

R-2014-41

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL/COMMITTEE MEETING OF:** October 7, 2014 **CUT OFF DATE:** \_\_

**RESOLUTION** X **ORDINANCE** \_\_ **PUBLIC HEARING** X

**ITEM TITLE:** Resolution authorizing the Local Zone Administrator to submit an amendment application to the Virginia Department of Housing and Community Development regarding the City of Winchester's Enterprise Zone Program

**STAFF RECOMMENDATION:** Approval

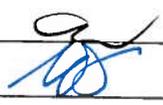
**PUBLIC NOTICE AND HEARING:** Authorize advertisement of amendment application of the City's enterprise zone program for purposes of receiving public comment and hold public hearing October 14th, 2014.

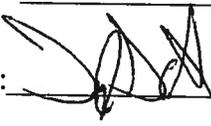
**ADVISORY BOARD RECOMMENDATION:** The Economic Development Authority recommends the City's submission of this application

**FUNDING DATA:** N/A

**INSURANCE:** N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. City Attorney		_____	9/22/2014
5. City Manager		_____	23 Sept 14
6. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature:  \_\_\_\_\_ Date: 9/22/14

Economic Development Coordinator



APPROVED AS TO FORM:

 9/22/2014  
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Tyler Schenck, Economic Redevelopment Coordinator  
**Date:** 10/7/2014  
**Re:** Submission of Virginia Enterprise Zone Amendment Application

---

**THE ISSUE:** City Staff has a strong desire to submit an amendment application to the Virginia Department of Housing and Community Development for our enterprise zone program.

**RELATIONSHIP TO STRATEGIC PLAN:** Will assist in the City's desire to grow the economy

**BACKGROUND:** This application is being submitted to accommodate recent economic development trends and needs in the City of Winchester. Specifically, this application will include a boundary amendment that will incorporate more land in the City into the enterprise zone and an incentive amendment that will add an additional local incentive and modify an existing incentive.

**BUDGET IMPACT:** N/A

**OPTIONS:** Council may approve or disapprove the City's submission of this application

**RECOMMENDATIONS:** City Staff recommends that we submit this application

**A RESOLUTION THAT AUTHORIZES THE CITY OF WINCHESTER TO SUBMIT AN AMENDMENT OF  
THE CITY OF WINCHESTER'S VIRGINIA ENTERPRISE ZONE PROGRAM TO THE VIRGINIA  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

WHEREAS, the City of Winchester has a desire to improve the capability of its enterprise zone boundaries and incentives; and

WHEREAS, the Virginia Department of Housing and Community Development requires all Virginia Enterprise Zone localities to submit a resolution from the locality's common council supporting the amendment.

NOW THEREFORE BE IT RESOLVED, that the adoption of this Resolution shall serve as approval of the City of Winchester's submission of an enterprise zone amendment application to the Virginia Department of Housing and Community Development; and

BE IT FURTHER RESOLVED, that the city manager or her designee is authorized to submit all information needed to apply for an enterprise zone amendment; and

BE IT FURTHER RESOLVED, that all pending City of Winchester enterprise zone incentive applications will be retroactively awarded the full value of all proposed VEZ incentive changes; and

BE IT FURTHER RESOLVED, that the city manager or her designee is authorized to meet other program administrative and reporting requirements, as defined by the enterprise zone regulations, throughout the life of the zone.

---

**TO THE CITIZENS OF WINCHESTER:**

**Virginia Enterprise Zone Amendment Application Public Hearing Notice**

The City of Winchester, Virginia will hold a public hearing on October 14 at 7:00 P.M. at Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia 22601 to solicit input on the proposed Virginia Enterprise Zone Amendment Application to the Virginia Department of Housing and Community Development. The proposed amendments will be available for discussion. All interested citizens are urged to attend. Further information may be obtained from the Economic Development Coordinator, Tyler Schenck by calling 540-667-1815 or through email at [tyler.schenck@winchesterva.gov](mailto:tyler.schenck@winchesterva.gov).

