

Understanding How Municipal Service Districts Work

Downtown Tool Kit # 6



NORTH CAROLINA
DEPARTMENT *of*
COMMERCE

Moderators

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Municipal Service Districts : The Basics



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THE BASICS:

Municipal Service Districts (MSD)

1. A legislative act that a city can implement within a defined area w/in a city, town or village in which the governing board levies an additional property tax in order to provide projects or extra services that benefit the properties in the defined area.
2. Most common MSDs are for downtown or urban area revitalization in a central business district, and one or more may be established w/in the municipality.
3. Can be in or along a major transportation corridor (with restrictions).

https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_160A/Article_23.pdf

THE BASICS:

Municipal Service Districts (MSD)

- An act providing that a municipal service district may be implemented within a defined area by the city council upon receipt of a petition from real property owners;
- A City may exclude property from a municipal service district prior to or after the creation of the district if the property does not benefit from the services, facilities, or functions of the district;
- A municipal service district may be defined, extended, consolidated, and abolished only by ordinance

https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_160A/Article_23.pdf

Changes to MSD Legislation:

2015 & 2016

- Major Changes if City contracts with a private entity to provide services, they shall:
 1. Solicit input from the property owners.
 2. Use a bid process to solicit.
 3. Hold a public hearing.
 4. Require private entity to report annually.
 5. Create a contract that specifies the scope of services.



Role of Municipal Service Districts & Typical Services



- Provide enhanced services above and beyond the usual services provided by the city to a specific commercial district or neighborhood through an imposed tax (special tax district).
- However, having an MSD cannot prejudice a city's authority to take on urban renewal projects in the same area

Role of Municipal Service Districts & Typical Services

- Examples:
 - Improve economic well being of the area
 - Infrastructure Enhancements
 - Promotions/Festivals
 - Marketing the district
 - Plantings/Cleaning/Lighting/ Streetscape Projects





NC MSD Rates 2022-2023

Statewide MSD Rates:

Lowest - \$0.01

Average - \$0.13

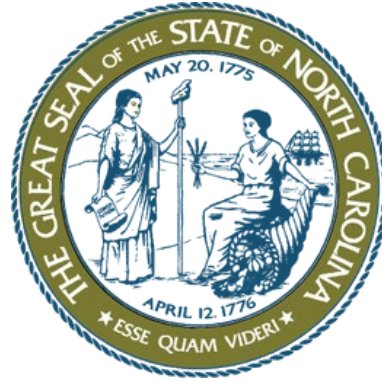
Highest - \$0.28

NC Main Street MSD Rates

Lowest - \$0.10

Average - \$0.17

Highest - \$0.28



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TOOLS TO HELP
PREPARE
YOUR COMMUNITY



▶ nccommerce.com



Municipal Service Districts

Legal Procedure and Process
Erin Gilley, City Attorney City of Eden, NC

Why would Property Owners want to be assessed a higher tax rate?

- Usually, these are business owners who have a vision for their business and surrounding area. They can see that improved City services and provisions will increase their property value and improve their business. They can also see the domino effect and how improvement of surrounding properties can improve their own. Some property owners will NOT see this.
- Property owner “buy in” is integral to the success of an MSD. Property owner initiation is even better! Forced MSDs with property owners who do not have the vision will likely not be successful or sustainable. Elected Officials are also not likely to vote to authorize the higher tax rate with unwilling property owners.
 - City of Eden was careful to get unanimous “buy in” by the property owners. Staff could then report to the City Council at the public hearing that the owners, their electors, were in favor.
- When a group of Property Owners can assemble, make recommendations for their own area, have a vision for their own area, they begin to “have skin in the game” and develop a sense of pride in their area. They also see the City Council focusing on their area and wanting to spend City resources in that area. When MSD tax dollars are used in an area, often times, this leads to other projects that the City Council will fund out of the general fund.

What is the Legal Process to create an MSD?

