that do not present a nuisance should be encouraged to continue at their current locations until such time as their buildings might actually be needed for long term uses specified in the plan or until superior and mutually acceptable locations can be found. It would be unproductive to disrupt most viable businesses in the target area even if they are not located consistent with the long range goals of the plan. In fact, careful advance provisions should be made to assist small businesses in finding comparable or better locations in their traditional neighborhoods and to minimize any negative financial impacts on businesses created by streetscape or infrastructure construction during the revitalization process.

In the case of new construction or new businesses entering the redevelopment area building permit and business licenses for new endeavors could be to be consistent with the urban redevelopment plan. This might require changes to existing administrative procedures and will certainly involve training personnel in the local government’s building and permits office. If a GIS system is used in tracking permits or land use

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<sup>18</sup> Under the Act, the sale of property may be prohibited altogether until redevelopment agreements are satisfied, or land may be sold subject to the restrictions and specifications of an agreement with the previous property owner.



information, it would very helpful to tag parcels in the redevelopment areas so that a red flag comes up when inquiries or actions related to these parcels occur and personnel can provide appropriate information. Local planning commissions should also be warned when rezoning or variance requests located in an urban redevelopment area are submitted to them. Copies of design guidelines or other special rules applying to the urban redevelopment plan should be readily available wherever prospects come to inquire about development opportunities and relevant properties.

Property owners in the redevelopment area should be carefully educated about how and when specific redevelopment activities will occur and about their responsibilities under the plan. If the urban redevelopment area will deal with commercial districts and a downtown program such as Main Street or Better Hometown is in place in a community, the program manager can often be extremely useful in working with merchants, business owners and landlords to help with relocation issues, show properties and direct private business investors to state loans and grants for renovation and business development.

### **Modifying Existing Land Development Ordinances**

O.C.G.A 36-61-16(6) is potentially one of the most useful provisions of the act, but one that may make a community's development and zoning staff a bit uncomfortable.



This provision states that a local government may:

(6) Cause public buildings and public facilities, including parks, playgrounds, recreational, community, education, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places; plan, replan, zone, or rezone any part of the public body or **make exceptions from building regulations**; and cause administrative and other services to be furnished to the municipality or county.

Because the Act predated the widespread use of zoning and other modern development regulations it does not provide specific guidance on how to use these ordinances in redevelopment areas. It is reasonable to assume that this provision would apply to zoning and subdivision regulations and not just electrical and plumbing. Thus, it should be possible to do things like permitting subdivision plats with narrower "village" streets consistent with older neighborhoods or enable replacement of homes on cleared lots in historic neighborhoods even if they are smaller than the minimum lot sizes permitted under general subdivision regulations.

The great advantage of this provision is that it allows communities to proceed with revitalization projects and provide some design flexibility without the considerable expense and administrative effort of rewriting their entire set of land use regulations. This being said, even if a government does not intend to do a drastic revision to existing development regulations, it is very important that minor amendments be made to cross reference the redevelopment plan so that any apparent inconsistencies are cleared up and the public has notice that different rules may apply in urban redevelopment areas.

Ideally, the urban redevelopment plan should describe any proposed new regulatory controls, design requirements or administrative procedures that would apply within target area boundaries. Conversely, to avoid legal complications, communities should have

affected local ordinances reviewed by qualified professionals to determine where references to urban redevelopment area provisions should be added to these pre-existing regulatory tools.

Planning staff and any relevant appointed bodies or review boards should be consulted as these decisions are made and carefully trained in administrative procedures for dealing with urban redevelopment areas. Administrators of land use codes, planning commissions and building officials must be fully familiar with the redevelopment plan, because if they make inconsistent decisions or give out incorrect or incomplete information to the public, the local government could face serious legal challenges.

Proposed exceptions to building regulations should be applied evenhandedly. This provision of the Act should not be interpreted to encourage or justify casual, undocumented, inconsistent, or inequitable exceptions to land development ordinances. It is best to detail in the redevelopment plan the aspects of current development regulations are subject to change in the redevelopment area.

