

CHAPTER 120

URBAN ENTERPRISE ZONE AUTHORITY

Authority

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

Source and Effective Date

R.2009 d.227, effective June 16, 2009.
See: 41 N.J.R. 933(a), 41 N.J.R. 2779(a).

Chapter Expiration Date

Chapter 120, Urban Enterprise Zone Authority, expires on June 16, 2014.

Chapter Historical Note

Chapter 120, Urban Enterprise Zone Authority, was adopted as R.1988 d.431, effective September 6, 1988. See: 20 N.J.R. 1336(a), 20 N.J.R. 2307(a).

Subchapter 2, Business Certification for Zone Business Benefits, was adopted as R.1989 d.376, effective July 17, 1989. See: 21 N.J.R. 693(a), 21 N.J.R. 2043(a).

Pursuant to Executive Order No. 66(1978), Chapter 120, Urban Enterprise Zone Authority, was readopted as R.1993 d.416, effective July 27, 1993. See: 25 N.J.R. 2645(b), 25 N.J.R. 3837(a). Pursuant to Executive Order No. 66(1978), Chapter 120 expired on July 27, 1998.

Chapter 120, Urban Enterprise Zone Authority, was adopted as new rules by R.1998 d.470, effective September 8, 1998. See: 30 N.J.R. 2155(a), 30 N.J.R. 2859(a), 30 N.J.R. 3251(a).

Chapter 120, Urban Enterprise Zone Authority, was readopted as R.2004 d.101, effective February 13, 2004. See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

Pursuant to P.L. 2008, c. 27, §16 (N.J.S.A. 34:1B-225) and by notice of administrative change, Chapter 120 of Title 12A, Urban Enterprise Zone Authority, was recodified as Chapter 120 of Title 5, effective January 29, 2009. See: 41 N.J.R. 1016(b).

Chapter 120, Urban Enterprise Zone Authority, was readopted as R.2009 d.227, effective June 16, 2009. See: Source and Effective Date.

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SUBCHAPTER 1. URBAN ENTERPRISE ZONE PROGRAM

5:120-1.1 Applicability and scope

(a) The rules in this subchapter are promulgated by the Urban Enterprise Zone Authority (UEZA) to implement N.J.S.A. 52:27H-60 (P.L. 1983, ch. 303), the New Jersey Urban Enterprise Zones Act.

(b) The Act provides for the establishment of an UEZA which is to designate certain areas of the State as Urban Enterprise Zones (UEZ). The Act also provides that the UEZA provide continuing review of the implementation of the Act and report annually to the Governor and the Legislature on the effectiveness of UEZ's in addressing the conditions cited in the Act, including any recommendations for legislation to improve the effectiveness of operation of the UEZ's.

(c) Applications and questions concerning UEZ's should be directed to:

Urban Enterprise Program
New Jersey Department of Community Affairs
20 West State Street, PO Box 820
Trenton, New Jersey 08625-0820

Amended by R.2004 d.101, effective March 15, 2004.
See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

5:120-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act” means the New Jersey Urban Enterprise Zones Act, P.L. 1983, ch. 303 (N.J.S.A. 52:27H-60).

“Administrator” means the Executive Director of the Urban Enterprise Zone Program in the New Jersey Department of Community Affairs.

“Authority” or “UEZA” means the New Jersey Urban Enterprise Zone Authority.

“Enterprise Zone” or “Zone” means an urban enterprise zone designated by the New Jersey Urban Enterprise Zone Authority pursuant to the Act.

“Qualified business” means any entity authorized to do business in the State of New Jersey which, at the time of designation as an enterprise zone, is engaged in the active conduct of a trade or business in that zone or an entity which,

after that designation but during the designation period, becomes newly engaged in the active conduct of a trade or business in that zone, and for which at least 25 percent of its full-time employees, newly hired during the two years after issuance of the business' certificate of occupancy to work at a business location in the zone, meet one or more of the following criteria:

1. Resident within the zone or within the municipality which the zone is located; or
2. Unemployed for at least a year prior to being hired and residing in New Jersey, or recipients of New Jersey public assistance programs for at least one year prior to being hired; or
3. Determined to be economically disadvantaged pursuant to the Jobs Training Partnership Act, Pub. L. 97-300 (29 U.S.C. §§ 1501 et seq.).