---

## **Enterprise Zone Amendment Application**

Applicant Locality(ies): City of Winchester  
Name of Zone: Winchester Enterprise Zone  
Zone Number:

Virginia Department of Housing and Community  
Development  
600 East Main St, Suite 300  
Richmond, Virginia 23219  
(804) 371-7030  
[EZONE@dhcd.virginia.gov](mailto:EZONE@dhcd.virginia.gov)  
[www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)



**VIRGINIA DEPARTMENT OF HOUSING  
AND COMMUNITY DEVELOPMENT**  
*Partners for Better Communities*

## Overview of Amendment Application

Instructions for completing the coversheet and application can be found in the appendices beginning on page 12 of this document. Please read all of the appendices carefully before completing this application. The new enterprise zone statute establishes new zone amendment guidelines which are summarized below and outlined in detail in the appendices.

Each enterprise zone can consist of up to three non-contiguous zone areas. In cases where a locality has multiple zone designations, each of those zones can consist of up to three non-contiguous geographic areas. In the case of joint zones, each locality's portion of the joint zone can consist of up to three non-contiguous geographic areas, but one of those three non-contiguous areas must be contiguous to at least one other participant's zone area. For more details, refer to page 15 in the appendix. There are no longer zone-specific distress criteria requirements in the amendment application; the zone-specific distress criteria have been removed from the amendment application process.

**An enterprise zone boundary amendment cannot consist of a site for a single business firm and cannot be less than 10 acres.**

Enterprise zone amendment applications can be submitted once every twelve months from the date of the locality's last zone amendment. Joint zones may amend their zones in one application or independently so long as each locality amends their portion of the zone only once every twelve months from the date of that locality's last amendment. The locality submitting the amendment application must be up to date in its annual reporting requirements. **Once DHCD approves an enterprise zone amendment, the modifications to the zone are retroactive back to January 1<sup>st</sup> of the calendar year in which the amendment was approved. This means that businesses added via a boundary amendment approved in 2013 could submit grant applications for the 2013 grant year.**

## Checklist of Required Attachments

Place the required attachments at the end of the amendment application. Unless otherwise specified, the attachment is required for all types of application amendments.

- Public Hearing Advertisements (2)**  
*Published once a week for two successive weeks in a newspaper of general circulation; final advertisement cannot be published < 5 days or > 21 days prior to the hearing*
- Official Public Hearing Minutes**
- Local Assurances**
- Resolution**  
*In the case of a joint zone all participating localities must submit approval resolutions, even if they are not amending their portion of the zone*
- Joint Application Agreement (Joint zones only)**
- Maps (Boundary amendments only)**
- Incentive charts (Incentive amendments only)**

# Coversheet

(For joint zone amendments, each locality must complete a separate coversheet)

Locality:

City of Winchester

Government Address:  
15 N. Cameron Street  
Winchester, Virginia 22601

Chief Elected Official (Name and Title):  
Elizabeth Minor, Mayor

Local Zone Administrator:  
Name: Tyler Schenck  
Title: Economic Development Coordinator  
Phone: 540-667-1815  
E-mail: tyler.schenck@winchesterva.gov

Application Type:  
 Single (one locality) Enterprise Zone  
 Joint (more than one locality) Enterprise Zone

If Joint application, list all participating localities:

Certification of Chief Administrative Officer:  
*To the best of my knowledge and belief, data in this proposal is true and correct and the governing body of the participant has duly authorized the proposal through resolution. The resolution is attached.*

Signature:  Date:

Name: Eden Freeman  
Title: City Manager

Type of Amendment (check all applicable boxes):

- Boundary deletion
- Boundary amendment
- Incentive amendment

Number of existing non-contiguous areas present in locality's zone:  
 0  1  2  3

Non-contiguous areas added or deleted as part of amendment application:  
 0  1  2

Total non-contiguous zone areas after amendment: 2

Enterprise Zone Public Hearings:  
 Single Application (one hearing)  
 Joint Application (one hearing in each locality)  
 Joint Application (joint hearing)

Attachments:  
 Advertisements  
 Minutes  
 Resolutions  
 Local assurances  
 Joint application agreement (joint zones only)

Locality has submitted all annual reports required to date:  
 Yes  
 No

**Amendment requests will not be processed until locality's annual reporting requirements are fulfilled.**

## I. Zone Size

Complete this section only if this amendment modifies the zone boundaries. Delete this section if your amendment is for incentive modification only.