Local governments may want to create specific overlay districts for urban redevelopment areas that add additional design review requirements or modify the underlying zoning and development regulations of the community. For example, such overlay districts might alter set back requirements to encourage traditional street front development, reduce parking requirements, specify certain building materials or styles, or modify allowable land uses, where such changes promote a development consistent with the plan.

### **Issuing Bonds Under the Act**

O.C.G.A. 36-61-12 authorizes local governments, urban redevelopment agencies and housing authorities to issue tax exempt revenue bonds to pay for redevelopment projects as defined in O.C.G.A. 36-61-2.<sup>19</sup> Bonds created under this statute need not be secured, like general obligation bonds, by the full faith and credit of the local government.<sup>20</sup> Instead, they may be retired by long term leases on public facilities and a wide variety of revenue streams deriving from projects within the redevelopment area.

The Act says that, “such bonds shall be made payable solely from the income, proceeds, revenues and funds of the municipality held in connection with its undertaking or carrying out of the urban redevelopment projects under this chapter. However bonds may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source . . . and by a mortgage of any such urban redevelopment project or any part thereof, title to which is in the municipality or county.”

The power to sell tax exempt revenue bonds is a powerful tool which allows communities to get the money to complete projects quickly and pay for them from long term revenue streams generated as economic conditions in the target area improve. Urban redevelopment bonds may also be retired early to save paying interest if revenue sources exceed expectations. Not all urban redevelopment plans will call for issuing bonds, which may not be worth the cost and effort if cash needs are under a million dollars or if project

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<sup>19</sup> Statutorily created DDAs are already authorized to issue bonds under O.C.G.A. 36-42-1 et. seq. DDAs specific bonding powers are governed by that statute or, in the case of constitutionally created DDAs, by their specific charters rather than the bonding provisions of this act. Thus DDAs may not issue bonds for projects outside their specific DDA boundaries or use bond proceeds to pay for public facilities.

<sup>20</sup> The Act also specifically permits use of general government funds to retire revenue bonds.

funds are readily available from other sources like SPLOST taxes, impact fees, private investments or grants.

Any local government or development entity contemplating issuing revenue bonds under this Act should consult with a qualified bond attorney and review the state's general bond enabling statute (O.C.G.A. 36-82-60).

### **Housing Issues and Strategies**

Clearly, the philosophy behind the Urban Redevelopment Act is to minimize displacement or other hardship to low and moderate-income citizens or the unnecessary disruption of neighborhood relationships. It is inevitable that as an urban redevelopment initiative succeeds property values will rise. Unless the supply of rental units and affordable homes increases along with other development, low-income citizens in urban redevelopment areas may face increases in rents or, in the case of property owners, the possibility of higher property taxes. This is one reason the law allows development of new moderate-income housing within the target area or within a five mile radius outside of a redevelopment area.

A good strategy may be to tackle long-vacant commercial and industrial buildings first, densify underutilized parking lots with businesses or housing units that the neighborhood needs and pursue all the state and federal resources available to help homeowners fix up their houses as early in the process as possible. It may be appropriate to postpone residential demolition efforts (if these are needed at all) until reasonably priced new housing becomes available in the area. Local governments may contact DCA housing staff for assistance with developing a workable housing strategy or see DCA's website ([www.dca.state.ga.us](http://www.dca.state.ga.us)) for more information on the wide range of housing programs and assistance available to Georgia communities.

While the recommendations above suggest beginning with projects likely to build early public support for an urban redevelopment plan, communities using the Act should not be hesitant to begin strengthening and enforcing building and nuisance abatement codes and should systematically address junk and litter as well as any unsafe housing conditions in proposed redevelopment areas. Especially if the agency has planned properly to provide for regular junk pick up days, ensured rehabilitation assistance for lower income homeowners and made the community aware of state housing programs, neighborhood residents will generally appreciate having blighted properties and abandoned structures that may harbor illegal activities cleaned up.

