

Resolution No.: 17-1031
Introduced: April 1, 2014
Adopted: April 1, 2014

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Executive Regulation 21-13, Administration of the Glenmont Enterprise Zone

Background

1. On February 28, 2014, the County Council received Executive Regulation 21-13, Administration of the Glenmont Enterprise Zone, from the County Executive.
2. The regulation must be reviewed under method (1) of Section 2A-15 of the Code.
3. Under method (1), this regulation does not take effect until the County Council approves it.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

Executive Regulation 21-13, Administration of the Glenmont Enterprise Zone, is approved.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Glenmont Enterprise Zone	Number 21-13
Originating Department Economic Development	Effective Date April 1, 2014

Montgomery County Regulation on:

ADMINISTRATION OF THE GLENMONT ENTERPRISE ZONE

Department of Economic Development

Issued By: County Executive

Regulation Number: 21-13

COMCOR No. Misc.02

Authority: MD. CODE ANN., ECON. DEV. Title 5 Subtitle 7

Council Review: Method 1 Under Code Section 2A-15

Register Vol. 31, Issue 1

Sunset Date: June 14, 2023

Effective Date: April 1, 2014

SUMMARY: This regulation establishes policies and procedures for the administration of the Glenmont Enterprise Zone and eligibility criteria for enterprise zone benefits.

ADDRESS: Department of Economic Development
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Rockville, Maryland 20850

STAFF CONTACT: Tina Benjamin
(240) 777-2006

BACKGROUND INFORMATION: MD. CODE ANN., ECON. DEV. TITLE 5 SUBTITLE 7 authorizes the establishment of Enterprise Zones under certain circumstances. By County Council Resolution No. 17-718, adopted April 16, 2013, the County Council consented to the County's application to designate the Glenmont Enterprise Zone. The State of Maryland approved the County's application effective June 15, 2013. These policies and procedures establish the local standards pursuant to MD. CODE ANN., ECON. DEV. SEC. 5-703(B)(5) for the determination and certification of eligibility of businesses and/or commercial property located in the boundaries of the Glenmont Enterprise Zone for property or employment tax credits made available under the Maryland Enterprise Zone Program, and sets forth the process for certification by the County. Determination of eligibility for tax credits under this program



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shall be done in a fair and equitable manner, open to public scrutiny and in accordance with the policies and procedures herein.

Section 1. PURPOSE.

The purpose of the Glenmont Enterprise Zone is to:

- 1.1 Encourage new businesses, capital investments and redevelopment opportunities in Glenmont
- 1.2 Realize the vision for Glenmont as described in the community-based Sector Plan
- 1.3 Improve the economic health, sustainability and quality of life in Glenmont
- 1.4 Encourage existing Glenmont businesses to expand
- 1.5 Increase employment opportunities for Glenmont residents
- 1.6 Raise family incomes and property values in Glenmont
- 1.7 Leverage the existing and planned public infrastructure and amenities, in order to entice private investment and new job creation
- 1.8 Remove barriers that impede economic development
- 1.9 Promote environmental sustainability in Glenmont

Section 2. APPLICABILITY.

- 2.1 These policies and procedures apply to all property owners and employers located within the boundaries of the Glenmont Enterprise Zone (the Zone) who meet the eligibility requirements and qualification standards established by this Executive Regulation during the period in which the Zone is in effect.



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Section 3. DEFINITIONS.

- 3.1 Administrator. The Administrator of the Local Enterprise Zone is the Director, Montgomery County Department of Economic Development or the Director's designee.
- 3.2 Capital Investment. The investment in property improvement defined as a capital expense by the Internal Revenue Service in Publications 334 and 535. See Minimum Qualifying Capital Investment.
- 3.3 Certificate of Occupancy. The permit to occupy a building in Montgomery County, issued by the Department of Permitting Services.
- 3.4 Economically Disadvantaged Person or People. A person or people certified as such by the Maryland Job Service, Department of Labor, Licensing and Regulation.
- 3.5 Employment Tax Credit. The credit on income tax that may be allowed for new Maryland employees hired in the Zone.
- 3.6 Enterprise Zone Program. The administration, policies and procedures established pursuant to Article 83A, Sections 5-401 et seq. the application filed April 15, 2013 by the County to the State of Maryland, and these Executive Regulations for determination and certification of eligible property owners and employers to receive applicable tax credits in accordance with the requirements for eligibility set forth herein for the Glenmont Enterprise Zone.
- 3.7 Minimum Qualifying Capital Investment. In accordance with Section 6.2.2.2 through Section 6.2.2.4, the minimum amount of property improvement that will qualify for real property tax credit.
- 3.8 Property Tax Credit. The credit that may be allowed on the increased assessment subsequent to capital investment in property in the Zone.
- 3.9 Glenmont Enterprise Zone. Referred to herein as the Zone, certain sections of the Glenmont neighborhood, including the Glenmont Metro Center, the Glenmont Shopping Plaza, Privacy World, portions of Randolph Road, Georgia Avenue, Layhill Road and Glenallen Avenue, shown in the attached Figure 1 of the Montgomery County Enterprise Zone Application, dated April 15, 2013, and designated as such by the State of Maryland on June 15, 2013. The Zone boundary is also shown on the attached map.
- 3.10 Glenmont Sector Plan. The Draft Glenmont Sector Plan, which will amend the Approved and Adopted 1997 *Sector Plan for Glenmont Transit Impact Area and Vicinity*.