"Qualifying municipality" means any municipality in which there was, in the last full calendar year immediately preceding the year in which application for enterprise zone designation is submitted pursuant to section 14 of the Act, an annual average of at least 2,000 unemployed persons, and in which the average annual unemployment rate for that year exceeded the State average annual unemployment rate; except that a municipality which qualifies for State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) shall qualify if its municipal average unemployment rate for that year exceeds the State average annual unemployment rate. The annual average of unemployed persons and the average annual unemployment rates shall be estimated for the relevant calendar year by the Office of Labor Statistics, Division of Planning and Research of the State Department of Labor and Workforce Development.

"Zone development corporation" means a nonprofit corporation or association created by the governing body of a qualifying municipality to formulate and propose a preliminary zone development plan pursuant to section 9 of the Act.

"Zone development plan" means a plan adopted by the governing body of a qualifying municipality for the development of an enterprise zone therein, and for the direction and coordination of activities of the municipality, zone businesses and community organizations within the enterprise zone toward the economic betterment of the residents of the zone and the municipality.

"Zone neighborhood association" means a corporation or association of persons who either are residents of, or have their principal place of employment in, a municipality in which an enterprise zone has been designated pursuant to the Act; which is organized under the provisions of Title 15 of the Revised Statutes; and which has for its principal purpose the encouragement and support of community activities within, or on behalf of, the zone so as to:

1. Stimulate economic activity;
2. Increase or preserve residential amenities;

3. Otherwise encourage community cooperation in achieving the goals of the zone development plan.

Amended by R.2004 d.101, effective March 15, 2004.
See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

Rewrote "Administrator"; in "Zone neighborhood association", substituted "Statutes" for "Statues" following "Revised".

5:120-1.3 Application for zone business benefits

Any business, which desires to receive zone business benefits, shall forward to the administrator a letter specifying the benefits which it wants to receive, a letter of endorsement from the municipality for the business to receive the benefits, a certification that the business is located in the zone, and any other additional information requested by the administrator.

Amended by R.2004 d.101, effective March 15, 2004.
See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

5:120-1.4 Time for application for zone business benefits

A business may apply for zone business benefits at any time after the business to be located in the zone agrees with the administrator or his or her designee to provide an increase in permanent full-time employment in the zone.

5:120-1.5 Zone business benefits eligibility

(a) Qualified businesses within a zone shall be eligible to receive all benefits provided for under the Act as approved by the UEZA for the specific zone.

(b) The UEZA in determining whether a business shall be approved as a qualified business shall:

1. Review data compiled by the United States Department of Labor and New Jersey Department of Labor and Workforce Development and private industry councils created under the Federal Job Training Partnership Act, and any other relevant sources, which bears on the availability to the business, in the area in which it is or will be located, of potential employees who meet the criteria set forth in N.J.S.A. 52:27H-62(c)(1), (2), or (3); and

2. At the time the business applies for qualified business designation under N.J.S.A. 52:27H-62(c), review the business' employee turnover experience for the two years preceding its application and estimate the number of new positions to be created by the business during the two years after the date of its zone certificate of occupancy.

5:120-1.6 Good faith waiver

(a) If the UEZA determines that an applicant for qualified business status or a previously qualified business is unable in good faith to meet the definition of qualified business (see N.J.A.C. 5:120-1.2) because an insufficient number of persons satisfying the criteria of N.J.S.A. 52:27H-62(c)(1), (2), and (3), and the workforce requirements of the business are available within the business's geographical area, the UEZA,

in its discretion may reduce the requirement below 25 percent for that business conditioned upon the agreement of the business to implement any one or more of the following actions:

1. Sponsor and fund development and training programs in high schools, vocational or technical schools, or continuing education facilities which serve the zone city and which primarily develop basic or entry level job skills;
2. Provide summer or part-time jobs for zone city high school students or graduates;
3. Provide summer internships for zone city students attending post-secondary, vocational, or technical educational institutions;
4. Design and implement skills training programs in zone cities. These programs shall include, but are not limited to:
 - i. Secretarial skills;
 - ii. Computer skills;
 - iii. Financial administration and analysis skills;
 - iv. Management skills; and
 - v. Other vocational skills;
5. Participate in and fund State and federally sponsored job training programs in zone cities. These programs shall include but are not limited to:
 - i. The New Jersey Department of Labor and Workforce Development's Customized Training Program;
 - ii. The Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. §§ 1501 et seq.); or
 - iii. Any other job training program recognized by the UEZA;
6. Sponsor and fund any other programs as may be designated by the UEZA.