To encourage loft living, apartments above historic downtown buildings, etc., local governments should strongly consider adopting the state's alternative fire codes for historic buildings for historic parts of redevelopment areas. This code, which can only be applied to locally designated historic districts, can dramatically reduce redevelopment costs and avoid unsightly changes to historic structures. The state's Office of Historic Preservation can also provide technical assistance in identifying structures or properties of historic significance that should be protected and restored in spite of deteriorated condition.

It is important to note that exercising demolition powers under the act requires adoption of a local demolition ordinance and cannot be delegated by the local government. Required provisions of such ordinances are enumerated in O.C.G.A. 36-61-11.

## **Imposing Special District Taxes or Assessments**

While the Act does reference the power to levy taxes and fees, this power cannot be delegated to another public body by a local government. There are several other laws in Georgia that provide much more specific procedures and rules for imposing fees and dedicated taxes in special districts. Some of these include Tax Allocation Districts, Community Improvements Districts (CIDs), City Business Improvement Districts (BIDs) and Impact Fees (see Appendix). If a redevelopment authority wishes to consider any sort of fees, taxes or assessments, these laws should be carefully read and the issue should be discussed with an attorney well-versed in this area of Georgia law.

## **Conflicts of Interest**

O.C.G.A 36-61-19 addresses conflicts of interest under the Act. Local government officials and members of the designated redevelopment entity should not voluntarily acquire property in an urban redevelopment area and must disclose and refrain from participating in decisions concerning property owned in these areas before they were designated.

## **Conclusion**

This guidebook does not cover every aspect or provision of the Urban Redevelopment Act but is intended to provide a basic introduction to this very useful law. Frequently asked questions on the Act will appear on DCA's website. It is our hope that cities and counties in Georgia will explore the potential of this law for improving and revitalizing their communities. The department will continue to provide technical assistance and share success stories that have come about through the creative use of the Act as an important development tool.

## Appendix

## **DCA's New Opportunity Zones**

### **How Opportunity is Created**

*Opportunity Zones are a combination of three programs already in use: State Enterprise Zones, Urban Redevelopment Areas/Plans, and Job Tax Credits. Alone, each of these programs provides strong incentives for local economic development. Together, the blend is a powerful draw for local economic development that is good for business and good for the neighborhood.*

#### **Enterprise Zone Incentives**

- *Ad valorem property tax abatement for both commercial and residential properties, excluding taxes imposed by school districts and for general obligation debt, not to exceed the following schedule:*

*Yrs 0-5: 100%   Yrs 6-7: 80%   Yr 8: 60%   Yr 9: 40%   Yr 10: 20%*  
*(schedule may begin any year of designation, i.e., may commence with taxpayer location)*

- *Local government **may** abate or exempt occupation taxes, license fees, building inspection fees, and other local taxes and fees exclusive of sales and use taxes (abatements or exemptions can occur at time of zone designation or at a later date).*
- *Local government **may** waive ordinances within enterprise zones unless such ordinance is expressly required to implement or enforce statutory provisions.*

#### **Urban Redevelopment Law Benefits**

- *Gives cities broad powers to redevelop blighted or threatened areas of the community.*
- *Allows communities to use eminent domain to buy and assemble property for revitalization and resale.*
- *Does not require a referendum.*
- *The required urban redevelopment plan (URP) is fairly easy and inexpensive to prepare and amend.*
- *Can be implemented either by a Downtown Development Authority (DDA) or a Redevelopment*
- *Authority appointed by the city.*
- *Encourages involvement of private enterprise/public private partnerships to redevelop neglected areas of the community.*
- *Permits use of tax exempt bonds for redevelopment purposes. These may be secured by loans and grants.*
- *Lets the public know what is being planned for the redevelopment area.*
- *Guides City investments in infrastructure to support redevelopment.*
- *Allows the City to negotiate variances and waive many requirements of its existing zoning and development requirements in order to achieve the optimum economic and aesthetic results in the redevelopment area.*

#### **Job Tax Credit Program**

- *Provides Tier 1 benefit of \$3,500 per job created for Opportunity Zone businesses.*

- *Applies to “any lawful business.”*
- *The \$500 per job bonus for businesses within the boundaries of a joint development authority applies only to “business enterprises” as defined in O.C.G.A. 48-7-40(a).*

