

ENTERPRISE ZONE CREATION AND AMENDMENT PROCESS

Pre-existing Enterprise Zones

Enterprise Zones certified prior to July 1, 1994 continue to exist with limited tax exemption authority. The limit placed on these pre-existing Enterprise Zones is that they cannot grant tax incentives to businesses involved in an intrastate relocation project. Authorization under Ohio Revised Code (ORC) Sections 5709.62(E) or 5709.63(D) permit pre-existing Enterprise Zones to enter into tax incentive agreements with the following types of projects:

1. A business establishing its first Ohio facility;
2. An existing Ohio business establishing a new facility that does not result in employment reduction or asset relocation at any Ohio site;
3. A relocation of an out-of-state facility to Ohio;
4. An expansion of a business at its existing Ohio site; and
5. An intrastate business relocation project which has received a waiver from the ODOD Director under ORC Section 5709.633(B) -- see Relocation section.

After July 22, 1994, Enterprise Zones whether pre-existing or newly created must adhere to the requirements set forth in Substitute Senate Bill 19.

New Enterprise Zones

A community interested in creating an Enterprise Zone should contact ODOD to discuss the concept, procedure and requirements for the creation and implementation of an Enterprise Zone Program. The local government should determine both the necessary parties (i.e. Municipal Council, County Auditor and Board of County Commissioners) and the affected parties (i.e. Board of Education, existing businesses, other taxing jurisdictions, and local taxpayers). Early involvement of the various groups may ensure program understanding, cooperation, and successful implementation. The local government officials should familiarize themselves with the concept of Enterprise Zone tax incentives. The basic theory is that providing a short-term tax incentive can result in long-term tax revenue gains. The tax incentive is used to induce a business to invest at a particular location. The Enterprise Zone incentives should be the last incentive offered to a business and only when it is deemed absolutely necessary to induce the commitment to move forward with a specified project.

The local government is advised to develop guidelines for operating an Enterprise Zone. These guidelines must be consistent with the local development goals of the community. Elements of the guidelines can include eligible business criteria; minimum investment criteria; minimum job creation levels; and minimum new tax revenue requirements. The

guidelines should outline the local process and procedure, be formally adopted by the local community and be distributed to businesses requesting such assistance.

The local government must select the geographic area to be the Enterprise Zone. The area must have the required minimum population and a single continuous boundary. Enterprise Zones proposed in counties of 300,000 or greater population must have a minimum zone population of 4,000. Enterprise Zones proposed in counties fewer than 300,000 in population must have at least 1,000 residents within the boundary. There can be no jurisdictional "doughnuts" or voids within the area proposed as the Enterprise Zone. The area should contain the appropriate locations for economic development activities as well as the areas of concentrated distress factors or disadvantaged workers. The area should match existing U.S. Census data -- Census tracts or block groups -- as much as possible. For a proposed area to obtain full Enterprise Zone authority, the legally required levels of distress must be documented. Varying from U.S. Census data will impede documentation of the distress criteria. If a community chooses not to use existing Census boundaries, then other evidence certifying the exact population and distress factors must be provided. A community seeking only limited Enterprise Zone authority under ORC Section 5709.632 need not document the existence of distress levels.

To finalize the zone creation process, the local government jurisdictions must complete and submit the ODOD Petition form, attach and submit the required legislative approvals, submit a map of the zone highlighting vacant or developable properties and existing businesses, submit a written description of the proposed zone (must correspond to the map) and submit documentation/verification of the distress factors (if necessary). Upon receipt of an Enterprise Zone Petition, ODOD has 60 days to review the petition and determine whether the proposed zone is to be certified as an Enterprise Zone.

The Petition document is attached as an exhibit. The petition asks that the following eleven areas be addressed:

1. Identification of the jurisdiction sponsoring the petition (either the MSA Principal City or the County in which the non-MSA Principal city, village or township is located).
2. Designation of the Enterprise Zone Manager who will act as the local contact on Enterprise Zone matters.
3. Type of Enterprise Zone Authority requested -- either MSA-Principal City full authority 5709.62, County designated full authority 5709.63, MSA-Principal City limited authority 5709.632(A)(1) or County designated limited authority 5709.632(A)(2).
4. The name and total population of each local government participating in the proposed zone.
5. Total population of the proposed zone -- itemized by participating local jurisdictions.

