

Brian P. Kemp
Governor



Christopher Nunn
Commissioner

July 1, 2024

Honorable Betsy Howerton
Legislative Counsel
316 State Capitol Building
Atlanta, Georgia 30334

RE: Notice of Intent to Adopt Revised Rules for the RURAL Zone (RZ) program.

Dear Ms. Howerton,

Pursuant to the Requirements of the Georgia Administrative Procedures Act, as amended, enclosed are the revised Rules for the Rural Zone program. Also enclosed are a Notice of Intent form and a Summary of the proposed program rule amendments.

Please note the Department of Community Affairs Board intends to act on the proposed rules at its meeting at 10:30 AM on August 14, 2024, which will be held at the Georgia Department of Community Affairs, 60 Executive Park South, NE, Atlanta, GA 30329.

If you have any questions or need additional information, please contact Ms. Cherie Bennett at Cherie.Bennett@dca.ga.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Christopher Nunn".

G. Christopher Nunn
Commissioner

Enclosures



**NOTICE OF
PUBLIC HEARING
AND
INTENT TO REVISE
THE RURAL ZONE PROGRAM RULES**

Notice is hereby given that the Department of Community Affairs will hold one public hearing in accordance with the Administrative Procedures Act, O.C.G.A. §50-13-1, et seq. The hearing will afford all interested persons reasonable opportunity to provide data, views, or arguments regarding proposed revisions to the Rural Zone program rules.

A public hearing will be held at 10:30 A.M. on Friday, July 26, 2024, in a virtual format. Individuals wishing to provide comment on the proposed rule revision may use the link below to participate in the public hearing.

https://teams.microsoft.com/l/meetup-join/19%3ameeting_OGYyNzk3MmUtNTAzYS00MDkxLTkxNDktNTI4ZWYONzFmZmY3%40thread.v2/0?context=%7b%22Tid%22%3a%22dc9db449-fad6-4fcd-8990-14394088d4ec%22%2c%22Oid%22%3a%223f02ebbc-8696-4314-b334-eae413874a81%22%7d

Any party wishing to provide data, views, or comments regarding the proposed rules in writing may do so by submitting them—to: Office of State Economic Development, Georgia Department of Community Affairs, 60 Executive Park South, N.E., Atlanta, Georgia 30329, emailing them to Cherie.Bennett@dca.ga.gov, or by presenting them at the public hearing. These comments shall be received no later than 5:00 P.M. on Friday, August 2, 2024.

Notice is hereby given that at a meeting beginning at 10:30 A.M. on Wednesday, August 14, 2024, in the Boardroom (room 302) of the Georgia Department of Community Affairs, 60 Executive Park South, N.E., Atlanta, Georgia 30329, the Board of the Georgia Department of Community Affairs (DCA) intends to adopt revised Rural Zone program rules.

If adopted by the Board of the Georgia Department of Community Affairs, the proposed rules will become effective on September 10, 2024.

The Department's authority to administer this program is recognized in O.C.G.A. §48-7-40.32, et seq. A complete copy of these proposed rules is available for public inspection in the Office of Economic Development, Georgia Department of Community Affairs, 60 Executive Park South, N.E., Atlanta, Georgia 30329, between the hours of 8:30 a.m. and 4:30 p.m., each Monday through Friday (excluding State holidays). A complete copy of each of the proposed rules can also be obtained by contacting the Office of Economic Development (404) 831-2058 or by accessing it on the Department's website.

This 1st day of July 2024.

G. Christopher Nunn
Commissioner



Synopsis of Revised Changes to DCA's Rural Zone Act

The Rural Zone Act (O.C.G.A. §33-1-25, et seq.) , passed by the General Assembly in 2017, charged the Georgia Department of Community Affairs with administering State tax credits designed to aid in the revitalization of rural downtowns. That legislation assigned DCA the responsibility of creating and maintaining administrative rules to govern the day-to-day conduct of the programs created in the Act.