### ***How the Lines are Drawn***

*The simplified diagram below shows how each geographic element comes together to form the boundaries of an Opportunity Zone in the intersection of all three areas.*



*The benefits of the Enterprise Zone apply to businesses and property owners within the circle to the left.*

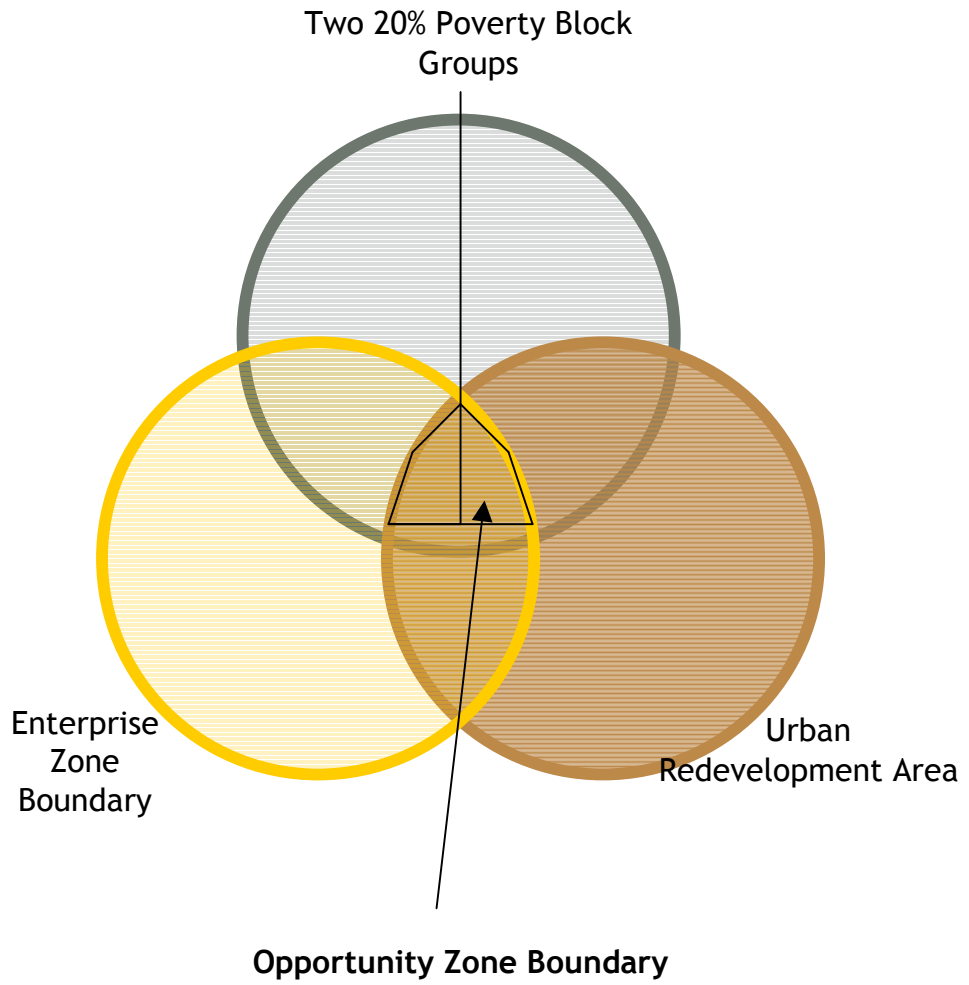


*The elements of the urban redevelopment plan, including any pass through development bonds apply to property within the circle to the right.*



*Where these two areas overlap in two or more census block groups with 20% or greater poverty, both programs apply, as do the job tax credits.*

# How the Lines are Drawn





## **Additional Georgia Redevelopment Tools**

**Some of the information below was reproduced from a DCA-GMA document entitled *Georgia's Downtown Development Laws* which was most recently revised in 2003. Also see DCA's website at [www.dca.state.ga.us](http://www.dca.state.ga.us).**

### **Bond Allocation Program**

For businesses and individuals seeking long-term, low-interest rate financing for the construction or improvements of manufacturing facilities, single and multi-family housing projects, tax exempt financing is available both at the state and local level. DCA is responsible for implementing a system for allocating the use of private-activity bonds, as permitted by federal law, in order to further the economic development of the state, to further the provision of safe, sanitary, and affordable housing, and otherwise to further the purposes of the laws of the state which provide for the issuance of such bonds.