A. Basic size limits are determined by the type of locality. Each locality in a joint zone may have the maximum zone acreage for that type of locality. If this is a joint amendment application, Question A must be completed for each locality. For joint applications, duplicate the check boxes for as many localities participating in the zone. List the locality's name next to each duplicated box. Refer to Appendix II on page 15 for zone size limits and boundary modification requirements.

Type of locality:

- County: \_\_\_\_\_  
 Consolidated City: Winchester  
 Town (existing town zones only)/City: \_\_\_\_\_

Size guideline option used:

- Basic land size minimum and maximum  
 7 percent of land area (Cities and Towns only)  
 7 percent of population (Cities and Towns only)

B. Complete the chart below showing the size of the zone after the proposed modifications. For joint zones, please list each locality's zone size adjustments on a separate line. Additional rows may be added to the table as needed. Zone size guidelines can be found in Appendix II on page 15.

Locality	Current zone size in acreage	Proposed deletion size in acreage	Proposed addition size in acreage	Amended zone size in acreage (total acreage)
Winchester	440.47		159.23	599.70

## Map Requirements – Required only for boundary amendments.

For each of the required maps, joint applications must also submit one map showing the entire zone area. The required maps must be able to fit inside a legal size mailing envelope. Each of the required maps must be produced at the same scale. GIS generated maps are preferred. Topographic maps are highly discouraged. **Zone administrators MUST submit a draft boundary amendment map to DHCD prior to holding the public hearing for review.**

**Map 1** – Map of the locality indicating the current and amended boundaries of the enterprise zone area. Please indicate the amended zone boundaries using the following key:

-  Proposed Additions – Red fill with bold red dashed border
-  Proposed Deletions – Blue fill with bold blue dashed border
-  Existing Zone Boundaries – Green fill

All required features listed in the charts must be included on each map and clearly visible.

### Required Features Included on Map (where present in zone):

- Major Streets/Roads/Highways Labeled (dark gray lines)
- City/County/Town limit lines identified by bold blue line
- Key Businesses/Employers
- Key Properties/Revitalization Project Areas/ Developable Land
- Airports/ Ports of Entry
- Major Railways
- Office or Industrial Parks
- Special Districts

**Map 2** - Map of the modified enterprise zone boundary indicating the existing land use characteristics according to the following classifications:

#### Privately Held Land

Business/Commercial  
Industrial  
Institutional  
Single-family residential  
Multi-family  
Agriculture  
Parking  
Mixed-use (or “Other”)

#### Publicly Held Land

State/Federal Land  
Local publicly owned land in use  
Unused local public land  
Parks & Recreational Areas  
Parking

Indicate on this map the total zone acreage and the approximate number of acres devoted to each type of use.

**Map 3** – Map of the modified enterprise zone showing the boundaries of existing zoning districts. (If the area is not zoned, this map is not required.)

**Place required maps at the end of the application.**

## II. Boundary Addition

Complete this section only if this amendment adds acreage to the zone. Delete this section if your amendment is for a boundary deletion or incentive modification only. Boundary additions cannot consist of a site for a single business and cannot be less than 10 acres in size. Counties with enterprise zones can include acreage within corporate town limits, provided the acreage addition falls within the total zone size requirements for the locality. Towns with enterprise zones CANNOT add portions of the unincorporated areas into the zone through the amendment process.

Describe the areas proposed for inclusion into the zone boundaries. Indicate if the added areas are contiguous to existing zone boundaries or will count as one of the three total non-contiguous zone areas per locality. Explain the strategic importance of adding the area(s) to the zone. Discuss relevant economic conditions, economic development/revitalization efforts occurring within the proposed addition. Quantify this information where possible.

*(Limit response to space provided.)*

The acreage added contiguous to the existing Winchester Enterprise Zones will accommodate for recent economic development activity and existing blighted or underutilized areas within the community.