(b) In determining the extent that a zone business shall be required to implement, sponsor, or fund any of the activities set forth under (a) above, the UEZA shall take into account the business's size as reflected in the number of employees normally, seasonally and currently employed by the business.

(c) A business which is required by the UEZA to implement one or more of the actions enumerated in (a) above in lieu of some portion of the 25 percent requirement of N.J.A.C. 5:120-1.2 shall:

- i. Remain subject to those specified requirements for a period of not less than five years, or such other period of time as may be established by the UEZA in order to fulfill the goals of the Act; and
- ii. Consistent with Federal and State law, agree to grant a preference in hiring to persons participating in the activities specified in this section.

SUBCHAPTER 2. BUSINESS CERTIFICATION FOR ZONE BUSINESS BENEFITS

5:120-2.1 Applicability and scope

(a) The rules in this subchapter are promulgated by the Urban Enterprise Zone Authority (UEZA) to implement P.L. 1983, c.303, as amended by P.L. 1988, c.93, the New Jersey Urban Enterprise Zones Act (the Act), and to implement standards of business certification for zone business benefits. This subchapter is divided into two parts: the first part which establishes standards for the recertification of zone business (N.J.A.C. 5:120-2.3 to 2.6), and the second part which establishes standards for the conditional recertification of zone businesses (N.J.A.C. 5:120-2.7 to 2.10).

(b) The Act provides for the establishment of an UEZA which is to designate certain areas of the State as Urban Enterprise Zones (UEZ). The Act also provides that the UEZA provide continuing review of the implementation of the Act and report annually to the Governor and the Legislature on the effectiveness of UEZs in addressing the conditions cited in the Act, including any recommendations for legislation to improve the effectiveness of operation of the UEZs.

(c) Applications and questions concerning UEZs should be directed to:

Urban Enterprise Zone Program
New Jersey Department of Community Affairs
20 West State Street, PO Box 820
Trenton, New Jersey 08625-0820

Amended by R.2004 d.101, effective March 15, 2004.
See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

5:120-2.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the New Jersey Urban Enterprise Zones Act, P.L. 1983, c.303 (N.J.S.A. 52:27H-60).

“Administrator” means the Executive Director of the Urban Enterprise Zone Program in the New Jersey Department of Community Affairs.

“Authority” or “UEZA” means the New Jersey Urban Enterprise Zone Authority.

“Commissioner” means the Commissioner of the New Jersey Department of Community Affairs.

“Enterprise zone” or “zone” means an urban enterprise zone designated by the New Jersey Urban Enterprise Zone Authority pursuant to the Act.

“Qualified business” means any entity authorized to do business in the State of New Jersey which, at the time of

designation as an enterprise zone, is engaged in the active conduct of a trade or business in that zone; or an entity which, after that designation but during the designation period, becomes newly engaged in the active conduct of a trade or business in that zone and for which at least 25 percent of its full-time employees, newly hired during the two years after issuance of the business's certificate of occupancy to work at a business location in the zone, meet one or more of the following criteria:

1. Resident within the zone, within another zone or within the municipality in which the zone or any other zone is located; or
2. Unemployed for at least a year prior to being hired and residing in New Jersey, or recipients of New Jersey public assistance programs for at least one year prior to being hired; or
3. Determined to be economically disadvantaged pursuant to the Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. §§ 1501 et seq.).

"Qualifying municipality" means any municipality in which there was, in the last full calendar year immediately preceding the year in which application for enterprise zone designation is submitted pursuant to section 14 of the Act, an annual average of at least 2,000 unemployed persons, and in which the municipal average annual unemployment rate for that year exceeded the State average annual unemployment rate; except that a municipality which qualifies for State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) shall qualify if its municipal average unemployment rate for that year exceeded the State average annual unemployment rate. The annual average of unemployed persons and the average annual unemployment rates shall be estimated for the relevant calendar year by the Office of Labor Statistics, Division of Planning and Research of the State Department of Labor and Workforce Development.