In 2017, DCA adopted Rural Zone program rules. These rules shall be amended to include additional definitions to ensure that the Department of Community Affairs and Department of Revenue have clarity in interpreting and consistency in implementing tax credits within the program.

The Department of Community Affairs and the Department of Revenue reviewed the rules and determined clarity was needed to ensure consistency. The proposed changes seek to satisfy that goal through the following:

- AMEND CARRYFORWARD PERIOD FOR CREDITS
To align with new tax credit carryforward provisions established in HB 1181 during 2024 legislative session
- AMEND DATE OF PROGRAM SUNSET
To remain consistent with new date established in SB 496 during 2024 legislative session

PROPOSED REVISIONS	PAGE
<p>Chapter 110-33-1-06 This section amends the period in which installments of the credit may be claimed, as well as the carry-forward period for unused credits.</p>	6-7
<p>Chapter 110-33-1-07 This section amends the sunset date of the program to December 31, 2032.</p>	8

**RULES
OF
GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS**

**CHAPTER 110-34
RURAL ZONE PROGRAM**

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110-34-1-.01 Purpose

The purpose of the Rural Act is to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated to provide tax credit incentives to promote the revitalization of vacant rural Georgia downtowns by encouraging investment, job creation, and economic growth in long-established business districts by the designation of "Rural Zones".

Authority O.C.G.A. §48-7-40.32

110-34-1-.02 Definitions

- (1) '**Certified entity**' means any eligible business which establishes a new location within a Rural Zone on or after January 1, 2018, or any existing eligible business located within a Rural Zone that expands its operations on or after January 1, 2018, and which:
- (a) Creates at least two new full-time equivalent jobs in a taxable year; and
 - (b) Has been certified by the Commissioner of Community Affairs as eligible to receive the Rural Zone tax credit based on established criteria in O.C.G.A. §48-7-40.32 and promulgated in these regulations by the Commissioner of Community Affairs. Such certification shall be attached to the income tax return when the credit is claimed.
- (2) '**Certified investor**' means an investor or investors who:
- (a) Acquire and develop real estate within a designated Rural Zone; and

(b) Have been certified by the Commissioner of Community Affairs as eligible to receive the Rural Zone tax credit based on criteria established in O.C.G.A. §48-7-40.32 and promulgated in regulations by the Commissioner of Community Affairs. Such certification shall be attached to the income tax return when the credit is claimed.

(3) '**Eligible business**' means any establishment that is primarily engaged in providing professional services or in retailing merchandise and rendering services incidental to the sale of merchandise, including but not limited to the North American Industry Classification System Codes 31, 44-45, 54, and 72. Any establishment primarily engaged in activity not specifically referenced in the aforementioned NAICS code sections may seek a determination from the Commissioner of Community Affairs to ensure it will be deemed an eligible entity.

(4) '**Full-time equivalent**' means an aggregate of employee hours worked totaling 40 hours per week, the equivalent of one full-time job, provided the work is performed by at least two people.

(5) '**Local government**' means a county, municipality, or consolidated local government created pursuant to Article IX, Sections I, II, or III of the Georgia Constitution; applicable general state statutes; a local Act of the General Assembly; or such other method as was valid at the time of its creation.

(6) '**Qualified rehabilitation expenditure**' means labor and material costs associated with the rehabilitation of a certified investor property which:

(a) Complies with the state minimum standard codes and any applicable local codes; and

(b) Has been certified by the Commissioner for the Department Community Affairs as eligible to receive the Rural Zone tax credit based on established criteria in O.C.G.A. §48-7-40.32 and promulgated in regulations by the Commissioner for the Department of Community Affairs. Such certification shall be attached to the income tax return when the credit is claimed.

(7) '**Rural zone**' means the same as a revitalization zone as specified in O.C.G.A. §48-7-40.32 and means a specified geographic region that meets all criteria provided by this Code section and has been designated by the Commissioner of Community Affairs and the Commissioner of Economic Development to be in need of economic revitalization. There is no minimum or maximum size to the Rural Zone, but it shall meet all of the requirements set forth in O.C.G.A. §48-7-40.32.