- 2016, the Municipal Service District Act underwent some changes and can be initiated in a number of ways:
 1. The City Council can direct the staff to create a study or report
 2. The Property Owners can submit a petition to the City Council
 3. The Staff can request the City Council to consider a Report or Request

What is the Legal Process to create an MSD?

The Report

- A **Report** must be prepared. (Staff most always prepares this report, even if the Property Owners file a petition) The Report must include:
 - A **MAP** of the proposed district, showing its proposed boundaries. GIS Tax Maps are helpful here. You can color code them to designate the boundaries and properties included.
 - A **STATEMENT** attesting that the proposed district is in need of one or more of the authorized functions (listed in the authorizing statute) or services to a demonstrably greater extent than the rest of the unit
 - A **PLAN** for providing in that district one or more of the services listed in the authorizing statute

What is the Legal Process to create an MSD?

The Map

- GIS Tax Maps are very helpful here. Color coding can be using to show the defined area. There should be a justification for the area.



What is the Legal Process to create an MSD?

The Statement

- We talked earlier about why a City would want to establish an MSD. This is where that “Why” becomes important.
- NCGS § 160A-536(a) provides 6 purposes that are authorized by the General Assembly for that non uniform (higher) tax rate. They are:
 - Beach Erosion control and flood and hurricane protection works.
 - Historic Districts
 - Downtown revitalization projects.
 - Urban area revitalization projects.
 - Transit-oriented development projects.
 - Drainage projects.
 - Sewage collection and disposal
 - Off-street parking facilities
 - Watershed improvements
 - Conversion of private residential streets to public streets

What is the Legal Process to create an MSD?

The Statement

- We'll focus today on Main Street applicable purposes, Downtown revitalization.
- When you prepare the statement, read the statute, read the statute and read the statute. The statute will define your purpose and give language to use and put in the statement.
- The statement is a justification of why this particular area is not like the other areas in your district and is in need of extra city services. It gives the General Assembly the ability to deviate from that uniform tax rate requirement in the Constitution because this area is at a disadvantage.
- Use census data, pictures, any facts or history that you may have to justify this disadvantage. Stay away from opinions and assumptions. You can get as detailed as you want.

Downtown Revitalization Defined NCGS 160A-536(b)

- Downtown Revitalization Defined. - As used in this section "downtown revitalization projects" are improvements, services, functions, promotions, and developmental activities intended to further the public health, safety, welfare, convenience, and economic well-being of the central city or downtown area. Exercise of the authority granted by this Article to undertake downtown revitalization projects financed by a service district do not prejudice a city's authority to undertake urban renewal projects in the same area. Examples of downtown revitalization projects include by way of illustration but not limitation all of the following:
 - (1) Improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements.
 - (2) Construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street.
 - (3) Construction of public buildings, restrooms, docks, visitor centers, and tourism facilities.
 - (4) Improvements to relieve traffic congestion in the central city and improve pedestrian and vehicular access to it.
 - (5) Improvements to reduce the incidence of crime in the central city.
 - (6) Providing city services or functions in addition to or to a greater extent than those provided or maintained for the entire city.
 - (7) Sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area.

What is the Legal Process to create an MSD?

The Plan

- Again, use the statute language and list, BROADLY, ways that the City will provide those needed services. Use the language: “not limited to”
- It’s smart to include language that does not limit the ways you might want to fund or provide those services.
- By using the statutory language, you are listing ways that already authorized by the General Assembly.

What is the Legal Process to create an MSD?

Notice and Hearing

- Issue **Notice**. Make the Report available for public inspection in the Clerk's office at least 4 weeks before holding a Public Hearing on establishing the District.
 - Publish notice that the public hearing will be held at least one week before the date of the hearing.
 - Notice shall state the **date, hour** and **place** of the hearing and its **subject**, and **include a map** of the proposed district. There should be a statement that the report is available for inspection in the Clerk's office.
 - Mail notice to all property owners in the proposed district at least 4 weeks before the date of the hearing. It must include everything listed in the published notice.
- Hold a **Public Hearing** at a City Council Meeting. Allow public comment and questions.
 - A property owner within the proposed district may speak at the public hearing and request that his or her property be excluded from the district. The City Council could find that the tract or parcel is not in need of services and may exclude that tract from the proposed district.