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3.11 North American Industrial Classification System (NAICS) Code. The system generally used to classify commercial establishments by type of business in which they are engaged.

Section 4. PROCESS AND ADMINISTRATION.

4.1 Responsibilities of the Administrator. The responsibilities of the Administrator include:

4.1.1 Determining the eligibility of the businesses and/or property owners for the tax credits under the Enterprise Zone Program.

4.1.2 Notifying the State Department of Assessment and Taxation and the Montgomery County Department of Finance that the applicant is eligible for property tax credits in accordance with the Enterprise Zone Program.

4.1.3 Providing certification to the applicant of eligibility for income tax credits in accordance with the Enterprise Zone Program within 60 days of the receipt of application. It is the responsibility of the applicant to file this certification of eligibility when filing the appropriate income tax form with the State.

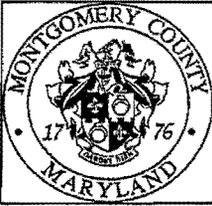
4.1.4 Submitting an Annual Report to the Maryland Department of Business and Economic Development (MDBED) by January 15 of the calendar year following adoption of these Executive Regulations and each subsequent January 15, thereafter, so long as the Enterprise Zone Program is in effect. The Annual Report will be sent to the Montgomery County Council.

4.1.5 Acting as the principal point of contact between the public and the State of Maryland with respect to questions concerning the Enterprise Zone Program.

4.1.6 Developing applications for tax credits in the Zone.

4.1.7 Preparing a short fact sheet describing the Enterprise Zone and its benefits to business.

4.2 Application and Reporting Requirements. Property owners and/or businesses must complete separate applications for, and report annually on, property tax credits and employment tax credits on forms provided by the Administrator. The application(s) must provide evidence that all State and local qualification standards have been met. At a minimum, the application(s) must contain the following information:



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4.2.1 Name and address of the business/property owner, type of business (corporation, partnership, etc.), and NAICS code.

4.2.2 For the employment tax credit, the previous address of the business, and number of employees at the previous address if moving into the zone from another location.

4.2.3 For the employment tax credit, the total employment and verification of increases in employment wages paid for new jobs created in the Zone. The applicant may be asked to provide payroll documentation and employee time sheets for the period for which the tax credit is being applied or any other information the Administrator may deem necessary to determine eligibility or compliance with these regulations.

4.2.4 For the property tax credit, a description and date of completion of the improvement, certification of the costs of the new construction or renovations and the party responsible for payment thereof, a copy of Certificate of Occupancy if the area being improved is presently occupied, and any other information the Administrator may deem necessary to determine eligibility or compliance with these regulations.

4.2.5 Property owners seeking property tax credit on the next applicable July 1 tax bill must apply by December 10 of the preceding year in order for the Administrator to certify the property's eligibility by December 31 of the preceding year. A property owner may file an application for pre-certification of eligibility for property tax credit on a form provided by the Administrator prior to making the Minimum Qualifying Capital Investment in order to determine in advance whether such investment will be eligible. In this case, the Administrator will send a notice of pre-certification to the applicant. In no case will certification be granted until the Minimum Qualifying Capital Investment is completed.

4.2.6 Property owners receiving property tax credit must provide notice to the Administrator, on a form provided by the Administrator, of the dollar value of the tax credit, and provide notice of same to any tenant or other third party responsible for direct payment or reimbursement to the property owner for payment of such tax within 30 days of payment of property taxes for the tax year in which credit is applied.

4.2.7 A business seeking a personal property tax credit must apply for certification at least 30 days before the personal property tax return is due, on a form provided by the Administrator, in order for the Administrator to certify the business is eligible for the tax credit.



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4.2.8 A business seeking employment tax credit must apply for certification at least 30 days before the income taxes for which a credit is being applied are due, on a form provided by the Administrator, in order for the Administrator to certify the business is eligible for the tax credit. A copy of the Certificate(s) of Occupancy for the premises must accompany this form. Businesses receiving employment tax credit must provide notice of the tax credit, number of employees, and total wages paid for which the credit has been taken, to the Administrator, on a form provided by the Administrator, by December 10 of the tax year for which the credit is received.

4.2.9 Failure to submit information required in this section 4.2 may result in a notification of incomplete application insufficient for determining eligibility. Failure to comply with the local and State Enterprise Zone requirements may result in decertification of eligibility for tax credit.