When the City of Winchester applied for VEZ designation, we intentionally omitted a large amount of available acreage in case a large employer or site became vacant or dilapidated. This boundary amendment includes the recently closed Federal Mogul property which consists of a sizable tract of land in the middle of Winchester. The site yields several environmental concerns and will likely need several financial incentives to entice redevelopment of the property. In addition, the amended VEZ boundaries incorporate the underutilized Ward Plaza property. This strip mall remains primarily vacant and is adjacent to arguably the highest traversed avenue in Winchester. Also, the new VEZ boundary in the southern noncontiguous zone follows Valley Avenue up to the O'Sullivan Films manufacturing site. Although this company is a large employer and a coveted business in Winchester, they have yet to reach their full capacity and require financial incentives to conduct their next employment growth and capital investment.

Lastly, the boundaries in the northern noncontiguous zone are minutely adjusted to incentivize the redevelopment of blighted or underutilized properties that were omitted from our initial northern enterprise zone.

### III. Incentive Amendment

Complete this section only if this amendment modifies incentives. Delete this section if your amendment is for boundary modification only. All zones are required by statute to offer local enterprise zone incentives. Localities should regularly review their incentive package to ensure utilization by businesses and effectiveness in attracting/expanding targeted business sectors within the zone. In the case of boundary amendments to include corporate town limits, the town functions as part of the county's zone boundaries and is not required to offer local incentives but may do so. Refer to Appendix III on page 17 for more information about local incentives.

- A. Why are the local incentives being modified? Discuss utilization, any changing trends or special circumstances affecting the decision to modify.

The City is proposing the addition of an incentive that provides a grant to commercial property redevelopers seeking to forgo tax abatement and pursue a cash grant. Developers often approach City representatives and voice their displeasure with the inability to receive local incentives after flipping a commercial property, and this proposed incentive should alleviate this issue.

Lastly, two existing incentives are being modified due to interactions and feedback with real estate investors and developers. The two substantially rehabilitated incentives will have their maximum square footage thresholds raised from 15% to 50%. This will provide property investors with additional incentive value should a property undergo a moderate expansion in square footage.

- B. What aspects of the incentives are being modified and why? Explain the research that the modification is based on (i.e. survey of zone businesses).

Two existing incentives are being amended and one new incentive is being proposed after extensive conversation with local developers and property investors. After numerous interactions with development community and hosting a VEZ Q&A seminar, we feel that our proposed incentive amendments will rectify current lapses in our EZ program and provide a more robust incentive package.

- C. Has the modified incentive package or new incentive(s) been reviewed by the local governing body's attorney and determined to be legal?  Yes  No

- D. Are incentives deleted as part of the amendment proposal?  Yes  No

If yes, complete the following chart concerning the required replacement incentive and explain (below the chart) why the incentive is being deleted. For example, the creation of a regional water/waste water facility may necessitate amending the city's existing water and sewer hookup fee incentive because the city no longer collects these fees and therefore cannot rebate them.

Additional rows may be added to the chart as needed. Local incentives can be deleted if replaced by incentives that are equal or superior to those in the application or most recent amendment. **Contact DHCD staff to discuss your plans to modify incentives prior to holding the public hearing.**

Existing Incentive (by locality)	Replacement Incentive (by locality)	Justification for replacement

*(Limit section IV responses aside from the above chart to the space provided plus one additional page.)*

Incentive Package. Complete this section only if this amendment modifies incentives. Delete this section if your amendment is for boundary modification only. Provide information for **new and existing** incentives. This chart may be reproduced to accommodate all incentives. Identify new or revised incentives with an asterisk. **This chart will replace the current chart in your Enterprise Zone designation application. Complete the incentive chart to include all incentives to be offered upon approval of the incentive amendment.**

