

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION
ECONOMIC DEVELOPMENT COUNCIL

RULES AND REGULATIONS FOR THE EXPEDITED PERMIT PROCESS

Section 1.00. Purpose

The State of Rhode Island and Providence Plantations, in an effort to promote a vigorous and growing economy, to prevent economic stagnation, and to encourage the creation of new job opportunities in order to ameliorate the hazards of unemployment and underemployment, reduce the level of public assistance, increase revenues to the State and its municipalities, and to achieve a stable and diversified economy, has developed an expedited permit review process, as set forth in Rhode Island General Laws, § 42-117-1 et seq., for projects of critical economic concern. The purpose of these rules and regulations is to implement the requirements of Chapter 117, Title 42 of the Rhode Island General Laws to provide a mechanism for business and industry to secure any necessary licenses or permits in an expeditious manner without waiving the lawful conditions of said licenses or permits.

Section 2.00. Legal Authority

These rules and regulations are promulgated pursuant to the requirements and provisions of Section 8 of the Expedited Permit Process Act, § 42-117-8 of the Rhode Island General Laws and Section 3 of the Administrative Procedures Act, § 42-35-3 of the Rhode Island General Laws.

Section 3.00. Definitions

For the purposes of these regulations, the following terms shall have the following meanings:

- 3.01 “Certificate of Critical Economic Concern” means a certificate issued by the Economic Development Council as prescribed in § 42-117-4 of the Rhode Island General Laws.
- 3.02 “Economic Development Council” means the eleven-member advisory board to the Rhode Island Economic Development Corporation established pursuant to and as set forth in 3.01 “certificate of Critical Economic Concern” means a certificate issued by the Economic Development Council as prescribed in § 42-65-3 of the Rhode Island General Laws.
- 3.03 “Governor” means the Governor of the State of Rhode Island and Providence Plantations.

- 3.04 "Operational Stage" means the point at which the project is implemented and the project's effect is realized.
- 3.05 "Person" means any natural person, company, corporation, partnership or any type of business entity. The term, "person" shall not include any state or federal agency or any city or town.
- 3.06 "Project of Critical Economic Concern" means an undertaking designated by the Economic Development Council to be significant, in its operational stage, by its ability to enhance, promote and encourage business, commerce and industry in Rhode Island and stimulate jobs and relieve underemployment and unemployment in Rhode Island pursuant to § 42-117-3 of the Rhode Island General Laws.
- 3.07 "State Agency" means any office, department, board, commission, bureau, division, authority, public corporation, agency or instrumentality of the State of Rhode Island.

Section 4.00. Request for Certificate of Critical Economic Concern

All requests for a Certificate of Critical Economic Concern shall be submitted to the Governor, as Chairman of the Economic Development Council, on application forms which may be obtained from the Rhode Island Economic Development Corporation. Requests shall describe how the proposed project will enhance, promote and encourage business, commerce and industry, stimulate jobs and relieve underemployment and unemployment in Rhode Island. The Economic Development Council shall review an Applicant's request for a Certificate of Critical Economic Concern upon recommendation from the Governor.

5.0. Procedure for Approval or Denial

Upon Receipt of a Certification Request from the Governor, the Director of the Rhode Island Economic Development Corporation shall refer the request to the Economic Development Council for review. The Economic Development Council shall review the Applicant's request for Certificate of Critical Economic Concern at its next regularly scheduled meeting and issue a written decision within thirty (30) days of its receipt of the request. If the Project is found to be a project of critical economic concern, the Council shall issue a Certificate of Critical Economic Concern.

Section 6.00. Certification Criteria

(a) A Certificate of Critical Economic Concern shall be issued upon a finding by the Economic

Development Council that:

- (i) the proposed project will enhance, promote and encourage business, commerce and/or industry in Rhode Island; or
- (ii) the proposed project will stimulate jobs and relieve underemployment and unemployment in Rhode Island; or
- (iii) the proposed project will increase revenues to the State and/or its municipalities.