### **Downtown Development Authorities**

#### **Summary of the Downtown Development Authorities Law**

(Ga. Laws 1981, p. 1744; OCGA 36-42-1)

Since the passage of the 1981 Downtown Development Authorities (DDA) Law, more than 150 cities of all sizes have created DDA's. Many of these became inactive after changes in federal tax codes in 1986 removed certain tax incentives for downtown improvement loans, but many others have continued to work to strengthen their downtowns. Often, simply by having a well-structured and focused organization with a comprehensive and long-term view of downtown, cities have seen positive results and have prevented opportunities from being lost.

**How are these authorities created?** The Downtown Development Authorities Law of 1981 created "in and for each municipal corporation in the State a public body corporate and politic to be known as the 'Downtown Development Authority' of such municipal corporation..."

This law authorizes a downtown development authority in every city in Georgia. It eliminated the need for individual local legislation to establish such authorities, which had previously been the case.

The governing body of the city must activate the DDA before it can function. This is done through the following process.

1. Designate the geographical boundaries of the downtown area of the city.
2. Appoint the initial directors of the Authority.
3. Incorporate 1 and 2 above in a resolution which also declares that there is a need for such an Authority.
4. Pass the resolution.
5. File copies of the resolution with the Secretary of State and with the Department of Community Affairs.

### **Directors of the Authority**

The Downtown Development Authorities Law indicates that each authority shall consist of a board of seven directors. These directors must be taxpayers residing in the county in which the authority is located. At least four of the directors must have or represent a direct economic interest in the redevelopment and revitalization of the downtown development area.

Directors of authorities created under the DDA law are appointed by the governing body of the municipality. They are appointed for initial terms of two, four, and six years. Subsequent terms are six years each. The governing body may appoint one of its own elected members to the DDA.

Directors appointed after January 1, 1992 are required to attend and complete at least eight hours of training on downtown development and redevelopment programs.

### **Types of Projects**

Each authority can undertake commercial, business, office, industrial, parking, or public projects where these will have a benefit for the downtown (Certain public projects such as the construction of government buildings and streets are not permissible DDA projects, however).

A 1988 amendment added hospitals, skilled nursing homes, and intermediate care homes where such facilities are operated on a not-for-profit basis.

### **Powers of the Authority**

The following powers are specifically provided to downtown authorities created under the Downtown Development Authorities Law of 1981:

1. To sue and to be sued.
2. To adopt and amend a corporate seal.
3. To make and execute contracts and other agreements, such as contracts for construction, lease, or sale of projects or agreements to finance projects.
4. To purchase and own property, real or personal, and to sell or otherwise dispose of property. The authority may lease or rent property. The authority's property is tax exempt.
5. To finance projects by loan, grant, lease, or otherwise.
6. To finance projects using revenue bonds or other obligations of the authority.
7. To borrow money.
8. To apply for and receive government grants, loans, loan guarantees, or other financial assistance.
9. To receive and use city tax monies. (The city can levy a tax of up to three mills for the support of the authority).
10. To employ architects, planners, engineers, attorneys, and others.
11. To exercise any power of public or private corporations under state law which does not conflict with the authority's public purpose.

The 1992 Amendments (Act No. 1334) added the following powers:

12. To serve as an urban redevelopment agency under the Urban Redevelopment Law.
13. To serve as a redevelopment agency under the Redevelopment Powers Law.
14. To contract with a city government to carry out City Business Improvement District services in a downtown.
15. To acquire real property through eminent domain (subject to the approval of the City and the meeting of other requirements).

