

Title 24 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

Subtitle 05 ECONOMIC DEVELOPMENT

Chapter 01 Enterprise Zones

Authority: Economic Development Article, §2-108 and Title 5, Subtitle 7, Annotated Code of Maryland

.01 Objective.

The objective of the Enterprise Zones Program is to focus local and State resources on the encouragement of economic growth in economically distressed areas and employment of the chronically unemployed in the State.

.02 Purpose.

These regulations describe the procedures that will be used by the Secretary of Business and Economic Development to designate enterprise zones and focus areas in enterprise zones and establish the requirements an area shall meet in order to be designated an enterprise zone or a focus area.

.03 Administration and Scope.

The Enterprise Zones Program shall be administered by the Secretary of Business and Economic Development. Certain activities shall be subject to approval by both the Secretary of Business and Economic Development and the Board of Public Works. Activities relating to revenue and taxes shall be administered by the Department of Assessments and Taxation and the Comptroller. The procedures set forth in these regulations are applicable to the designation of enterprise zones and focus areas in enterprise zones and the administration of the State Enterprise Zones Program. The State Enterprise Zones Program is independent of any federal enterprise zone program or designation.

.04 Definitions.

A. For purposes of designating enterprise zones and focus areas in enterprise zones within the State, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Area" means a geographic area within one or more political subdivisions within the State described by a closed perimeter boundary.

(2) Business Entity.

(a) "Business entity" means a person operating or conducting a trade or business.

(b) Except as provided in Tax-Property Article, §9-103, Annotated Code of Maryland, "business entity" does not include a person owning, operating, developing, constructing, or rehabilitating property intended for use primarily as a single or multifamily residential property located within an enterprise zone.

- (3) "Census" means the United States Census of Population.
- (4) "Chronic abandonment" means a condition where there is frequent giving up of land or buildings, or both, with no intent to return or reclaim.
- (5) "Department" means the Department of Business and Economic Development.
- (6) "Enterprise zone" means an area:
 - (a) Meeting certain specific requirements and so designated by the Secretary; or
 - (b) So designated by the United States Government, subject however to Regulation .07D of this chapter.
- (7) "Enterprise zone incentives" means the financial incentives described in Economic Development Article, §5-707, Annotated Code of Maryland, for a business entity locating, investing, or expanding in an enterprise zone.
- (8) "Focus area" means an area:
 - (a) Meeting the requirements of Economic Development Article, §5-706, Annotated Code of Maryland, and this chapter; and
 - (b) Designated as a focus area by the Secretary pursuant to Economic Development Article, §5-706, Annotated Code of Maryland, and this chapter.
- (9) "Fund" means the Enterprise Zone Venture Capital Guarantee Fund.
- (10) "Political subdivision" means any county or municipal corporation.
- (11) "Secretary" means the Secretary of Business and Economic Development.
- (12) "Submission date" means April 15 and October 15 of any calendar year.

.05 Eligible Applicants for Enterprise Zone Designation.

Eligible applicants include all political subdivisions.

.06 Designation of Enterprise Zones.

A. Any political subdivision may individually apply for designation of an area within its corporate or political boundaries as an enterprise zone.

B. County Designation.

(1) A county may apply to obtain a designation of an area in the county as an enterprise zone, but if any portion of the area is within the boundaries of a municipal corporation in the county, the county shall obtain the consent of the governing body of the municipal corporation.

(2) The required consent of the municipal corporation shall be obtained before submission of the application for designation and the consent document shall be included as part of the application.

(3) The required consent document shall be in the form required by local law or the governing body of the municipal corporation, or both.

C. Two or more political subdivisions may jointly apply for designation of an area as an enterprise zone if portions of the proposed area are within each of their common boundaries.

D. All applications shall be complete, meet all stated requirements, and be properly signed by the chief elected officer or officers in the case of a joint application or, if none, by the governing body of each of the political subdivisions. Except as noted in §B of this regulation, an application signed by the chief elected officer shall include a written expression of sentiment of the local elected governing body or bodies regarding the filing of an application for designation. The expression of sentiment may be in the form of a letter or a resolution at the discretion of the local jurisdiction.

E. The Secretary may permit any political subdivision to amend its application at any time before the Secretary acts upon the application.

F. All applications are to be received in the Office of the Secretary, Department of Business and Economic Development, on or before any submission date.

G. Within 60 days following any submission date, the Secretary may designate one or more enterprise zones from among the applications submitted.