"Qualified small business" means any entity authorized to do business in the State of New Jersey which, at the time of designation of the enterprise zone, had been engaged in the active conduct of a trade or business in that zone for at least one year prior to that designation, and which employs fewer than 50 full-time employees.

"Zone business benefits" means those benefits as defined by N.J.S.A. 52:27H-75 to 52:27H-79.

"Zone development corporation" means a nonprofit corporation or association created by the governing body of a qualifying municipality to formulate and propose a preliminary zone development plan pursuant to section 9 of the Act.

"Zone development plan" means a plan adopted by the governing body of a qualifying municipality for the development of an enterprise zone therein, and for the direction and coordination of activities of the municipality, zone businesses and community organizations within the enterprise

zone toward the economic betterment of the residents of the zone and the municipality.

"Zone neighborhood association" means a corporation or association of persons who either are residents of, or have their principal place of employment in, a municipality in which an enterprise zone has been designated pursuant to the Act; which is organized under the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, and which has for its principal purpose the encouragement and support of community activities within, or on behalf of, the zone so as to stimulate economic activity, increase or preserve residential amenities, or otherwise encourage community cooperation in achieving the goals of the zone development plan.

Amended by R.2004 d.101, effective March 15, 2004.

See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

Rewrote "Administrator"; deleted "Commissioner"; added "Secretary".

5:120-2.3 Reapplication for zone business benefits

Any business desiring to continue to receive zone business benefits shall forward to the Administrator a letter specifying the benefits which it wants to receive, a certification that the business is located in the zone, the amount of full-time employees of the business located within the zone, the amount of full-time employment projected for the next year, actual and projected capital expenditures and any other additional information requested by the Administrator.

5:120-2.4 Time for reapplication for zone business benefits

(a) A business must reapply for zone business benefits no later than one year after the prior date of certification of that business to receive zone business benefits.

(b) The Administrator may extend the reapplication period deadline by no more than six months when the business has demonstrated good faith efforts to produce the information required by the Administrator.

5:120-2.5 Alternative qualified small business recertification

(a) A qualified small business desiring to continue to receive zone business benefits may, upon agreement with the governing body of the qualifying municipality in which the enterprise zone is located and subject to the approval of the UEZA, agree to undertake investments in the enterprise zone in lieu of creating new employment. For purposes of this section, investments in the enterprise zone shall include, but shall not be limited to:

1. Improvements in the exterior appearance or customer facilities of the property constituting the place of business of the qualified business within the zone, provided that:

- i. All improvements must be of a permanent nature;
- ii. All improvements to the structure which are required to meet existing ordinances are not eligible;
- iii. The qualified business submits at least one vendor's estimate of the project's costs with its "in-lieu" application; and
- iv. Prior to the end of the current recertification year and upon completion of the improvement, a paid in full bill must be submitted to the UEZA and to the municipality;

2. Monetary or in-kind contributions to the qualifying municipality to undertake improvements to increase the safety or attractiveness of the zone to businesses which may wish to locate there or to consumer visitors to the zone, including but not limited to:

- i. Litter clean up and control;
- ii. Landscaping;
- iii. Creation or improvement of parking areas and facilities;
- iv. Creation or improvement of recreational and rest area facilities;
- v. Repair or improvement of public streets, curbing, sidewalks and pedestrian thoroughfares;
- vi. Creation or improvement of street lighting; or
- vii. Increase in police, fire or sanitation services in the enterprise zone;

3. Monetary contributions to the qualifying municipality to undertake employment related training programs; or

4. Monetary contributions to the qualifying municipality to undertake physical improvements or assist in educational or training programs of county schools, colleges and vocational schools.

(b) In order for an investment to constitute an alternative means by which a small business may become recertified as qualified zone business, the investment by that business shall:

1. Be no less than \$5,000 if the business employs 10 or fewer employees; or
2. If the business employs more than 10 employees, be not less than the amount produced by multiplying the number of employees employed by the small business by \$500.00.

