

**870-RICR-10-00-1**

## **TITLE 870 – RHODE ISLAND COMMERCE CORPORATION**

### **CHAPTER 10 – GENERAL**

#### **SUBCHAPTER 00 – N/A**

##### **PART 1 – Rules and Regulations for the Expedited Permit Process**

### **1.1 Purpose**

The State of Rhode Island and Providence Plantations, in an effort to create new high wage job opportunities in Rhode Island, to create new or renovated office, research and manufacturing space capacity in Rhode Island, to promote a vigorous and growing economy, to prevent economic stagnation, to encourage the creation of new job opportunities, to reduce the level of public assistance, and to increase revenues to the State and its municipalities, has developed an expedited permit review process, as set forth in R.I. Gen. 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 R.I. Gen. Laws Chapter 42-117 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.

### **1.2 Legal Authority**

These rules and regulations are promulgated pursuant to the requirements and provisions of the Expedited Permit Process Act, R.I. Gen. Laws § 42-117-1 et seq., and the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 et seq.

### **1.3 Definitions**

- A. For the purposes of these regulations, the following terms shall have the following meanings:
1. “Authorization for expedited permit review” or “Authorization” means an authorization issued by the Rhode Island Commerce Corporation (or “Corporation”) as set forth in R.I. Gen. Laws § 42-117-4.
  2. “Board of directors of the Rhode Island Commerce Corporation” or “Board” means the board of directors of the Corporation established pursuant to R.I. Gen. Laws § 42-117-4 et. seq.
  3. “Governor” means the Governor of the State of Rhode Island and Providence Plantations (or “State”).

4. “High wage full time employee” or “High wage employee” means any employee of a person or an employee of a contractor of such person as certified pursuant to these regulations who:
  - a. was not previously working full time in Rhode Island for the Project’s applicant and will work a minimum of thirty (30) hours per week at the Project; and
  - b. will earn no less than One Hundred Five Percent (105%) of the average annual income in Rhode Island.
5. “Operational stage” means the point at which the project is implemented and the Project’s effect is realized.
6. “Person” means any natural person, company, corporation, quasi-public corporation, partnership, or any business entity.
7. “Project of critical economic concern” or “Project” means an undertaking designated by the Board to be significant, in its Operational Stage, by its ability to enhance, promote and encourage business, commerce and manufacturing in Rhode Island and stimulate jobs and relieve underemployment and unemployment in Rhode Island pursuant to R.I. Gen. Laws § 42-117-3 and to create new high wage job opportunities in Rhode Island or to create new or renovated office, research and manufacturing capacity in Rhode Island. In order to qualify as a Project, the applicant shall demonstrate to the Corporation’s satisfaction that:
  - a. In addition to any construction jobs at the Project,
    - (1) at least One Hundred (100) new full times jobs shall be created by the Project; and
    - (2) the average annual income for all of the new full time jobs created by the Project shall be no less than One Hundred Five Percent (105%) of the State’s average annual income; and
    - (3) no less than Fifty Percent (50%) of the new full time jobs created by the Project shall be comprised of High Wage Employees; or
  - b. the Project shall be comprised of the construction or rehabilitation of no less than Fifty Thousand (50,000) Square Feet of space that is used for office, research or manufacturing uses and such office, research, industrial or manufacturing uses shall comprise no less than Fifty Percent (50%) of the total Project; and

- c. The municipality (ies) in which the Project is located have demonstrated support for the Project and have utilized their municipal powers to coordinate permitting of the Project to the maximum extent reasonably allowed by law.
- 8. "State agency" means any office, department, board, commission, bureau, division, authority, public corporation, agency or instrumentality of the State.

#### **1.4 Request for Authorization for Expedited Permit Review**

- A. All requests for an Authorization shall be submitted to the Corporation, on application forms that may be obtained from the 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.
- B. Each request for an Authorization shall be accompanied by
  - 1. a completed application for a state agency permit;
  - 2. a certification from such person applying for an Authorization and/or its tenant(s) reflecting the employment or development requirements set forth in these Regulations and evidence reasonably satisfactory to the Corporation that such requirements are reasonably anticipated to be achieved by the Project; and
  - 3. plans reflecting the Project's conformance with § 1.3(A)(7) of this Part.