H. Before a designation of an enterprise zone, the Secretary shall consult with and ask the advice of the appropriate individuals and advisors.

I. The designation of an enterprise zone by the Secretary shall constitute the State approval that may be required for designation as an enterprise zone under federal law.

J. With respect to any designated enterprise zone, a political subdivision may not, without the prior approval of the Secretary, modify the standards with which it requires a business entity located in that zone to comply as a precondition to receiving any incentives.

.07 Designation of Focus Areas in Enterprise Zones.

A. A political subdivision may individually apply for designation of an area within its corporate or political boundaries as a focus area in an enterprise zone.

B. County Designation.

(1) A county may apply to obtain a designation of an area as a focus area in an enterprise zone, but if any portion of the area is within the boundaries of a municipal corporation in the county, the county shall obtain the consent of the governing body of the municipal corporation.

(2) The required consent of the municipal corporation shall be obtained before submission of the application for designation, and the consent document shall be included as part of the application.

(3) The required consent document shall be in the form required by local law or the governing body of the municipal corporation, or both.

C. Two or more political subdivisions may jointly apply for designation of an area as a focus area in an enterprise zone if portions of the proposed focus area are within each of their boundaries.

D. All applications shall be complete, meet all stated requirements, and be properly signed by the chief elected officer or officers in the case of a joint application, or, if none, by the governing body of each of the political subdivisions. Except as noted in §B of this regulation, an application signed by the chief elected officer shall include a written expression of sentiment of the local elected governing body or bodies regarding the filing of an application for designation. The

expression of sentiment may be in the form of a letter or a resolution at the discretion of the local jurisdiction.

E. The Secretary may permit any political subdivision to amend its application at any time before the Secretary acts upon the application.

F. All applications are to be received in the Office of the Secretary, Department of Business and Economic Development, on or before any submission date.

G. Within 60 days following any submission date, the Secretary may designate one or more focus areas in enterprise zones from among the applications submitted.

H. Before a designation of a focus area in an enterprise zone, the Secretary shall consult with and ask the advice of the appropriate individuals and advisors.

.08 Expansion of Enterprise Zones.

A. Upon application, the Secretary may permit the expansion of a designated enterprise zone.

B. The political subdivision or subdivisions that originally obtained the zone designation shall apply for the expansion.

C. The application for expansion of a designated enterprise zone shall set forth the basis for the request for expansion but need not duplicate data submitted for the original designation.

D. The designation period for the expansion area of the zone runs simultaneously with the period of the original zone designation and expires at the same time as the original zone designation.

E. The Secretary may grant an extraordinary expansion of an enterprise zone into any area that:

(1) Meets the requirements of Economic Development Article, §5-704, Annotated Code of Maryland, and this chapter; and

(2) In the determination of the Secretary, has suffered a significant loss of economic base.

.09 Redesignation of Enterprise Zones.

A. Upon application, the Secretary may permit redesignation of all or a portion of a designated enterprise zone.

B. Application Procedure.

(1) To apply for redesignation, the appropriate political subdivision shall file a complete application showing that the proposed zone meets all the requirements for a new zone.

(2) A redesignation application shall also include the following information:

(a) An evaluation of the history and benefits of the existing zone;

(b) An explanation of why portions of the existing enterprise zones are included in the redesignation request; and

(c) A comparison of the economic development strategy for the redesignation application with that of the existing zone.

C. A political subdivision may request redesignation of all or a portion of the designated zone before the end of the 10-year designation period. The new 10-year designation period shall,

however, begin immediately upon the redesignation by the Secretary, within 60 days following the submission date, rather than at the end of the original 10-year term.

.10 Limit on Designation of Enterprise Zones.

A. The Secretary may not designate more than six enterprise zones in any calendar year. For the purpose of this limitation, a calendar year begins January 1 of each year and ends December 31 of the same year beginning in the year 2007.

B. Limit on Number of Zones.

(1) A county may not receive more than one designation of an area as an enterprise zone in any calendar year.

(2) Joint applications by two or more counties count as one designation of an area as an enterprise zone for each county.

(3) Joint applications by two or more municipalities within the same county count as one designation of an area as an enterprise zone within the county.

(4) Joint applications by a county and a municipality located within an adjoining county count as one designation of an area as an enterprise zone for each county.

(5) Except as provided in §B(6) of this regulation, an application for expansion of a designated enterprise zone is considered a new zone request and is counted as one additional designation of an area as an enterprise zone for the appropriate county or counties.