What is the Legal Process to create an MSD?

Ordinance

- Effective 2016, a City Council shall adopt an ordinance defining the service district.
- The **Ordinance** shall reference all steps taken, the map, the statement justifying the need, the plan for providing the service and the hearing and notice.
- The **Ordinance** shall designate an effective date for the service district to take effect. This date must take effect at the beginning of a fiscal year following the passage of the ordinance.
- The **Ordinance** must be passed by a majority of City Council members and must be passed at **two** meetings of the City Council by a majority vote.

Contracting

- Cities often use their own forces to provide services in a district or it also can engage with outside entities to provide services. Examples are contractors installing sidewalks or marketing firms promoting activities, or catering events.
- Larger municipalities also utilize private organizations or non-profits, even, to manage the needs of the district. They also may raise private money to fund downtown initiatives.
- NCGS §160A-536(d) lists requirements when there is any of this type of contracting so that a City Council may be able to manage oversight over the expenditure of public funds.
 - Any contract must specify the purposes for which city funds will be used and there should be an appropriate accounting of the moneys paid out under the contract at the end of the fiscal year.
 - NCGS §160A-536(d1) also has more specific requirements of contract with private agencies for districts formed for downtown revitalization, historic districts, and urban area revitalization including soliciting input from residents and property owners as to the needs of the service district, a bid process for the selection of the private agency, a public hearing within the District, annual reporting to the City Council. ***Make sure to check with your local attorney if you are pursuing contracts with private agencies.**

Taxing Authority Limits Within the District

- All real and personal property can be levied each fiscal year subject to the ad valorem property tax in the City.
- A City can decide it does not want to levy a tax in a particular year, but can pick it back up the next year.
- A service district tax when added to the unit's ad valorem tax rate may not exceed \$1.50 per \$100 valuation.
- Service district tax proceeds must be expended only to fund the authorized services or projects in the district. (This is why the language in the Ordinance is important and the correct purpose should be chosen for the Service district).
- Service district tax proceeds may be held in reserve for future expenditures in the district. They cannot be transferred to a City's general fund and used for other purposes.
- As a good practice, my City solicits input from the MSD Board as to how they would like to spend this tax revenue, even when City forces are performing the work but legally it is important for the property owners in a district to know before a district is established, that the City Council is not bound by the MSD owners recommendations, or any Service District Board as to how and when it spends the money in the district. It is obligated to use the revenue in the district and according to lawful purposes, but the City Council has the discretion.

DOWNTOWN
GOLDSBORO

MAINTAINING A MUNICIPAL SERVICE DISTRICT



How can a MSD help?

Downtowns require a higher level of services and focused resources than the municipality provides throughout the community.

