



Virginia  
Regulatory  
Town Hall

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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Housing and Community Development
<b>Virginia Administrative Code (VAC) citation</b>	13 VAC 5-112
<b>Regulation title</b>	Virginia Enterprise Zone Grant Program Regulations
<b>Action title</b>	Amend and update regulations governing the Virginia Enterprise Zone Program.
<b>Date this document prepared</b>	September 28, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The Virginia Enterprise Zone Program provides tax incentives and grants to qualified businesses in specially targeted areas throughout the state to encourage job creation and private investment. The program was created in 1982 by the Enterprise Zone Act to stimulate local economic growth and revitalization. The Enterprise Zone Program Regulations guide the designation process to select enterprise zones; the administration of enterprise zones once selected and their termination. The regulations also guide the qualification for and administration of the tax and grant incentives.

The purpose of the update is to clarify certain aspects of the regulations for more effective implementation and ease of use.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly*

chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§59.1-541 of the Code of Virginia authorizes the Board of Housing and Community Development to promulgate regulations governing the enterprise zone program.

### Need

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

The proposed revisions are needed to enable the enterprise zone program to be administered in a more efficient and economical manner. It is the board's desire to ensure that the regulations provide clear and understandable guidelines by addressing all issues concerning the performance of the program by:

- 1) Further clarifying the intent of the program and insuring that it is being met;
- 2) Providing additional guidance to program constituents;
- 3) Formalizing what has been common practice; and
- 4) Updating references to specific statutes; dates.

### Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

The changes that will be considered include:

#### General

- Clean-up of typos, obsolete references, etc.
- Re-format sections to clarify references to the tax credit program versus the grant program
- Clarify designation and incentive application delivery methods

#### Zone Designation and Zone Administration

- Define maximum zone acreage allowed in cases of city reversion to town
- Define an increased maximum acreage allowable for deletion from zones in cases of removal of residential/governmental/floodplain etc.
- Clarify language with regard to zone designation threshold standards
- Define purpose and scope of the annual site review of designated communities
- Update or remove agency mailing address

**Real Property Investment Grants**

- Clarify language concerning:
  - anti-piracy provision
  - use of the term “notwithstanding” with regard to grant cap
  - what constitutes a facility
- Define qualified expenses using table display
- Allow for owner’s permission option in lieu of tenant coordination
- Define conditions under which temporary placed in service documentation may be used for qualification

**Alternatives**

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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The amendments will ensure consistent and uniform program implementation through the formal mechanism provided by the Regulations.

**Public participation**

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

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The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so at the December public hearing of the Board of Housing and Community Development or via the Regulatory Townhall website, [www.townhall.virginia.gov](http://www.townhall.virginia.gov), or by mail, email or fax to A. Reese Peck, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA, 23188, 804-371-7066 (ph), 804-371-7093 (fax) and [reese.peck@dhcd.virginia.gov](mailto:reese.peck@dhcd.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

### Participatory approach

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

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For noncontroversial regulations the Board of Housing and Community Development follows the well defined public hearing and public comment process outlined in the Public Participation Guidelines adopted by the Board of Housing and Community Development (13VAC5-11) rather than the panel or advisory group approach.

### Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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There is an indirect positive impact on the family in that one purpose of the program is to create net new jobs in distressed areas of the Commonwealth. Businesses must pay at least at 175 percent of the federal minimum wage and offer health benefits in order to qualify for job creation grant. This can encourage economic self-sufficiency and increase disposable family income.