#### **1.5 Procedure for Review**

- A. The Board shall review the request for an Authorization at a regularly scheduled meeting, provided a completed application is received at least two weeks prior to a meeting, enabling the Expedited Permit Process Review Committee to review it and prepare a recommendation to the Board. The Expedited Permit Process Review Committee shall consist of:
  - 1. A Deputy Director of the Rhode Island Commerce Corporation
  - 2. A designated Rhode Island Commerce Corporation Project Manager
  - 3. Rhode Island Commerce Corporation Corporate Counsel
- B. Pursuant to R.I. Gen. Laws § 42-117-4, the Board shall issue a written decision within forty-five (45) days of its receipt of a complete request. If the Board finds the proposed project to be a Project of Critical Economic Concern, the Corporation shall issue an Authorization. If not, the Authorization shall be denied.

## **1.6 No Right to Review**

A review for an Authorization shall not constitute a “contested case” under the Administrative Procedures Act, R.I. Gen. Laws § 42-35-9. No opportunity to object to a request shall be afforded, nor shall judicial review be available from a decision rendered by the Board.

## **1.7 Reconsideration of Board Decision**

- A. Any affected person may request in writing reconsideration of the Board’s decision. Requests for reconsideration will be granted only where it can be demonstrated that there have been:
1. significant changes in the proposed project’s ability to meet the criteria as set forth in § 1.3(A)(7) of this Part, or
  2. significant changes in factors or circumstances relied upon by the Board in reaching its decision.
- B. The Board shall consider the request for reconsideration at its next regularly scheduled meeting.

## **1.8 Validity of Authorization**

An Authorization shall be valid as to each and every state agency by which the Project must be licensed or permitted until the Project reaches its Operation stage, or two (2) years from the date of issuance, unless extended for an additional period of up two (2) years at the discretion of the Corporation’s Executive Director. Upon written request to the Executive Director, the Corporation may, at its discretion, reissue a valid Authorization to a successor in interest, upon an affirmative finding by the Executive Director that the project continues to meet the criteria for authorization.

## **1.9 Rescission of Authorization**

- A. The Corporation may, by majority vote of the Board, revoke any Authorization upon finding that:
1. The Project has been significantly altered in size, scope or impact since the Corporation’s issuance of the Authorization; or
  2. A state agency permit application has not been filed within three (3) months of the date of the Authorization’s issuance.

## **1.10 Action by State Agency**

An Authorization may be filed with each and every state agency with licensing or permitting authority over a Project. The state agency shall give priority to the Project in the handling and processing of the application in accordance with R.I. Gen. Laws § 42-117-6 so that within three (3) months of submission of a substantially complete application, the state agency must render a written report on the status of the application. The report shall contain information, which will enable the person to make a sound business decision as to whether to proceed with the application. The report shall be delivered to the applicant and the Corporation. If the applicant is not granted, then the state agency shall on the fourth, fifth, and sixth months of the anniversary of the submission render a written report on the status of the application. If at the end of the sixth month, a decision has not been rendered on the application, then, in addition to the applicant and the Corporation, a copy of the written report shall be delivered by the agency monthly thereafter to the Governor until a decision to accept or reject the application has been made.

## **1.11 Liberal Application**

The terms and provisions of these rules and regulations shall be liberally construed to allow the Board and Corporation to effectuate the purposes of state laws, goals, and policies.

## **1.12 Performance**

An entity which has been granted a Certificate of Critical Economic Concern shall provide a report to the Rhode Island Commerce Corporation certifying that it has met the job projections, tax generation, and other provisions stated in the application which justified the approval of the Certificate, in accordance with the timeframe specified in the application. This report shall be made at the time of completion of the project, or, for phased projects, at the completion of each phase.

## **1.13 Penalties**

An entity failing to meet the jobs projections, tax generation, and other provisions state in the application that justified the approval of the Certificate shall be subject to a revocation of the Certificate and any other penalties permitted by law.

## **1.14 Severability**

If a court of competent jurisdiction invalidates any provision of these rules and regulations, or their application to any local government unit or circumstance, the remaining rules and regulations will not be affected. The invalidity of any

selection or sections, or parts of any section or sections, shall not affect the validity of the remainder of these rules and regulations.