Section 5. GENERAL CONDITIONS.

5.1 Property owners and businesses currently located within the boundaries of the Zone, or new businesses that locate there, must meet the qualification standards set forth in these Executive Regulations in order to be certified by the Administrator as eligible to receive tax credits under the Enterprise Zone Program. The following general conditions must be met:

5.1.1 The business activity conducted on the property must constitute a legal use of the property.

5.1.2 The property must be current with respect to payment of real property taxes and the business must be current with respect to payment of income and personal property taxes.

5.2 Any business entity located in the Zone before June 15, 2013 may not benefit from the tax credits and other incentives of the Enterprise Zone Program except with respect to any capital investment or expansion of its labor force occurring after June 15, 2013. Any new construction assessed in the tax year immediately preceding the tax year for the first credit is excluded from the tax assessment.

5.3 Property tax credits do not apply to Parking District Taxes and Urban District Taxes.

5.4 Location in the Zone or certification of eligibility for tax credit does not relieve property owners or businesses from building codes, zoning requirements and other regulations applicable to the property or business.

5.5 A property tax credit will only be applied against the amount of increase in a property tax assessment that results from a Minimum Qualifying Capital Investment.



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Section 6. ELIGIBILITY REQUIREMENTS AND QUALIFICATION STANDARDS.

6.1 Employment Tax Credit Qualification Standards. Businesses seeking employment tax credits must meet the following requirements:

6.1.1 State Standards:

6.1.1.1 The new employee(s) for which tax credits are sought must have been hired after the business was located in the Zone and after June 15, 2013. If a business relocates from another location in Maryland into the Zone, its base employment remains the same as it was at the previous site.

6.1.1.2 The new employee(s) must have worked in the business for at least 35 hours each week for six months before or during the taxable year for which the credit is taken.

6.1.1.3 The new employee(s) must spend at least half of all work time in the Zone or in an activity related to the Zone.

6.1.1.4 The new employee(s) must have been hired to fill new positions. That is, the firm's number of full-time employees must increase by the number of credits taken.

6.1.1.5 In order to claim tax credit for hiring economically disadvantaged employees to fill newly created positions, the business must obtain a certification of eligibility for each employee provided by the Maryland Job Service, Department of Labor, Licensing and the economically disadvantaged employee must remain in the business for three years. However, if the disadvantaged employee leaves the business and is replaced by another employee who is also qualified as disadvantaged, the business may take the remainder of the credit as if the original employee had remained.

6.1.2 Additional Local Standards:

6.1.2.1 When claiming tax credit(s) for hiring employees or relocating into the Zone from outside the State, the business must show a net increase of at least 35 work hours per week for each tax credit sought. The business may be required to document this employment on time sheets and payroll documents.



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6.1.2.2 The business must show an increase in employees of five percent (5%) to a minimum of one (1) new employee.

6.2 Property Tax Credit Qualification Standards. Credits will apply to increased property tax based on an increase in the assessed value of the property. Benefits will be triggered by increased assessment subsequent to a Minimum Qualifying Capital Investment in property in the Zone. Property owners seeking property tax credits must meet the following requirements:

6.2.1 State Standards.

The tax credit is granted on whole taxable years only. A property owner will have to pay any partial-year levy tax bills should the property improvement be assessed as complete before July 1 of the first year of eligibility. The property owner will then receive the tax credit for ten full years. Tax credits will be calculated in accordance with MD. CODE ANN., TAX-PROP. § 9-103.

6.2.2 Additional Local Standards.

6.2.2.1 Property owners must make a Minimum Qualifying Capital Investment in the property through sources other than government grants. A Minimum Qualifying Capital Investment may include improvements made with funds obtained through government loan programs.

6.2.2.2 The Minimum Qualifying Capital Investment is ten dollars (\$10) per square foot of building floor area improved, and at least 20 percent of the total building floor area must be improved.

6.2.2.3 The Minimum Qualifying Capital Investment may include off-site improvements in energy efficient infrastructure, storm-water management, streetscape improvements, and other sustainable and energy efficient design.

6.2.2.4 Construction of new parking facilities or improvements to existing parking facilities are not eligible for tax credit, except where such parking facility is an integral part of the new building construction or improvement of an existing building.



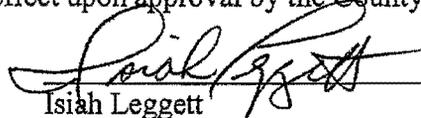
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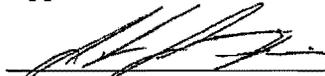
Section 7. EFFECTIVE DATE.

This Executive Regulation takes effect upon approval by the County Council.



Isiah Leggett
County Executive

Approved as to form and legality:



John J. Fisher
Associate County Attorney

2/10/14

Date