(6) If the geographic area of a proposed expansion area does not exceed 50 percent of the existing geographic area of the enterprise zone, the application for expansion is not considered a new zone request and is not counted as an additional designation of area as an enterprise zone for the appropriate county or counties.

(7) A redesignation request is considered a new zone request and is counted as one additional designation of an area as an enterprise zone.

(8) An area that is designated an enterprise zone under federal law is designated an enterprise zone, without regard to any limitation as to the number of enterprise zones that may be designated by the Secretary, automatically and without any additional action by the political subdivision or the Secretary.

(9) The extraordinary expansion of an enterprise zone may not count toward the limit set forth in §A of this regulation.

(10) The Secretary may not grant more than one extraordinary expansion of an enterprise zone throughout the State in any calendar year.

.11 Designation and Notice.

A. A. A determination by the Secretary as to the area designated an enterprise zone or a focus area in an enterprise zone is final.

B. The Secretary shall give written notice of a designation to both a political subdivision that receives a designation and the State agencies that will provide tax credits and other incentives and initiatives.

C. The Secretary shall notify a political subdivision that does not receive a requested designation in writing. The jurisdiction may reapply for a designation at any time by resubmitting the previously filed application or a revised application.

.12 Federal Designation.

A. If an area without a prior State designation is designated an enterprise zone under federal law, the incentives and initiatives provided for in the State Enterprise Zones Program are not available to business entities located in the federally designated enterprise zone unless, upon request by the appropriate political subdivision and submission of a copy of the federal application, the Secretary and the Board of Public Works consent to the federal designation.

B. After consent by the Secretary and the Board of Public Works to a federal designation, each business entity in the federal zone shall meet the conditions and requirements applicable to each incentive or initiative and comply with the standards submitted by the political subdivision.

.13 Clearinghouse or Alternate Review.

The political subdivision requesting an enterprise zone designation shall file, simultaneously with the submission of an application to the Secretary, a copy or copies of the application or application information, in accordance with established procedure, with the Priority Funding Area specialist in the Maryland Office of Planning and the State Clearinghouse or alternate review process that may be established by the Department.

.14 Application Requirements for Designation of an Enterprise Zone.

A. Requirements. The Secretary may not designate any area an enterprise zone unless the area:

(1) Is designated as a priority funding area or meets an exception under State Finance and Procurement Article, Subtitle 7B, Annotated Code of Maryland; and

(2) Satisfies at least one of the following requirements:

(a) The average rate of unemployment in the area, or within a reasonable proximity within the county to the area, for the most recent 18-month period for which data is available, shall be at least 150 percent of the average rate of unemployment in either the State of Maryland or the United States, whichever average rate is greater during that same period;

(b) The population in the area, or within a reasonable proximity within the county to that area, is, on the basis of the most recent census, a low-income poverty area in which the proportion of families with less than poverty level incomes is at least 1.25 times the national proportion;

(c) At least 70 percent of the families living in the area, or within a reasonable proximity within the county to that area, based on the most recent census, have incomes that are less than an amount equal to 80 percent of the median family income within the political subdivision in which the area is located; or

(d) The population in the area, or within a reasonable proximity within the county to that area, decreased by 10 percent between the date of the most recent census and the date of the immediately preceding census and the political subdivision can demonstrate to the Secretary's satisfaction that either chronic abandonment or demolition of the property is occurring in that area or substantial property tax arrearages exist within the area.

B. A political subdivision which chooses to generate statistics or use those of others to support compliance with §A of this regulation shall, at least 60 days before the submission date, deliver to the Secretary the statistics in detail including all background data, source, methodology, and certification by the person or persons responsible for preparation.

C. Other Requirements. In addition to §§A and B of this regulation, each political subdivision shall submit the following elements:

- (1) A vicinity map and plan of the proposed zone indicating existing improvements and, if known, their historic significance and any proposed State capital improvements projects that affect the proposed zone.
- (2) A tax map or block plat identifying those properties that are within the proposed zone, an indication as to those publicly or privately held, an analysis of current building use or uses and employment levels, and such other information as shall be established by the Secretary.
- (3) A statement whether the political subdivision has examined the feasibility of creating educational or training opportunities for employers and employees of business enterprises located or to be located in the proposed zone. If these opportunities are to be established, indicate the nature, type and sponsorship of the educational or training opportunities. If these opportunities are not to be established, indicate the reason.
- (4) A plan covering the responsibility for management of the zone.
- (5) Standards to be imposed by the political subdivision with which a business entity shall comply, either initially or continuously, as a precondition to receiving the Enterprise Zones Program incentives and initiatives. A political subdivision may require a business entity to provide an annual report containing information required by the Secretary as a precondition to the business entity receiving an eligibility certification for the Enterprise Zones Program incentives and initiatives.
- (6) Additional incentives and initiatives the applicant jurisdiction may provide or establish to encourage business entities to locate within the proposed zone.
- (7) Evidence and certification that the political subdivision, before submission, held a public hearing with adequate notice and publicity on the application.
- (8) A written narrative to explain the goals and strategy for the zone.
- (9) If the size of the proposed zone exceeds 160 acres, a written justification of the size of the proposed zone.
- (10) Either a certification that all properties proposed for inclusion in the enterprise zone are priority funding areas under State Finance and Procurement Article, §5-7B-03, Annotated Code of Maryland, or a justification as to why any property that is not in a priority funding area should be included in the enterprise zone.

.15 Application Requirements for Designation of a Focus Area.

A. A request for designation of a focus area may be made on or before any submission date, either at the time the political subdivision applies for the designation of a new enterprise zone or after an enterprise zone has been designated by the Secretary.

B. The Secretary may designate an area as a focus area if the area is located in an enterprise zone designated by the Secretary and meets at least three of the following criteria:

(1) The average rate of unemployment in the area, or within a reasonable proximity to the area but within the same county, for the most recent 18-month period for which data are available, is at least 150 percent of the average rate of unemployment in either the State or the United States, whichever average rate is greater during the same period;

(2) The population in the area or within a reasonable proximity to the area but within the same county has an incidence of poverty that is 150 percent of the national average;

(3) The crime rate in the area or within a reasonable proximity to the area but within the same county is at least 150 percent of the crime rate in the political subdivision in which the area is located, based on crime statistics that:

(a) Conform with standards set forth under the F.B.I. Uniform Crime Reporting Program or the National Crime Victimization Survey, and

(b) Are "aggregated categories" that include both violent crimes and crimes against property;

(4) The percentage of substandard housing in the area or within a reasonable proximity to the area but within the same county is at least 200 percent of the percentage of housing units in the State that are substandard, according to data from the U.S. Bureau of the Census, or other State or federal government data considered appropriate by the Secretary, including any of the following measures developed from the Decennial Census of Population and Housing, Bureau of the Census, U.S. Department of Commerce:

(a) The proportion of housing units without complete kitchen facilities,

(b) The proportion of housing units without complete bathroom facilities,

(c) The proportion of boarded-up units, or

(d) The number of occupants per occupied housing unit;

(5) The percentage of square footage of commercial property that is vacant in the area or within a reasonable proximity of the area but within the same county is at least 20 percent, according to data from the U.S. Bureau of the Census, or other State or federal government data considered appropriate by the Secretary, including data collected by a county or municipality and approved by a unit of State government.

C. A political subdivision that chooses to generate statistics or use those of others to support compliance with §B of this regulation shall, at least 60 days before any submission date, deliver to the Secretary the statistics in detail, including all background data, source, methodology, and certification by the person or persons responsible for preparation.

.16 Annual Report.

A. A political subdivision receiving an enterprise zone designation from the Secretary shall submit an annual report on a calendar year basis to the Secretary by April 15 of the following year, in the form and containing the information established by the Secretary.

B. If the enterprise zone contains one or more focus areas, the annual report shall contain a separate discussion about each focus area.

.17 Period of Availability.

A. Except as provided in Tax-General Article, §10-702, and Tax-Property Article, §9-103, Annotated Code of Maryland, the Enterprise Zones Program incentives and initiatives shall be available for a period of 10 years following the date on which the area is designated an enterprise zone.

B. Except as provided in Tax-General Article, §10-702, and Tax-Property Article, §9-103, Annotated Code of Maryland, the focus area incentives and initiatives shall be available for the lesser of:

- (1) 5 years from the date of designation; or
- (2) The remainder of the 10-year term of the applicable enterprise zone.

.18 Economically Disadvantaged Individual.

The Secretary has designated the Department of Labor, Licensing, and Regulation to certify persons as "economically disadvantaged individuals" for eligibility under Tax-General Article, §10-702(a)(5), Annotated Code of Maryland.

.19 Waiver.

The Secretary may waive or vary particular provisions of these regulations to the extent that a waiver is not inconsistent with the law.

Administrative History

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