Authority O.C.G.A. §48-7-40.32

110-34-1-.03 Eligible Applicants

(1) Eligible applicants under this program are municipalities, counties or consolidated governments with a population of 15,000 or less. The population estimates shall be based on the most recent U.S. Census Bureau's American Community Survey

population estimates. Once approved, communities will maintain the designation for the full term even if a new American Community Survey is conducted that reflects the population of the previously approved community above 15,000.

(2) All applicant communities must meet the criteria outlined in 110-xx-1-.02(4) and be in compliance with the state requirements regarding comprehensive planning and reporting, Service Delivery Strategy, Government Management Indicators (GOMI), and the Report of Local Government Finances.

(3) If the applicant is not the municipality in which the program will take place, the application must include a resolution of support and commitment of cooperation from the applicable local government.

Authority O.C.G.A. §48-7-40.32

110-34-1-.04 Threshold Criteria for Boundaries and Designations

(1) Eligible applicants must have an existing historic commercial area.

(2) The boundaries of the proposed Rural Zone should take into consideration the economic distress criteria and should be contiguous parcels.

(3) The Commissioners for the Department of Community Affairs and the Department of Economic Development are authorized to designate a specified area as a Rural Zone, enabling new and established businesses and new business investments in the zone to qualify for Rural Zone tax credits.

(4) The Commissioners for the Department of Community Affairs and the Department of Economic Development may designate up to ten Rural Zones in any given year; provided, however, there shall not be more than 50 Rural Zones in existence at the same time. This designation shall last for five consecutive years upon approval of the Commissioners.

Authority O.C.G.A. §48-7-40.32

110-34-1-.05 Application for Designation

(1) Eligible applicants must apply for Rural Zone designation under this program in a format and manner prescribed by the Department of Community Affairs. Applications may be submitted in writing to the Department at:

Georgia Department of Community Affairs
Rural Zone Program
Community Development & Finance Division
60 Executive Park South, NE

(2) To be eligible to apply for such designation, local governments must meet all of the following criteria:

- (a) Have a population of less than 15,000 based upon the most recently published U.S. Census Bureau's American Community Survey's most recent population estimates;
- (b) Proof of economic distress based on poverty rate, vacancy of the downtown area, or blight;
- (c) Possess a concentration of historic commercial structures at least 50 years old within the targeted area;
- (d) Submit a feasibility study or market analysis identifying the business activities which can be supported in the targeted area; and
- (e) Develop a master plan or strategic plan designed to assist private and public investment.

(3) Local commitment – Eligible applicants demonstrating strong local commitment to the redevelopment of downtown may make a compelling case for designation. Such local commitment may include, but not be limited to, partnerships and initiatives with local banks or other financial institutions, development authorities or through locally developed plans.

(4) The Department of Community Affairs will develop application guidelines and instructions. Applications will include but not be limited to the following:

(a) A cover letter to the Commissioner of Community Affairs and the Commissioner of Economic Development requesting designation must be prepared and signed by an authorized representative of the local government applying for the Rural Zone designation. If the applicant is not the municipality in which the program will take place, concurrence must be received from the applicable local government.

(b) Economic Distress

1. Documentation submitted with the request must prove economic distress based on poverty rate, blight or vacancy in the downtown area.

(c) Maps

1. Digital GIS files detailing the proposed Rural Zone (i.e. shapefiles or geodatabase feature classes with prj). Applicant may submit maps via CD or Internet file transfer program provided by DCA. Digital maps should include individual boundary polygons as listed below:

(i) Parcel file (just the parcels in the proposed Rural Zone) that includes parcel ID number;

(ii) Boundary file for the proposed Rural Zone; and

(iii) Identification of historic structures (fifty years or greater), vacant parcels and blighted parcels.