<b>Locality Offering the Incentive: City of Winchester</b>	
<b>Incentive #: 13</b> <b>Name:</b> Substantially Rehabilitated Commercial/Industrial Property Real Estate Tax Exemption <b>Description:</b> Provides tax exemption for a period of 10 years for substantially rehabilitated real estate within the Enterprise Zone for that portion of the real estate assessment which is a net increase above the real estate assessment on improvements prior to the occurrence of substantial rehabilitation	<b>Locality/Provider:</b> City of Winchester
	<b>Qualification Requirements:</b> Assessed value of commercial or industrial structures must be increased by at least 60. Qualifying square footage includes original structure and up to 150% of original square footage.
	<b>Exclusive to Zone:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> <b>No, if no please explain how incentives will be tailored to zone</b> The City extended the existing Substantially Rehabilitated Property Real Estate Tax Exemption for commercial and industrial structures from the Winchester Historical District to the entire Enterprise Zone.
	<b>Period of Availability:</b> Available for the entire existence of the VEZ
<b>Financial Value of Incentive:</b> An assessed \$1,000,000 commercial or industrial property that has improved its value to an assessed \$1,600,000 is exempt from paying \$5,700 per year for 10 years for a total value of \$57,000	<b>Effective date:</b> Effective upon approval by DHCD
<b>Action to Implement:</b> <input checked="" type="checkbox"/> <b>Local Ordinance</b> <input type="checkbox"/> <b>Approval by Board of Supervisors</b> <input type="checkbox"/> <b>Other:</b>	<b>Source of Funds:</b> N/A Tax exemption
	<b>Annual Budget Allocation Pending Approval:</b> N/A

<b>Locality Offering the Incentive: City of Winchester</b>	
<b>Incentive #: 15</b> <b>Name: Commercial and Mixed-use Property Rehabilitation Grant</b> <b>Description:</b> Provides a cash grant for substantially improved commercial or mixed-use property within the Enterprise Zone for increasing the assessed value of a commercial or mixed-use property by at least 60%	<b>Locality/Provider: City of Winchester</b>
	<b>Qualification Requirements:</b> Rehabilitated property must be a commercial or mixed-use. Upon completion of rehabilitation, the assessed value of the property must be improved by at least 60%. Grant will be paid upon the post-rehabilitated assessed value of the property. Plans for substantial improvement must meet the guidelines as determined by the local zone administrator.
	<b>Exclusive to Zone:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, if no please explain how incentives will be tailored to zone
	<b>Period of Availability:</b> Available for the entire existence of the VEZ
<b>Financial Value of Incentive:</b> \$10,000 per grant for a new assessed value of \$250,000-\$499,000. \$15,000 per grant for a new assessed value of \$500,000 or more	<b>Effective date:</b> Effective upon approval by DHCD
<b>Action to Implement:</b> <input checked="" type="checkbox"/> Local Ordinance <input type="checkbox"/> Approval by Board of Supervisors <input type="checkbox"/> Other:	<b>Source of Funds:</b> Incentive will be funded by the City of Winchester
	<b>Annual Budget Allocation Pending Approval:</b> N/A

## Appendices – Table of Contents

### Appendix I:

Public hearing and resolution requirements.....	Page 12
Local assurances.....	Page 13
Joint application agreement form.....	Page 14

### Appendix II:

Size requirements .....	Page 15
Zone configurations.....	Page 15, 16

### Appendix III:

Requirements for incentive amendments.....	Page 17
--	---------

## Appendix I: Public Hearing and Resolution Requirements

### Public Hearing Requirements

A local governing body must hold **at least one public hearing** on the application for Enterprise Zone amendment **prior to** the locality's passage of its enterprise zone resolution and prior to submission to DHCD. A copy of the advertisement of the public hearing and the public hearing minutes must accompany the application. **Enterprise Zone Regulation 13 VAC-5-112 490 states that Public Hearings may not have been held more than six months prior to the amendment submission.**

**For a joint application**, each participating local governing body may either hold a separate public hearing or schedule a joint public hearing.

### Public Hearing Advertisement Requirements

- ❑ Ads must be published once a week for two successive weeks in a newspaper of general circulation.
- ❑ The final advertisement cannot be published less than five days or more than twenty-one days prior to the hearing.
- ❑ The ad must give the time, date, and location of the hearing.

The complete requirements for conducting public hearings are stated in §15.2-2204, Code of Virginia.

