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Fast-Track Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) Chapter citation(s)	13 VAC5-112
VAC Chapter title(s)	Enterprise Zone Grant Program Regulation
Action title	Update application procedures
Date this document prepared	October 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory change removes requirements that a hard copy application be submitted for those seeking grants under the Enterprise Zone Program. If desired, applicants may utilize digital only applications.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

EZ – Enterprise Zone
RPIG – Real Property Investment Grant
JCG – Job Creation Grant

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Board of Housing and Community Development adopted the regulation to update application procedures at their September 28, 2020 meeting.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

This regulatory change is being made by the Board to provide flexibility for applicants. In particular, this change reduces the need for additional in person actions in the COVID 19 environment.

This change is non-controversial as it is allowing digital only applications. This is standard practice for many agencies and entities. Most program applicants already submit secondary digital applications.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Board of Housing and Community Development is promulgating this regulation under section 59.1-541 of the Code of Virginia.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

- 1) This regulatory change provides additional flexibility for applicants/regulants. 2) This regulatory change is necessary to protect the health, safety, and welfare of the citizens as it removes

unneded in person interactions in the COVID 19 environment. 3) This change intends to provide additional flexibility to applicants.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This change eliminates the need to submit hard copies of Enterprise Zone applications. This is critical in the COVID 19 environment.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

This is advantageous to the public and the agency as it provides flexibility and eliminates the need for hard copies.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

No federal requirement.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

None.

Localities Particularly Affected

This would affect any locality with an Enterprise Zone. There are 45 Enterprise Zones spanning 66 localities.

Other Entities Particularly Affected

Business seeking Enterprise Zone grants.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	No change.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	None.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	Provides applicants/regulants maximum flexibility.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	There will be nominal savings on postage/shipping and travel for hand delivery.
Benefits the regulatory change is designed to produce.	Provides applicants/regulants maximum flexibility and digital only options.

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Zone investors/applicants and Certified Public Accountants (CPAs). Zone investors include businesses and employers qualifying for the program.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and;	~200

b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	Costs will be reduced for entities that previously had to use shipping/postal services. Application submission will be easier.
Benefits the regulatory change is designed to produce.	Costs will be reduced for entities that previously had to use shipping/postal services. Application submission will be easier.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

The alternative is to maintain the regulation as is and still require hard copies. This alternative is not optimal in the COVID 19 landscape.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

This regulatory change provides additional regulatory flexibility.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the

applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board of Housing and Community Development is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Kyle Flanders, 600 E Main St, St 300, Richmond, VA 23219, 804-786-6761 (o) 804-371-7090 (f) email kyle.flanders@dhcd.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
13VAC5-53-112-290		K. Applications must either be hand-delivered by the date specified in this section or sent by certified mail with a return receipt requested and postmarked no later than the date specified in this section.	K. Applications must either be hand-delivered by the date specified in this section or sent by certified mail with a return receipt requested and postmarked, received by the <u>Department, as specified by the Department, no later than the date specified in this section.</u>

			<p><i>This removes hard copy requirements and will allow greater flexibility.</i></p>
<p>13VAC5-53-112-380</p>		<p>J. Applications must either be hand-delivered by the date specified in this section or sent by certified mail with a return receipt requested and postmarked no later than the date specified in this section.</p>	<p>J. Applications must either be hand-delivered by the date specified in this section or sent by certified mail with a return receipt requested and postmarked, <u>received by the Department, as specified by the Department,</u> no later than the date specified in this section.</p> <p><i>This removes hard copy requirements and will allow greater flexibility.</i></p>