Amended by R.1993 d.416, effective August 16, 1993.
See: 25 N.J.R. 2645(b), 25 N.J.R. 3837(a).

5:120-2.6 Acceptance as a recertified qualified zone business

(a) When a business has been granted recertification by the Administrator, the business shall be placed on the qualified

zone business register. The business shall be eligible for all zone business benefits as determined by UEZA.

(b) Once a business is placed on the qualified business register, it shall be eligible for zone business benefits until its next annual date of recertification, subject to N.J.A.C. 5:120-2.4.

5:120-2.7 Standards for conditional zone business recertification

(a) When a zone business applies for recertification to receive zone business benefits and that business has not increased employment at the business located in the zone since issuance of its certificate of occupancy, the Administrator may conditionally recertify that business when:

1. The business has exhibited good faith efforts to fulfill the projections of increased employment; and
2. The business has experienced unforeseen adverse business conditions unrelated to its location within the zone; or
3. The business has been unable to fulfill its projected increase in employment due to unforeseen adverse conditions within the State's labor force; or
4. The business has been unable to fulfill its projected increase in employment for other good cause demonstrated to the Administrator.

5:120-2.8 Time for application for conditional zone business recertification

A business seeking conditional zone business certification shall apply within one year after its prior zone business certification.

5:120-2.9 Application procedures for conditional zone business recertification

As part of its application to the Administrator for conditional zone business recertification, the business shall document the reasons why the business could not meet its projected increase in employment. Where available, this documentation shall include appropriate forms or reports otherwise submitted to or issued by State and Federal agencies, as well as a professional analysis of the conditions which prevented the business from meeting its projected increase in employment.

1. If the applicant fails to provide adequate documentation in its application, the application may be delayed or rejected. The Administrator may establish deadlines for an applicant business to provide information, and when those deadlines are not met, he or she may deny the application.
2. If the applicant knowingly supplies incomplete or inaccurate information, the business shall be ineligible to receive zone business benefits for a period of not less than two years and no more than five years.

(b) An applicant for conditional zone business recertification shall forward its application and accompanying documentation by certified mail return receipt requested.

5:120-2.10 Conditional recertification as an eligible zone business

(a) When a business is conditionally recertified as an eligible zone business, that business will be placed on the zone business register.

(b) The business shall agree to commence increasing its employment during the first quarter of the new year of certification and to reach the conditions set forth in its projection of increased employment.

(c) The business shall agree to implement a capital improvement program, as may be prescribed by the Administrator, to be commenced during the year of the conditional recertification year, unless an alternate plan is agreed to by the Administrator.

(d) The business shall agree to communicate at least each quarter with the Administrator and the local Urban Enterprise Zone coordinator concerning the progress the business is making toward fulfilling the obligations of the conditional business recertification.

5:120-2.11 Denial of recertification or conditional recertification of a qualified zone business

(a) When a business has been denied recertification or conditional recertification by failing to meet the requirements of a "qualified business," and by failing to increase permanent employment in the business, the business may appeal the Administrator's decision.

(b) A business which is denied recertification or conditional recertification shall have 10 working days from the date of notification of denial to submit an appeal.

Amended by R.1993 d.416, effective August 16, 1993.
See: 25 N.J.R. 2645(b), 25 N.J.R. 3837(a).

5:120-2.12 Procedure for appealing denial of recertification or conditional recertification

(a) An appeal of denial of recertification or conditional recertification shall be made in writing and shall be forwarded to the Administrator by certified mail return receipt requested.

(b) The written appeal shall be accompanied with evidence to support a basis for appeal of the Administrator's decision.

(c) The New Jersey Department of Community Affairs shall notify the appealing business of the date, time and place of the review, and the right of the business to attend and be represented at the review.

(d) The review will be conducted by a designee of the Commissioner. The designee shall issue a written report within 10 working days of the close of the review.

(e) The appealing business may request a hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

Amended by R.1993 d.416, effective August 16, 1993.
See: 25 N.J.R. 2645(b), 25 N.J.R. 3837(a).
Amended by R.2004 d.101, effective March 15, 2004.
See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

In (c), substituted "Commerce and Economic Growth Commission" for "Commerce and Economic Development"; in (d), substituted "Secretary" for "Commissioner".