### Information regarding joint zone amendments

- Localities participating in a joint zone can choose to amend their respective portions of the zone application simultaneously through the submission of one amendment application. However, this is not required. Participants in a joint zone may amend their portion of the zone independently of each other.
- Each locality can only amend their portion of the zone application once every twelve months from the approval date of their last amendment.
- **All localities participating in the joint zone (regardless of whether or not they are amending their portion of the zone) must pass approval resolutions and sign joint application agreements for any amendment made by a partnering joint applicant.**
- DHCD will not process any amendment application until the applicant or applicants in the case of a joint zone amendment are up to date on their annual reporting requirements.

### Minimum Resolution Format Requirements

While DHCD does not provide a template for zone amendment resolutions, **we outline the minimum requirements below which can also serve as the framework for a resolution.**

**Single Jurisdiction**--Resolutions accompanying single locality applications for enterprise zone amendment should state that the local governing body:

- ❑ Is applying for enterprise zone amendment;
- ❑ Authorizes its chief administrator (or clerk where there is no chief administrator) to submit all information needed to apply for a zone amendment.
- ❑ Authorizes its chief administrator (or clerk) to meet other program administrative and reporting requirements, as defined by the Enterprise Zone Regulations, throughout the life of the zone.

**Joint Application**--Separate resolutions are required of each participating locality and should state that:

- ❑ The local governing body is applying for enterprise zone amendment jointly with other localities (provide names);
- ❑ One jurisdiction (provide name) is designated to act as program administrator;
- ❑ The local governing body authorizes the chief administrator (or clerk) acting as program administrator to submit all information needed to apply for an enterprise zone amendment and to carry out all program administrative and reporting requirements on its behalf;
- ❑ The local governing body authorizes the chief administrator (or clerk) acting as program administrator to carry out all program administrative and reporting requirements on its behalf, as defined by the Enterprise Zone Regulations, throughout the life of the zone.
- ❑ Each jurisdiction participating in a joint EZ application has completed a Joint Application Agreement. **See page 14 of appendix for format of agreement.**

## Appendix I: Local Assurances

Local Assurances and Authorizations are used to certify the accuracy of the information provided by the applicant and to insure that the Program Regulations will be met. **Important:** All applications must include a certified resolution from the local governing body. If a joint application, include resolutions of each local governing body. **Attach the resolutions at the end of the amendment application.** Joint applications must also include Joint Application Amendment Agreement (JA) – refer to page 14 of the appendix.

As the representative of the local governing body of \_\_\_\_\_, I hereby certify that:  
(locality)

1. The information in the Enterprise Zone application is accurate to the best of my knowledge.
2. A public hearing was held by the aforementioned locality to solicit comments on this request for application amendment. A copy of the public hearing advertisement and a copy of the public hearing minutes are attached.
3. Any local enterprise zone incentives proposed by the aforementioned locality in the Enterprise Zone application represents a firm commitment by the locality and have been reviewed by the local governing body's attorney as to their legality;
4. It is understood that if at any time the aforementioned locality is unable or unwilling to fulfill a commitment to provide local enterprise zone incentives, or if no state enterprise zone incentives have been utilized within a five-year period, the zone shall be subject to termination.

**Chief Administrator:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Appendix I: Joint Application Agreement

Each jurisdiction participating in a joint application must complete the following form. This form insures that all jurisdictions are in agreement with the application being submitted by the amending jurisdiction. Completed joint application amendment agreements should be attached at the end of the amendment application.

### JOINT APPLICATION AMENDMENT AGREEMENT

As the representative of the local governing body of \_\_\_\_\_, I hereby certify that:  
(locality)

1. The aforementioned locality is in agreement with the other participating localities in filing this amendment;
2. Any local enterprise zone incentives proposed by the aforementioned locality in this amendment application represent a firm commitment;
3. It is understood that if at any time the aforementioned locality is unable or unwilling to fulfill a commitment to provide local enterprise zone incentives listed in this application, the zone shall be subject to termination; and
4. A public hearing was held on \_\_\_\_\_ to solicit comments on application.  
(date)