- EQUITABLE FUNDING
-

- SHARED BENEFIT
-

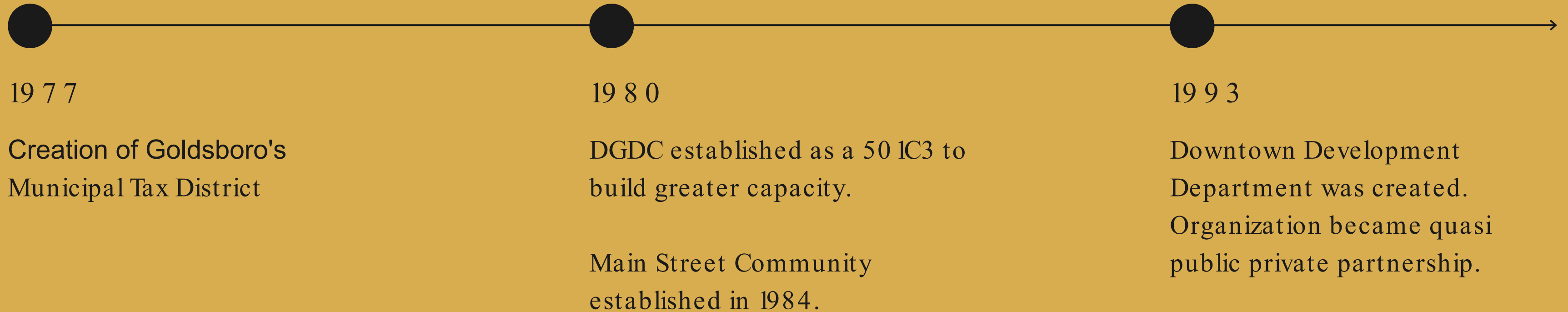
- FOCUSED RESOURCES
-

- INCENTIVES
-

- ADDITIONAL SERVICES
-



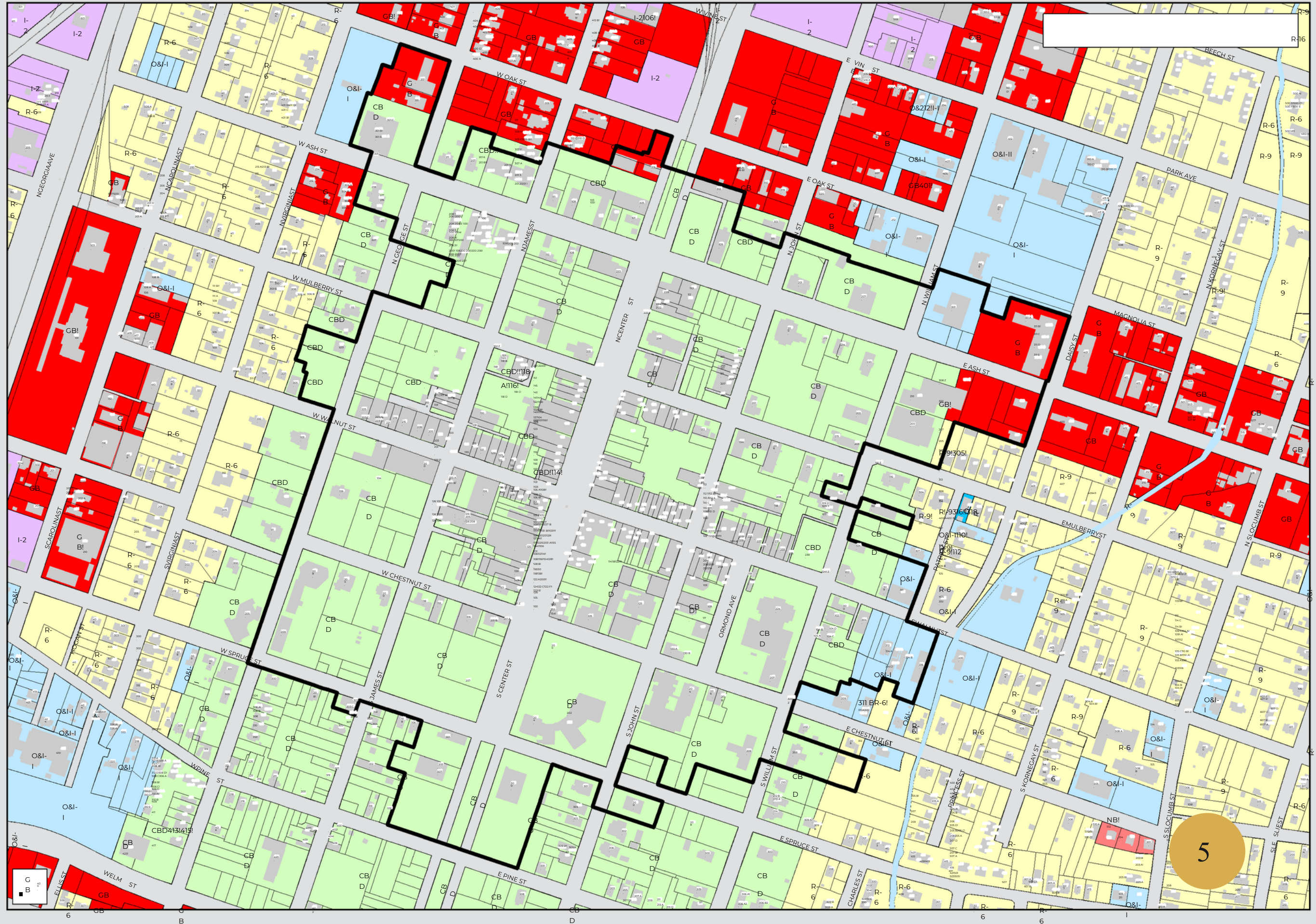
Timeline



DOWNTOWN GOLDSBORO

Goldsboro's Municipal Service District Map

Shape is due to
non-profits and
churches at the
time of
development.



Goldsboro's MSD

150+
businesses

21
Square Blocks

230
Properties

2M
Square Feet of
property

Funding Priorities



- BEAUTIFICATION

Improve downtown aesthetics and visual appeal.

- MARKETING/EVENTS

Program and promote downtown for the benefit of residents, visitors and merchants.

- INCENTIVES

Promote investment in property for ongoing use and preservation.



