



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject
Burtonsville Enterprise Zone

Number
6-14

Originating Department
Economic Development

Effective Date

Montgomery County Regulation on:

BURTONSVILLE ENTERPRISE ZONE

Department of Economic Development

Issued By: County Executive

Regulation No. 6-14

COMCOR No. Misc.02

Authority: Md. TAX-PROPERTY Code Ann. § 9-317

Council Review: Method 2 under Code Section 2A-15

Register Vol. 31 No. 4

Comment Deadline: April 30, 2014

SUMMARY: This regulation establishes policies and procedures for the administration of the Burtonsville Enterprise Zone and eligibility criteria for property tax credits.

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STAFF CONTACT: Tina Benjamin 240/777-2006

BACKGROUND: By County Council Resolution No. 30-13, the County Council created a property tax credit program for certain properties located in Burtonsville Crossroads Neighborhood Plan, and these policies and procedures establish the eligibility standards for the program. Determination of eligibility for tax credits under this program shall be done in a fair and equitable manner, open to public scrutiny and in accordance with the policies and procedures herein.



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Section 1. PURPOSE

The purpose of the Burtonsville Enterprise Zone is to:

- 1.1 Encourage new businesses, capital investments and redevelopment opportunities in Burtonsville
- 1.2 Realize the vision for Burtonsville as described in the Burtonsville Crossroads Neighborhood Plan
- 1.3 Improve the economic health, sustainability and quality of life in Burtonsville
- 1.4 Encourage existing Burtonsville businesses to expand
- 1.5 Increase employment opportunities for Burtonsville residents
- 1.6 Raise family incomes and property values in Burtonsville
- 1.7 Remove barriers that impede economic development
- 1.8 Promote environmental sustainability in Burtonsville

Section 2. APPLICABILITY

2.1 These policies and procedures apply to all business entities located within the boundaries of the Burtonsville 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.

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 Base Year. The taxable year immediately before the taxable year in which a credit under this Section is to be granted.
- 3.3 Base Year Value. The value of the property used to determine the assessment on which the



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property tax on real property was imposed for the base year. Base year value does not include any new real property that was first assessed in the base year.

- 3.4 Burtonsville Crossroads Neighborhood Plan. The Burtonsville Crossroads Neighborhood Plan, which was approved by the Montgomery County Council in December 2012.
- 3.5 Burtonsville Enterprise Zone. Referred to herein as the Zone, properties located within the area encompassed by the Burtonsville Crossroads Neighborhood Plan.
- 3.6 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.
- 3.7 Certificate of Occupancy. The permit to occupy a building in Montgomery County, issued by the Department of Permitting Services.
- 3.8 Eligible Assessment. The difference between the base year value and the actual value as determined by the Department for the applicable taxable year in which the tax credit under this Section is to be granted.
- 3.9 Eligible Business Entity. A person who operates or conducts a trade or businesses on qualified enterprise zone property but does not own the qualified zone property.
- 3.10 Enterprise Zone Program. The administration, policies and procedures established pursuant to Chapter 134 (House Bill 675), and County Council Resolution No. 30-13, and these Executive Regulations, which set forth the eligibility requirements for the applicable tax credits.
- 3.11 Minimum Qualifying Capital Investment. In accordance with Section 6 through, the minimum amount of property improvement that will qualify for real property tax credit.
- 3.12 North American Industrial Classification System (NAICS) Code. The system generally used to classify commercial establishments by type of business in which they are engaged.
- 3.13 Property Tax Credit. The credit that may be allowed on the increased assessment subsequent to capital investment in property in the Zone.
- 3.14 Qualified Property. Real property that is:
- 1) located within the area encompassed by the Burtonsville Crossroads Neighborhood Plan



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developed by the Montgomery County Planning Department;

2) zoned for commercial or commercial/residential mixed use development and is used for a commercial purpose; and

3) improved after the effective date of this Bill and before January 1, 2020.

3.15 Tax-Property Article. The Tax-Property Article of the Maryland Code.

Section 4. PROCESS AND ADMINISTRATION

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

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

Notifying the Montgomery County Department of Finance that the applicant is eligible for property tax credits in accordance with the Program.

Preparing an Annual Report by January 15 of the calendar year following adoption of these Executive Regulations and each subsequent January 15, thereafter, so long as the Program is in effect. The Annual Report will be sent to the Montgomery County Council. Acting as the principal point of contact between the public and Montgomery County with respect to questions about the Program.

Developing applications for tax credits in the Zone.

Marketing and promoting the Zone to businesses.

4.2 Application and Reporting Requirements. Business entities must complete an application for, and report annually on, their property tax credits. The forms will be provided by the Administrator. The application(s) must provide evidence that qualification standards have been met. At a minimum, the application(s) must contain the following information:

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

4.2.2 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



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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.

4.2.3 Business entities 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 business entity 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.

4.2.4 Business entities receiving property tax credit must use a form provided by the Administrator to report the, dollar value of the tax credit. This form should also be provided to the landlord within 30 days of payment of the property taxes.

4.2.5 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 requirements may result in decertification of eligibility for tax credit.

Section 5. GENERAL CONDITIONS

5.1 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 March 18, 2014 may not benefit from the tax credits and other incentives of the Enterprise Zone Program except with respect to any capital investment occurring after March 18, 2014. 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.



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5.4 Location in the Zone or certification of eligibility for tax credit does not relieve 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.

Section 6. ELIGIBILITY REQUIREMENTS AND QUALIFICATION STANDARDS.

6.1 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. Businesses seeking property tax credits must meet the following requirements:

6.2 The tax credit is granted on whole taxable years only. A business 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 business will then receive the tax credit for five full years. Tax credits will be calculated in accordance with MD. CODE ANN., TAX-PROP. § 9-103.

6.3 Businesses 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.

6.4 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. 6.5 If the property consists of a commercial/residential mixed use development, the Department will allocate the eligible assessment to the nonresidential part of the qualified property at the same percentage as the square footages of the nonresidential part is to the total square footage of the building.

6.6 For purposes of calculating the amount of the credit allowed, the amount of the property tax imposed on the eligible assessment will be calculated by the Department without reduction for any credits allowed under the Tax-Property Article.

6.7 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:

A handwritten signature in cursive script, appearing to read "John J. Fisher", written over a horizontal line.

John J. Fisher

Associate County Attorney

3/21/14

Date