



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	24 VAC 30-90-10
VAC Chapter Number:	90
Regulation Title:	Subdivision Street Requirements
Action Title:	Amendment of APA-subject Regulation
Date:	March 17, 2003

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

This regulation sets forth the requirements applicable to all subdivision streets in the Commonwealth that are designated to become part of the secondary system of state highways, including procedures for approval and criteria used to consider inclusion into the system. (Note: This regulation does not apply to the counties of Arlington or Henrico, but may apply in the independent cities or towns of more than 3,500 population.)

The *Subdivision Street Requirements* are generally updated every five to seven years. The last amendments became effective January 1, 1996. Therefore, VDOT is exploring alternatives to make the regulation more useful in meeting the goals of local government and ensuring a safe and adequate access is provided as part of local land development activities. These alternatives are intended to improve the regulation while continuing to meet the principal goals of:

- Serving as a reference resource for parties involved in the planning, design, development, and regulation of residential, commercial, and industrial subdivisions.
- Establishing the minimum criteria for the addition of subdivision streets as a part of Virginia's secondary system of state highways.

- Protecting the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the Commonwealth.
- Providing a clearly written and understandable regulation.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

No federal statutes pertain to the regulation. Title 33.1 of the Code of Virginia contains many statutory references to the secondary system and the authority to issue regulations. VDOT, the Commissioner and the Commonwealth Transportation Board (CTB) are granted "control, supervision, management, and jurisdiction" over the secondary system of state highways by § 33.1-69. Furthermore, the CTB has general authority to make regulations concerning the use of the state highway system pursuant to § 33.1-12. § 33.1-229 gives the Commissioner discretionary authority over the expenditure of state funds for the secondary system. Finally, persons desiring commercial entrances must obtain permits from VDOT pursuant to § 33.1-198, because subdivision roads, when they intersect with existing roads in the state system of highways, are considered commercial entrances.

The Office of the Attorney General affirmed these statutory references in correspondence to VDOT in 1995, when the regulation last underwent a full-scale Administrative Process Act (APA) amendment. More generally, Section 15.2-2240 of the *Code of Virginia* requires each locality to enact an ordinance to ensure that land is subdivided and developed in an orderly manner. The *Catalog of State & Federal Mandates on Local Governments* includes the Subdivision Street Requirements as a mandate (STO.VDOT009). In September of 1999, pursuant to the requirements of Executive Memorandum 1-98, the Secretary of Transportation submitted a recommendation to the Commission on Local Government that the mandate be retained. This regulation does not exceed the specific minimum requirements of any federal or state mandate.

Statutory text for the Code sections reference above can be accessed via the following website:

<http://leg1.state.va.us/000/src.htm>

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a

statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

Currently, VDOT proposes the following regulatory changes:

- Clarify text to improve comprehension and usefulness;
- Update obsolete titles and work unit names;
- Separate geometric standards from regulatory requirements;
- Update list of documents incorporated by reference; and
- Address impact of identified issues (including definition of roles, review and acceptance processes, sidewalks, flexibility of standards, traffic calming, surety and maintenance fees, utilities, etc.) on the regulation.

In preparation for development of the proposed amendments to the regulation, VDOT will also collect input directly through stakeholder meetings to supplement the public comment procedures under the Administrative Process Act, so that the opportunities to collect public input are increased. VDOT will evaluate any issues raised at these gatherings in the development of the proposed amendments to the regulation. After the Commonwealth Transportation Board has reviewed proposed changes, proposed revisions will be published in the *Virginia Register* and public comment solicited regarding those changes later this year.

VDOT believes that revisions to the regulation are essential to maintain the integrity of the State Highway System by preserving the existence of convenient, safe, and cost-effective roads within that system. The regulation will continue the ability of the private sector to develop tracts of land and related roads that complement existing and future road systems, traffic patterns, and land use. The provision of an adequate transportation system is one of the most important functions of government in providing for the safety and welfare of citizens. Within the Commonwealth, public highways continue to play the principal role in this function.

Today, ever-increasing competition between states for new economic development dictates that Virginia continue to provide an efficient highway system. Further, to promote improved quality of life for the citizens, the effective movement of people, goods, and services on our highways is essential. Additionally, the provision of a safe and adequate means of access to residential, commercial, industrial and mixed-use developments is an essential quality of life element that Virginians expect and demand. These principles apply to both existing, as well as new streets and roads.

Accordingly, it is imperative that any new transportation facility be designed and constructed to adequately and safely accommodate the anticipated type and volume of traffic, consistent with the land use served. Since the projected resources of the Transportation Trust Fund will be required to finance needed improvements to the existing transportation facilities, the cost of new roads required to serve subdivisions and other similar types of speculative development must be

provided from private sources and be sufficient to meet the anticipated transportation needs of the community at large.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Requirements providing for adequate access to subdivided land and the protection of the limited resources of the Transportation Trust Fund were first adopted by the Highway Commission (now Commonwealth Transportation Board) in 1949 and, with periodic revision, has functioned well in meeting both of those goals. Therefore, VDOT feels there is no viable alternative to having a regulation governing which roads will be transferred from county to state jurisdiction under VDOT, thereby ensuring the integrity and safety of the existing systems of highways and roads and guiding the prudent decisions deemed necessary to protect against avoidable expenditures for the repair of inadequately built roads in subdivisions.

Family Impact Statement

Please provide a preliminary analysis of 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.

There is no negative impact to the factors listed.