(d) Feasibility Study/Market Analysis – A feasibility study or market analysis of the downtown area and businesses which can be supported in the target area is required. This analysis shall evaluate the existing mix of businesses and industries within the community/proposed Rural Zone and determine what businesses/industries have a strong likelihood of succeeding within the proposed zone.

(e) Strategic Plan/Master Plan – Submission of a plan is required to help the community guide public and private investment is required. This plan shall conform with the requirements set forth in the application by the Department of Community Affairs.

Authority O.C.G.A. Sec. 50-8-2

110-34-1-06 Rural Zone Tax Credits

(1) For eligible certified entities and certified investors within a currently designated Rural Zone, tax credits may be earned in accordance with O.C.G.A. 48-7-40.32 and accompanying regulations. Nothing in this regulation shall be construed as authorization for certified entities or certified investors to claim multiple job tax credits for the same jobs or to claim multiple investment or rehabilitation credits for the same investment or rehabilitation expenses.

(2) Before claiming the Rural Zone tax credit, a certified entity or certified investor must apply for a certification in a format prescribed by the Department of Community Affairs that the business location where jobs are being created or the investment has been made, including the rehabilitation credit, is located within a currently designated Rural Zone.

(a) The certification application must contain the address and parcel number;

(b) The certification application must verify the baseline number of jobs prior to the eligibility for the credit, as well as employment during the year for which credits are being claimed.

(c) The certified entity or certified investor must file the certification with the local government's contact person for the Rural Zone. The local jurisdiction must then certify that the certified entity or certified investor location is within the Rural Zone, and that the applicant meets all local ordinances and licensing standards.

(d) The certification must then be forwarded to the Department of Community Affairs for acknowledgment.

(e) Once certified and acknowledged, a copy will be provided to the applicant entity or investor, the local jurisdiction and the Department of Revenue.

(3) Certified entities shall receive the Rural Zone tax credit for five years beginning with the first taxable year in which new full-time equivalent jobs are created within a designated zone and for years two, three, four, and five of the taxable years immediately following, provided the new full-time equivalent jobs are maintained for each year the tax credit is claimed.

(a) Each new full-time equivalent job created will be eligible for a \$2,000.00 annual income tax credit. The amount of credit claimed by each certified entity shall not exceed \$40,000.00 per taxable year.

(b) The number of new full-time equivalent jobs shall be determined by comparing the monthly average of full-time equivalent jobs subject to Georgia income tax withholding for a given taxable year with the corresponding period of the prior taxable year; provided, however, a certified entity which begins operations during the taxable year may be certified by the Commissioner for the Department of Community Affairs to base initial eligibility on a period of less than 12 months.

(c) This income tax credit shall not be allowed during a year if the net employment increase falls below the number required by subparagraph 110-34-1-.02(1)(A) of these regulations.

(d) Any credit generated and utilized in years prior to the year in which the net employment increase falls below the number required by subparagraph 110-34-1-.02(1)(A) of these regulations shall not be affected.

(4) Certified investors who acquire and develop property in a Rural Zone on or after January 1, 2018, shall receive the Rural Zone tax credit, subject to the following:

(a) Certified investors shall demonstrate a property's ongoing commercial benefit as follows:

1. An eligible business is located in the investment property and creates a minimum of two full-time equivalent jobs and maintains employment levels equal to or greater than such levels for each year the tax credit is claimed; or

2. An eligible business is located in the investment property and qualifies to receive the tax credit pursuant to subsection (c) of O.C.G.A. §48-7-40.32; or

(b) The amount of the tax credit per project shall be 25 percent of the purchase price and shall not exceed \$125,000.00; provided, however, that the entire credit shall not be taken in the year in which the property is placed in commercial service but shall be prorated equally in ~~five~~three installments over ~~five~~three taxable years, beginning with the taxable year in which the property is placed in service; and

(c) A certified investor shall be allowed to preserve the Rural Zone tax credit for up to seven years from the date of initial eligibility in the event the commercial requirement in paragraph (1) of this subsection is not satisfied in consecutive years.