6. Distress Criteria documentation -- to obtain full Enterprise Zone authority, proposed zones must meet two of the following eight distress criteria. Communities seeking only limited Enterprise Zone authority need not document any distress criteria. The local jurisdiction should identify which of the distress criteria the proposed zone meets:
 - A. 5709.61(A)(1)(a) – It is located in a Principal City;
 - B. 5709.61(A)(1)(b) – It is located in a county designated as being in the “Appalachian region”;
 - C. 5709.61(A)(1)(c) - concentrated unemployment -- must exceed 125 percent of the state average during the most recent 12 months;
 - D. 5709.61(A)(1)(d) - prevalence of commercial or industrial structures that are vacant or demolished or vacant and tax delinquent -- must exceed five percent of all zone commercial or industrial structures;
 - E. 5709.61(A)(1)(e) - population loss -- at least 10 percent loss between 1980-2000;
 - F. 5709.61(A)(1)(f) - concentrated low- to moderate-income area -- 51 percent of the population is below 80 percent of the area's median income.
 - G. 5709.61(A)(1)(g) - specific vacant industrial facilities -- used only for the noted facilities. Cannot be used to substantiate zone-wide full authority.
 - H. 5709.61(A)(1)(h) - income weighted tax capacity of school district is below 70 percent of the state average.

Please review the worksheets when calculating applicable distress levels. Also note that where possible, complete lists of eligible areas are included in the distress worksheets.

7. Local legislative authorizations from each participating jurisdiction must be included. Please review the sample ordinances/resolutions.
8. Each school board affected by the creation of an Enterprise Zone must be identified. Provide the name, address and phone number of the school board's designated representative. In addition, the local government sponsoring the proposed zone must provide evidence that the school board was informed of the notice requirements, review rights, meeting request, revenue sharing concept and/or invitations for participation in the program. At a minimum, the local jurisdictions and the school boards must present a procedure to handle any projects affected by the revenue sharing requirement. If the school board wants to provide a resolution

outlining the board's involvement in the program or the board's agreement to a revenue sharing arrangement, they may do so.

9. A map or maps clearly identifying the relevant components of the proposed zone must be attached. Note that the map must be legible. It should identify major existing industries and areas appropriate for development. If the proposed zone is based on Census information, a map depicting Census boundaries must be included. If the school district distress criteria are the basis for the proposed full authority zone, then the school district boundary must be identified.
10. A written description of the proposed zone must be included. This description need not be a legal description. However, the written description must correspond to the submitted map. Therefore, if a "metes and bounds" written description using streets or parcel numbers is presented, then a legible street map or engineer's map complete with parcel numbers must be included.
11. Finally, a list of local contact people including the name, title, address and phone number must be included. At a minimum, information must be supplied for the following:
 - A. County Auditor;
 - B. Mayor(s) and/or City/Village Administrator(s) of each participating jurisdiction;
 - C. Township Trustees and Clerks of each participating township;
 - D. Board of County Commissioners (of a County-based zone);
 - E. State Representative(s); and
 - F. State Senator(s).

To be valid, the petition must be signed by an authorized official of the sponsoring jurisdiction. If the information supports the legal validity of the proposed zone, an Ohio Enterprise Zone Program -- certification signed by the ODOD Director or the designated representative -- will be issued.

Amended Enterprise Zone

The Enterprise Zone is static as of the day it is certified. However, changes to the boundary can be made. The local jurisdictions seeking a modification must use the petition process making the necessary changes and updating the required information. If the modified zone is documented as maintaining the required characteristics, an Amended Certification will be issued.

With the issuance of an Ohio Enterprise Zone Program Certification or an Amended

Certification, a local government can enter into project tax incentive discussions and negotiations with a business interested in locating or expanding in the designated zone.

Please note that when a municipality annexes land from surrounding townships, the Enterprise Zone does not automatically expand to include those annexed parcels. In order for annexed land to be included in an existing Enterprise Zone, the municipality/county must petition ODOD for amended certification.