These amendments also gave cities the express authorization to create special tax, fee, or assessment districts within the area of operation of downtown authorities. This authorization is pursuant to Article IX, Section II, Paragraph VI of the Georgia Constitution.

### **Contract Powers of DDA's Under the 1981 Law**

Each authority has the power:

“To make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the authority or to further the public purpose for which the authority is created, including, but not limited to, contracts for construction of projects, leases of projects, contracts for sale of projects, agreements for loans to finance projects, contracts with respect to the use of projects, and agreements to join or cooperate with an urban residential finance authority,

created by the municipal corporation within which the downtown development area is located pursuant to the provisions of Chapter 41 of this title, in the exercise, either jointly or otherwise, of any or all of its powers for the purpose of financing, including the issuance of revenue bonds, notes, or other obligations of the authorities, planning, undertaking, owning, constructing, operating, or contracting with respect to any projects located within the downtown development area;

“To contract for any period, not exceeding 50 years, with the State of Georgia, state institutions, or any municipal corporation or county of this state for the use by the authority of any facilities or services of the state or any such state institution, municipal corporation, or county, or the use by any state institution or any municipal corporation or county of any facilities or services of the authority, provided that such contracts shall deal with such activities and transactions as the authority and any such political subdivision with which the authority contracts are authorized by law to undertake;

“To use any real property, personal property, or fixtures or any interest therein or to rent or lease such property to or from others or make contracts with respect to the use thereof, or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant options for any such property in any manner as it deems to be the best advantage of the authority and the public purpose thereof;

“To acquire, accept, or retain equitable interests, security interests, or other interest in any real property, personal property, or fixtures by loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance, contract, lien, loan agreement, or other consensual transfer in order to secure the repayment of any moneys loaned or credit extended by the authority;

“To encourage redevelopment and promote the improvement and revitalization of the downtown development area and to make, contract for, or otherwise cause to be made long-range plans or proposals for the downtown development area in cooperation with the municipal corporation within which the downtown development area is located...”

### **Land Banking Authorities**

A 1990 Act of the General Assembly permits cities to enter into agreements with counties to establish local “land bank authorities.” These authorities are created to acquire tax delinquent properties and return them to tax-paying status.

A land bank authority has the power to sell or lease the property. It can also manage, maintain, protect, repair, alter, and insure the property. A trade or exchange for other property is also authorized.

### **How is a Land Bank Authority Created?**

A city and the county in which it is located enter into an interlocal cooperation agreement in accordance with the Land Bank Authorities law. A four-member board is established. Two of these four are appointed by the mayor of the city; the other two are appointed by the county commission. All four must be residents of the county. Any of them may be employees of the city or county. Each member serves at the pleasure of the mayor or county commission which appointed him or her for a term of four years. A chairman is elected from among the four members. Three members constitute a quorum. Approval by a majority is necessary for action by the authority. The authority may employ staff or may use city or county employees as staff.

### **Operation of Land Bank Authorities**

If a city or county obtains a judgment against a tax delinquent property for the unpaid taxes, the property becomes subject to a tax sale. If no person bids an amount equal to the total of taxes, interests, and costs owing on the property, then the authority receives an option to acquire it from the tax commissioner.

If the authority acquires the property, it may extinguish all city and county taxes, other than school district taxes, at the time it sells or otherwise disposes of the property. Purchasers who intend to build or rehabilitate low-income housing will receive primary consideration for tax forgiveness.

The authority has full discretion in determining the sales price of properties that it may acquire.

A 12-month redemption period applies to tax-sale properties that the authority acquires. This means that the original owner has the option for 12 months from the date of the tax sale to buy the property back from the authority. The original owner must pay the amount paid at the tax sale plus 10% of that amount. An additional 10% and the payment of certain administrative costs may also apply. (See OCGA 48-4-42).

### **Enterprise Zones**

In 1997, the General Assembly enacted the Enterprise Zone Employment Act, recognizing the need for revitalization in many areas of Georgia. The State Enterprise Zone program intends to improve geographic areas within cities and counties that are suffering from disinvestment, underdevelopment, and economic decline, encouraging private businesses to reinvest and rehabilitate these places.