(b) Factors to be considered by the Economic Development Council to determine whether a particular project meet any or all of the above criteria shall include:

- (i) The size and scope of the proposed project including the project's projected overall cost and expected capital investment;
- (ii) The number and types of jobs which are anticipated to be created by the proposed project taking into account the unemployment rates in the communities expected to be impacted by the project;
- (iii) The area in which the proposed project will be located and the likely benefits to that community;
- (iv) The nature of the proposed project including the need for or public benefits of same;
- (v) The potential for state or municipal revenues to be generated from the proposed project; and
- (vi) Priority shall be given if the proposed project is financed in whole or in part through public investment.

Section 7.00. Coal Burning Power Plant Exemption

The provisions of the Expedited Permit Process Act and the rules and regulations promulgated thereunder shall not apply to applications concerning, relating to or arising from coal burning power plants.

Section 8.00. No Right to Review

A request for a Certificate of Critical Economic Concern shall not constitute a "contested case" under the Administrative Procedures Act, § 42-35-9 of the Rhode Island General laws, and no

opportunity to object to a request shall be afforded, nor shall judicial review be available from a decision rendered by the Economic Development council hereunder.

Section 9.00. Reconsideration of Council Decision

Any affected person may request in writing reconsideration of the Economic Development Council's decision denying his or her application for a Certificate of Critical Economic Concern. Requests for Reconsideration will be granted only where a person can demonstrate to the Director of the Department of Economic Development that there have been (a) significant changes in the project's ability to meet the criteria as set forth in § 6.00, or (b) significant changes in factors or circumstances relied upon by the Economic Development Council in reaching its decision. Upon receipt of a Request for Reconsideration, the Economic Development Council shall, at its next regularly scheduled meeting, vote to approve or deny said Request for Reconsideration.

Section 10.00 Validity of Certification

A project's Certificate of Critical Economic Concern shall be valid as to each and every state agency to which an Applicant seeks a license or permit and shall be valid until a project reaches its operational stage. The Director of the Department of Economic Development may, in his discretion, revoke any Certificate of Critical Economic Concern upon a finding that the project has been significantly reduced in size, scope or impact since the Council's issuance of the Certificate.

Section 11.00. Action by State Agency

A Certificate of Critical Economic Concern may be filed with each and every state agency which has licensing or permitting authority over an Applicant's project. A person must file the certificate of Critical Economic Concern at the time of filing any necessary permit applications with a state agency. The state agency shall give priority to the project of Critical Economic Concern in the handling and processing of the application.

Section 12.00. Liberal Application

The terms and provisions of these rules and regulations shall be liberally construed to allow the Economic Development Council and the Department of Economic Development to effectuate the purposes of state law, goals, and policies.

Section 13.00. Severability

If any provision of these rules and regulations or the application thereof to any local government unit or circumstance is held invalid by a court of competent jurisdiction, the remainder of the rules and regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of these rules and regulations.

PROCEDURE FOR FILING, PRESENTATION, AND
CONSIDERATION OF APPLICATIONS UNDER THE
EXPEDITED PERMIT PROCESS

1. Applications for consideration under the Expedited Permit Process shall be filed with the Department of Economic Development and with the Governor, as Chairman of the Economic Development Council, on forms to be obtained from the Department at least five (5) working days prior to the next regularly scheduled meeting of the Economic development Council.
2. Applications filed within five days of the next regularly scheduled meeting of the Economic Development Council may be added to the Council's agenda upon majority vote of the members in accordance with §42-46-6 of the Rhode Island General Laws.
3. Applications for consideration under the Expedited Permit Process shall be reviewed by employees of the Department of Economic Development who shall file a recommendation with the Economic Development Council.
4. An application for consideration under the Expedited Permit Process shall not constitute a "contested case" under the Administrative Procedures Act, §42-35-9 if the Rhode Island General Laws, and no opportunity to object to a request shall be afforded by the Economic Development Council.
5. Applicants whose projects have been considered by the Economic Development Council and denied a Certificate of Critical Economic Concern may request a reconsideration of said denial. The request shall be in writing, directed to the Director of the Department of Economic Development, and shall be addressed by the Economic Development Council at its next regularly scheduled meeting.