\_\_\_\_\_  
Chief Administrator's signature

\_\_\_\_\_  
Date

Name: \_\_\_\_\_

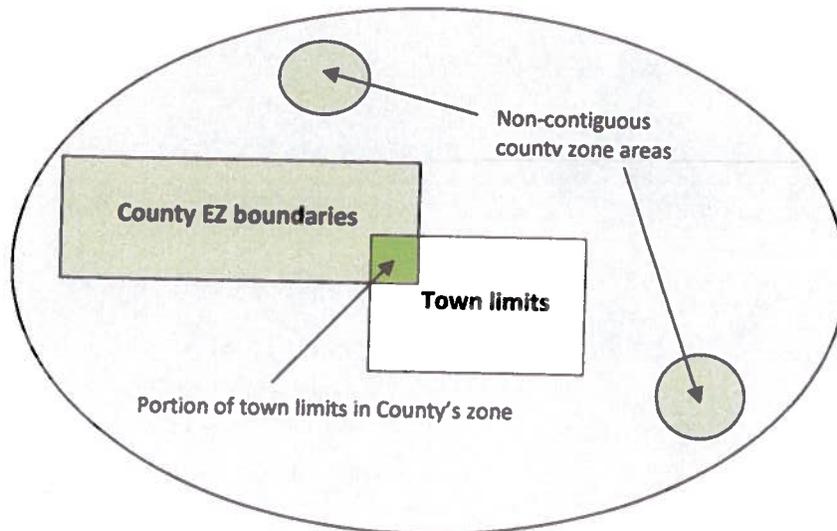
Title: \_\_\_\_\_

## Appendix II: Zone Size Requirements and Configurations

Size Limits for Zones in Towns and Cities	Size Limits for Zones in Counties
<p><b>Minimum:</b> one-quarter (1/4) square mile (160 acres).  <b>Maximum:</b> one square mile (640 acres).  <b>Exception:</b> may be larger than one square mile provided it does not exceed seven percent of the locality's land area or it does not encompass more than seven percent of the locality's total population. To calculate the population exception, use the Weldon Cooper Centers' most recent final (not provisional) population estimates for the locality. The following is link to the Weldon Cooper Public Service Center:  <a href="http://www.coopercenter.org/demographics/POPULATION%20ESTIMATES/">http://www.coopercenter.org/demographics/POPULATION%20ESTIMATES/</a></p>	<p><b>Minimum:</b> one-half (1/2) square mile (320 acres).  <b>Maximum:</b> six square miles (approximately 3,840 acres).</p> <p style="text-align: center;"><b>Size Limits for Zones in Consolidated Cities</b></p> <p>Zones in cities where the present boundaries have been created through the consolidation of a city and county (Chesapeake, Hampton, Newport News, and Virginia Beach) or the consolidation of two cities (Suffolk and Richmond), must use the minimum and maximum size guidelines for zones in unincorporated areas of counties described above.</p>

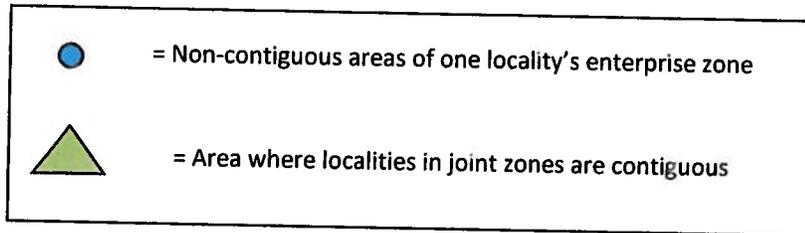
**Single zone:** An enterprise zone located entirely within a single jurisdiction. The locality's zone can consist of three non-contiguous zone areas. A county zone including areas within incorporated town limits constitutes a single zone and town acreage is considered part of the county's zone acreage.

Counties can amend their zone boundaries to include part of the corporate town limits as part of the zone. This addition does NOT constitute a joint zone. The acreage within the town limits counts towards the county's maximum zone acreage. Towns added into the county acreage are not required to offer local enterprise zone incentives, but may.