(5) A certified investor or certified entity with qualified rehabilitation expenditures on or after January 1, 2018, shall receive the Rural Zone tax credit for three years beginning with the year the property is placed in service.

(a) The amount of the tax credit per project shall be 30 percent of the qualified rehabilitation expenditures and shall not exceed \$150,000.00; provided, however, the entire credit shall not be taken in the first year, but shall be prorated equally in three installments over three taxable years, beginning with the taxable year in which the property is placed in service.

(b) The business shall create a minimum of two full-time equivalent jobs and maintains employment levels equal to or greater than such levels for each year the tax credit is claimed.

(c) A certified investor or certified entity shall meet certain historic preservation standards in order to be qualified to receive the Rural Zone tax credit. The standards shall be identified with the assistance of the Department of Natural Resources' Historic Preservation Division and placed on the agency's website by the Department of Community Affairs.

(d) A taxpayer who is entitled to and takes credits provided by O.C.G.A. §48-7-40.32 for a project shall not be allowed to utilize the same qualified rehabilitation expenditures to generate any additional state income tax credits, including, but not limited to, the state income tax credit for rehabilitated historic property administered by the Department of Natural Resources' Historic Preservation Division.

(e) For projects utilizing credits under O.C.G.A §48-7-40.32, direct jobs for which credits are received shall not be eligible toward qualifying for any other job-related state tax credits provided under the Official Code of Georgia (including but not limited to OZ, Georgia Jobs Tax Credit, Military Zone, Less Developed Census Tract, etc.).

(f) As a general rule, the teardown of facilities within a Rural Zone will not be permitted to claim rehabilitation credits. However, in rare cases, exceptional circumstances may warrant credits being earned at the discretion of the Commissioner of Community Affairs.

(6) In no event shall the amount of the tax credits allowed by O.C.G.A. §48-7-40.32 for a taxable year exceed a certified entity's or certified investor's state income tax liability. Any credit claimed under O.C.G.A. §48-7-40.32 by a certified entity or certified investor but not used in any taxable year may be carried forward for ~~ten~~five years from the close of the taxable year in which the credit is claimed. No such credit shall be allowed by the taxpayer against prior years' tax liability.

(7) Any tax credits earned under O.C.G.A. §48-7-40.32 are nontransferable.

Authority O.C.G.A. §48-7-40.32

- (1) On an annual basis on or by January 31st and in a format to be provided by the Department of Community Affairs, the local government shall report on the Rural Zone's activity for the most recent year:
 - (a) A narrative description of steps the local government has taken to facilitate business development within the Rural Zone within the prior year.
 - (b) Private activities that have spurred revitalization efforts within the zone.
 - (c) Other information as required by the Department of Community Affairs.
- (2) Certified entities and certified investors shall report to the Department of Revenue annually on forms and at times as directed by the agency.
- (3) The Commissioners for the Department of Revenue and the Department Community Affairs shall have the authority to require reports and promulgate regulations as needed in order to perform their duties under O.C.G.A. §48-7-40.32.
- (4) A local government's failure to provide annual reports to the Department of Community Affairs shall result in the local government being ineligible for any funding administered by the Department of Community Affairs until such time that the jurisdiction is current with the filing of all Rural Zone's annual reports.
- (5) During the period of designation, each local government with a designated Rural Zone shall participate in annual training by the Department of Community Affairs to assist in the revitalization within the community. This training may be in the form of in-person meetings, webinars, or other methods implemented by the department. Failure to participate in annual trainings shall result in the local government being ineligible for any funding administered by the department until such time that the jurisdiction completes required training.

O.C.G.A. §48-7-40.32 shall stand automatically repealed and reserved on December 31, 20322027, unless reauthorized by the General Assembly prior to such date.

Authority O.C.G.A. §48-7-40.32