#### **The Enterprise Zone area must meet at least four of five criteria:**

1. Pervasive poverty established using 1990 Census data. Each block group must have at least 20% poverty.
2. Unemployment Rate (average for preceding yr.) at least 10% higher than State or significant job dislocation .
3. Underdevelopment evidenced by lack of building permits, licenses, land disturbance permits, etc. lower than development activity within local body's jurisdiction.
4. General distress and adverse conditions (population decline, health and safety issues etc.).
5. General Blight evidenced by the inclusion of any portion of the nominated area in an urban redevelopment area.

#### **Incentives:**

- Property tax exemption -- OCGA §36-88-8(a)(1)
- Abatement or reduction in occupation taxes, regulatory fees, building inspection fees, and other fees that would otherwise be imposed on qualifying business -- OCGA §36-88-9(a)
- Reduction or waiver of local ordinances to minimize adverse effects on rehabilitation, renovation, restoration and improvement of properties in the zone – O.C.G.A. 36-88-7

### **Job Tax Credits**

### **Georgia Job Tax Credit Program**

The Job Tax Credit Program provides a tax credit on Georgia income taxes for eligible businesses that create new jobs in counties or "less-developed" census tract areas. Counties in Georgia are designated by tiers that relate to a sliding scale of maximum credits.

### **Tax Allocation Districts**

#### **The Redevelopment Powers Law**

##### **O.C.G.A. § 36-44-1**

Note: The mechanism referred to as Tax Increment Financing in most states is called Tax Allocation Districts in Georgia's law

Tax increment financing (TIF), a tool widely used in many states, became available in Georgia through the Redevelopment Powers Law passed by the General Assembly in 1985. TIF helps local governments in constructing certain public facilities and infrastructure improvements in association with business development projects in deteriorating areas of a community. It allows the costs of these improvements to be charged directly to the businesses that use them rather than to the public at large. In return, the businesses benefit from the construction of facilities that otherwise might not be available to them.

#### **How Does it Work?**

A city or county government must identify a specific area in need of redevelopment and determine those public improvements (streets, water lines, etc.) needed to help the area attract new private development. When a developer provides a firm commitment to undertake a development project in the area, the city or county will issue bonds to pay for the necessary improvements.

After the public improvements and the private development are completed, the area will realize a significant increase in taxable value. Therefore, the local government will earn increased property tax revenues from the project. These revenues will be split so that the increase in revenues will go to a special fund to pay off the bonds that financed the public improvements. The remainder goes to the city and county general funds as normal.

After the bonds are repaid, the total tax revenues from the project, including the increased amount, will go to the general fund for the support of all city and county services.

#### **Where Can It Be Used?**

TIF can only be used in areas in need of redevelopment. Decaying industrial areas and deteriorated commercial areas are likely candidates.

#### **What Types of Public Facilities Can Be Funded?**

Traditional public facilities and infrastructure such as water and sewer lines, streets, sidewalks, parking facilities and public parks are included, along with building construction, building rehabilitation and land assembly.

#### **How Is TIF Implemented Locally?**

In general, the following steps are required: 1) local legislation is passed by the General Assembly which authorizes the local use of the redevelopment powers specified in the general law; 2) the local legislation is approved by the voters through a special election; 3) a local redevelopment agency is created by resolution; and 4) a redevelopment plan is prepared; public hearings on the plan are held; and the plan is approved by the local government.

## **Regional Economic Assistance Projects (REAP)**

Regional Economic Assistance Projects (REAP) provides a mechanism for local and state governments and the private sector to cooperate on large-scale tourism-related projects with multiple uses that will create jobs and enhance the local tax base. Upon meeting the requirements of the REAP statute and the REAP Rules, a developer of a certified REAP project may apply to the Georgia Department of Revenue for a state license for the sale of malt beverages, wine, or distilled spirits by the drink for consumption on the premises only. House Bill 1482, signed by the Governor on April 20, 2002, broadened the eligibility criteria for the REAP program. Effective July 10, 2002, the Department updated the REAP rules and application manual accordingly.