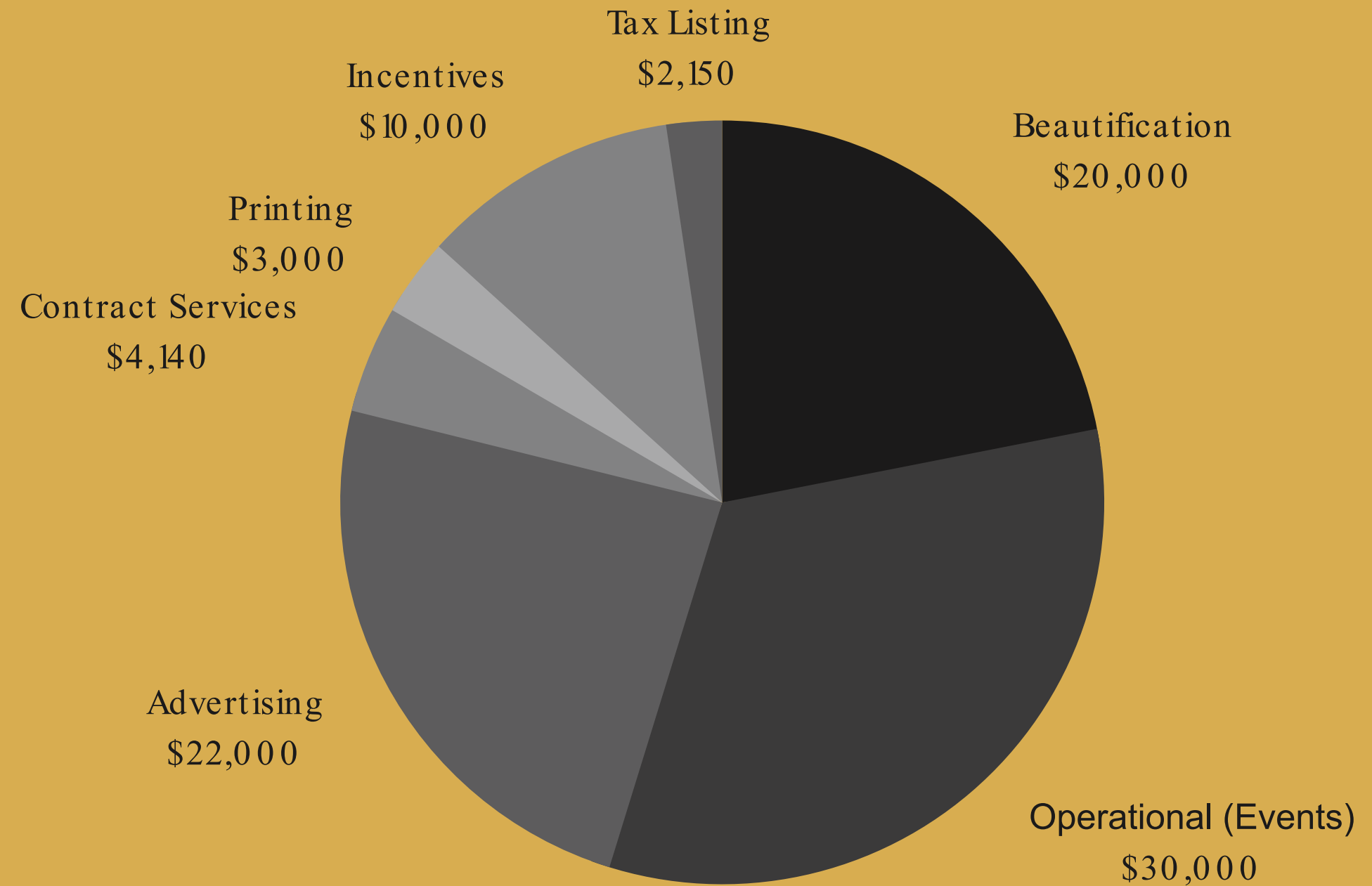
MSD Budget

\$91.5K

22-23 Budget

\$117K

Adjusted Based on
Property Taxes



Operating/Events



The largest portion of MSD funds support events and operational expenses related to events.

Examples: Holiday events, movie series, summer events (excluding alcohol), small business campaigns, etc.



Another large expenditure in the MSD budget. Covers the majority of marketing and advertising expenses. Various uses include print, digital and radio advertising, photography/videography, website updates, tourism co-op etc.

Beautification



A significant priority for MSD funds to support necessary aesthetic updates and art installations.

Examples: Murals, alley projects, lighting, clean up campaigns, smaller art installations, banners, benches, bike racks, wreaths etc.



Incentivize property investments that are sustainable and add value to downtown as a whole - beyond individual property impact. Limited by political support. Examples: Façade grant, building rehabilitation grant, small business support grants etc.

Shared Input

The Board and Staff discuss MSD budget needs from January to March, and make recommendations to support ongoing work plan initiatives and larger projects that meet the needs of downtown tourism, programming and properties.

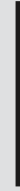


Downtown Staff &
Board



City Management &
Council

DOWNTOWN
GOLDSBORO



Let's Connect!



919.735.4959



efonseca@goldsboronc.gov



Downtown Smithfield Municipal Service District

Sarah Edwards

Executive Director

Downtown Smithfield Development Corporation

The DSDC is a 501(c)(3)
nonprofit organization and
economic development partner
to the Town of Smithfield.

1984

Downtown Smithfield Development
Corporation is incorporated.

