

COMMUNITY AFFAIRS

URBAN ENTERPRISE ZONE AUTHORITY

Urban Enterprise Zone Program and Business Certification

Proposed Readoption: N.J.A.C. 5:120 (formerly N.J.A.C. 12A:120)

Authorized By: Urban Enterprise Zone Authority, Kathleen Kube,

Acting Executive Director

Authority: N.J.S.A. 52:27H-65

Proposal Number: PRN 2009-

Calendar: Reference: See Summary below for explanation of exception to calendar requirement..

Submit written comments by _____, 2009 to:

Kathleen G. Kube

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URBAN ENTERPRISE ZONE AUTHORITY

by: _____

Kathleen G. Kube, Acting Executive Director

The agency proposal follows.

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the Urban Enterprise Zone Program and Business Certification rules, N.J.A.C. 5:120 (formerly 12A:120), are scheduled to expire

on August 13, 2009. The Authority has reviewed these rules and finds that they continue to be necessary for the purpose for which they were promulgated and is therefore proposing that they be readopted without change.

The rules are promulgated by the New Jersey Urban Enterprise Zone Authority, which is responsible for implementing the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 *et seq.*, and associated programs. The purpose of these rules is to encourage economic development in certain areas of specifically-designated municipalities.

Subchapter 1 outlines and the applicability and scope of the Urban Enterprise Zone Program; defines the terms used in the rules; describes the application procedure for zone business benefits; stipulates the time for application for zone business benefits; explains the eligibility requirements for zone business benefits; and outlines the good faith waiver requirements.

Subchapter 2 outlines the applicability and scope of the business certification for zone business benefits; defines the terms used in the subchapter; explains the reapplication procedure for zone business benefits, including the time for reapplication, alternative recertification and acceptance for recertification; outlines the standards for conditional zone business recertification, including the time and procedures for application; describes conditional recertification for an eligible zone business; and stipulates the denial and appeal process for recertification or conditional recertification.

Some key provisions of the rules include the definition of a “qualified business” (see N.J.A.C. 5:120-1.2); good faith waiver provisions applicable to qualified businesses unable to meet certain requirements to receive zone business benefits (see N.J.A.C.

5:120-1.5); information needed to be contained in an application for a business to reapply for zone business benefits (see N.J.A.C. 5:120-2.3); the time for reapplication for zone business benefits (see N.J.A.C. 5:120-2.4); situations under which a business may be granted conditional zone business recertification (see N.J.A.C. 5:120-2.7); and standards for alternative qualifications for businesses unable to create additional employment (see N.J.A.C. 5:120-2.5).

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

Readoption of these rules would continue the positive social impact of encouraging creation of additional employment opportunities for residents of urban enterprise zones and the municipalities in which they are located and of facilitating municipal efforts to attract business to the zones.

Economic Impact

The economic impact of the program has been, and will continue to be, positive, in that it provides enhanced economic development opportunities for economically-depressed municipalities. These opportunities will continue to result in sounder economic development within those municipalities by broadening and strengthening their tax bases. The State incurs, and will continue to incur, certain administrative costs. A portion of State sales tax revenue generated from sales within the zones is set aside to provide service improvements within the zones.

Federal Standards Statement

No Federal standards analysis is required because this rule is not being readopted under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State statute that incorporates or refers to Federal law, standards or requirements.

Jobs Impact

The Authority anticipates that jobs will continue to be generated within as a result of the readoption of this subchapter

Agricultural Industry Impact

The Department does not anticipate any impact upon the agricultural industry as a result of the readoption of this subchapter.

Regulatory Flexibility Analysis

Some of the businesses participating in the Urban Enterprise Zone Program are “small businesses,” as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 *et seq.*

Small businesses that seek to be eligible for zone business benefits must maintain records of their employee turnover for the two-year period prior to application for eligibility, and estimate the number of new jobs to be created by the business during the two years following the date of its zone certificate of occupancy.

To remain qualified, small businesses must report the number of employees annually and project employment for the following year.

Small businesses that desire to participate in the program must complete an application to the Authority that includes an endorsement from the municipality and a

certification that the business is located in the zone. Participating small businesses must reapply annually by providing a completed recertification application indicating full-time employment figures and whether the business met its capital investment goals and objectives. A business that is unable to fulfill the employment requirements must document the reasons, using appropriate forms or reports.

To qualify for the “in lieu” provisions found in N.J.A.C. 5:120-2.5, a business must state why it is seeking the “in lieu” alternative, as opposed to creating full-time employment, and, depending on the number of full-time employees, may be required to provide a monetary or in-kind contribution to the qualifying municipality. The “in lieu” application must be accompanied by a supporting municipal resolution. Businesses are required to submit at least one vendor’s estimate of the project’s costs with the “in lieu” application and to submit a paid-in-full bill for the project. The coordinator would then be required to an onsite inspection to verify that the agreed-upon improvements have been made.

These rules are designed to allow flexibility for small businesses operating in the designated zones. They do so by allowing alternative means by which a small business may become recertified as a qualified zone business. It should not be necessary for any small business to hire the services of professionals in order to comply with the requirements set forth in this chapter.

Smart Growth Impact

Readoption of this chapter would continue a program that provides incentives for economic development in urban areas and would thereby further the implementation of the State Development and Redevelopment Plan and the achievement of “smart growth.”

Smart Growth Development Impact

Since the rules proposed for reoption only concern incentives for commercial development in urban enterprise zones, there is an extreme unlikelihood that they would evoke a change upon housing production within planning areas one and two or within designated centers under the State Development and Redevelopment Plan.

Housing Affordability Impact

Since the rules proposed for reoption only concern incentives for commercial development in urban enterprise zones, there is an extreme unlikelihood that they would evoke a change in the average costs associated with housing.

Full text of the rules proposed for reoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:120.