## **CIDs and CBIDs**

### **City Business Improvement Districts**

#### **OCGA 36-43-1**

In recognizing that many cities in the state are suffering from economically depressive conditions and that the conditions unfavorably contribute to the decline of those areas, state law allows for the establishment of City Business Improvement Districts (CBID), which is an effective means for restoring and promoting commercial and other business activity within such business districts.

A CBID is a special taxing district designed to promote the economic development of a city's commercial areas. Once established, a CBID may provide such services as advertising, promotion, sanitation, security, and business recruitment and development.

### **How is a City Business Improvement District Created?**

A city can create a CBID upon adoption of a plan for the proposed district. The plan cannot be adopted unless there is a written petition signed and acknowledged by either:

- a) At least 51% of the municipal taxpayers of the district proposed for creation as a CBID (or for the extension of the district); or
- b) Municipal taxpayers owning at least 51% of the taxable property subject to ad valorem real and personal property taxation in the district.

The plan included with the petition must provide a map of the district, a description of its boundaries, present and proposed uses of the land, maximum millage to be levied for providing the supplemental services, and a time frame for carrying out the plan. Under Georgia law, the duration of a CBID may not be less than five years and can be no longer than ten years, and will terminate unless renewed by ordinance.

### **Operation of City Business Improvement Districts**

After the adoption of a CBID, the city may levy annually a millage on real and personal property within the district (or a surcharge on business licenses and occupation taxes). These taxes will be collected in the same manner as other city taxes. The city may then provide the supplemental services called for in the plan, or it may contract with a nonprofit corporation or a downtown development authority to provide all or part of these services. The city can, if it chooses, mandate design and rehabilitation standards for buildings located within the district subject to existing historic preservation ordinances.

### **Community Improvement Districts**

#### **O.C.G.A. § 99-9-7.1**

Georgia law authorizes property owners in commercial areas to establish special tax districts to pay for infrastructure enhancement. These Community Improvement Districts (CIDs) do not replace traditional city and county infrastructure improvement programs but supplement them by providing a means to pay for required facilities in densely developed areas such as those around large shopping malls.

Projects which can be funded by a CID include street and road construction and maintenance, sidewalks and streetlights, parking facilities, water systems, sewage systems, terminal and dock facilities, public transportation, and parks and recreational areas.

### **How does it work?**

A CID is created through local legislation passed by the General Assembly with the approval by resolution of the city or county government which has jurisdiction over the area in which the CID would be located. Any law creating or providing for the creation of a CID shall require the adoption of a resolution consenting to the creation of the CID by:

- (A) The governing authority of the county if the CID is located wholly within the unincorporated area of a county; or
- (B) The governing authority of the municipality if the CID is located wholly within the incorporated area of a municipality; or
- (C) The governing authorities of the county and municipality if the CID is located partially within the unincorporated area of a county and partially within the incorporated area of a municipality.

In addition, written consent to the creation of the CID must be given by:

- (A) The owners of real property within the proposed CID which will be subject to taxes, fees, and assessments levied by the administrative body of the CID; and
- (B) The owners of real property within the CID which constitutes at least 75% by value of all real property within the CID which will be subject to taxes, fees, and assessments levied by the administrative body of the CID.

The administrative body of each CID is authorized to levy taxes, fees and assessments on all property subject to the tax up to a level which amounts to 2.5% of the assessed value of the property, i.e., 25 mills. Bonded debt is permitted but such debt may not be considered an obligation of the state or any other unit of government other than the CID.

### **Photometric Studies and Visual Preference Surveys**

Photometric Studies were first introduced in Georgia by the Keep Georgia Beautiful Program as way of measuring and monitoring litter levels over time, but it can also be used in mitigating visual blight as part of a URBAN REDEVELOPMENT plan strategy. Visual Preference Surveys are a simple technique used for building consensus on the more specific physical design features and architectural character that participants prefer as well as things they do not like. A series of slides is shown to and ranked by the target group or audience. The higher ranked images are used to develop new ordinances or regulations that will hopefully result a similar character for the area under redevelopment.