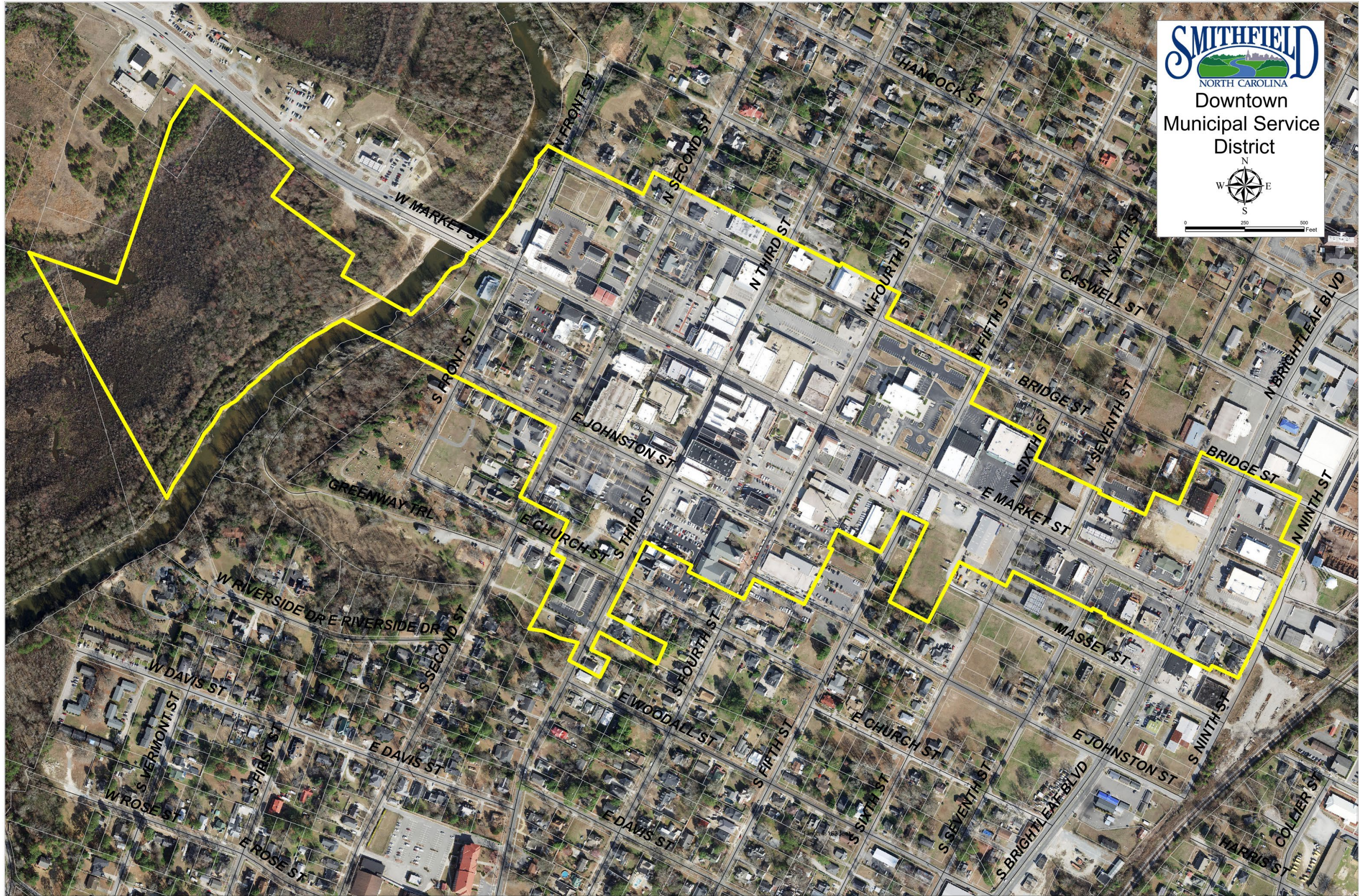
1985

Downtown Smithfield Municipal Service
District is established.

1986

Smithfield is designated as a
Main Street Community.

About the
DSDC and
the MSD



SMITHFIELD
NORTH CAROLINA
Downtown
Municipal Service
District

0 250 500 Feet

How MSD Funds Are Used



OPERATING EXPENSES

Provides stable funding for the organization's basic needs



STAFF SALARY

Allows for the employment of full-time staff to manage the Main Street program



TO LEVERAGE FUNDING

Positions the organization to pursue public and other private partnerships

Town Contribution

Festivals and Events

Grants

Interest

Amazon Smile

Other
Funding
Sources

...made possible in
part by MSD funds

Contracting with the Town

PUBLIC INPUT

According to the stakeholders, what are the needs of the district?

REQUEST FOR PROPOSALS

What entity is best suited to meet those needs?

CONTRACT AND REPORTING

A well-defined scope and good communication will set you up for success!

A Few Lessons



With turnover among Main Street Managers and Town Administration, it's important to make sure that all parties are aware of the contract terms, and that the process to award a new contract is started before the initial contract expires.



Make sure that everyone understands how MSD funds can be used (and how they can't be used)!



Be intentional when you draw the boundaries of your MSD to ensure you can provide the needed services equitably.

Main Street Programs with Contracts to Manage MSD Funds

Brevard

Edenton

Lexington

Mount Airy

New Bern

Rutherfordton

Sanford

Shelby

Smithfield

Statesville

Get in Touch

Sarah Edwards

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