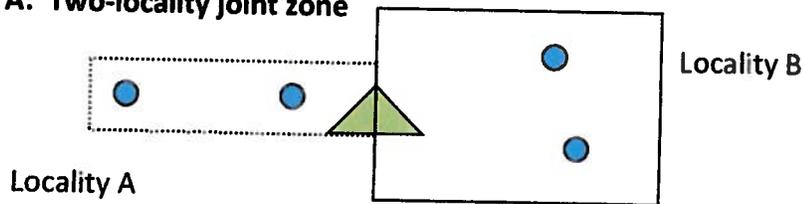


## Appendix II: Zone Size Requirements and Configurations

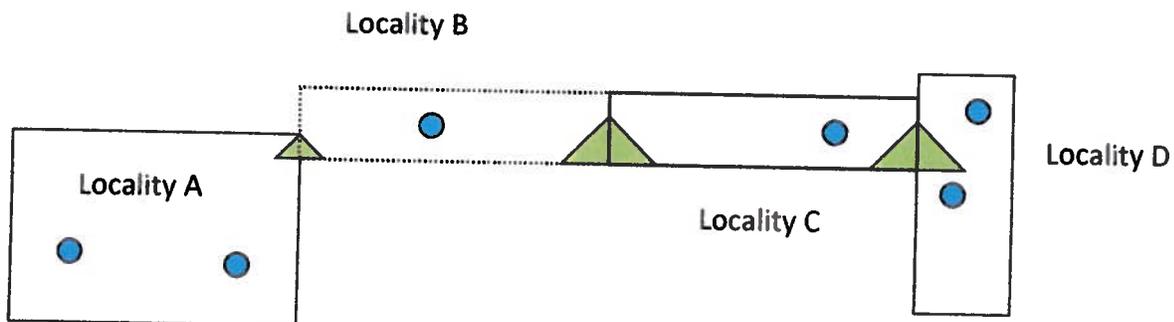
**Joint zone:** An enterprise zone located in two or more jurisdictions. Each locality's portion of the joint zone can consist of up to three non-contiguous geographic areas relative to that locality. The three non-contiguous areas comprise that locality's total zone size and the acreage of all three non-contiguous areas must meet the total size requirements for that type of locality. If a locality participates in a joint zone and also has two other zone designations, each of the three zones can consist of three non-contiguous areas. In the case of the joint zone, one of the locality's three possible zone areas must be contiguous to at least one other participant's zone area. The following are some examples of joint zone configurations:



**EXAMPLE A: Two-locality joint zone**



**EXAMPLE B: Four-locality joint zone**



## Appendix III: Incentive Amendments

Local incentives are a critical part of the success of an enterprise zone and they should be selected carefully. It is important for a locality to develop a package of incentives that will best assist in overcoming the specific barriers to development within their zone by supporting targeted business sectors. The number of incentives is not as important as the quality and impact of the incentives. If no zone businesses have qualified for a particular local incentive for more than one year, it might be appropriate to make amendments to the incentive. **Local incentives that require a business to qualify for state incentives are HIGHLY discouraged.**

### 1. Role of Local Incentives

- Local incentives should help address the locality's economic conditions and barriers to economic development goals.
- Local incentives should be tailored to both new and existing targeted business sectors.
- Local incentives should fill in the gaps of the state incentives therefore qualification for local incentives should **NOT** be contingent on state incentive qualification.

### 2. Constitutionality of Local Incentives

Because Virginia is a Dillon Rule state, localities have very little authority to offer local tax incentives unless expressly allowed through the Code of Virginia. The Virginia Enterprise Zone Grant Act allows participating localities to offer a variety of incentives to businesses.

Local enterprise zone incentives must in no way violate the Virginia Constitution. The Uniformity Clause of Article 10, Section 1, of the Virginia Constitution specifies that taxation must be uniform in territory, subject, and class. As it relates to the Enterprise Zone program the concern is that taxation must be uniform throughout an entire locality unless there is state enabling legislation that allows otherwise. **The local governing body's attorney should review local incentives to ensure their compliance with the Virginia Constitution.**

The following examples offer simple guidelines for common tax-related local incentives:

**Real estate tax exemption:** Virginia Code sections 58.1-3220 and 3221 serve as the enabling legislation and give all localities the authority to offer exemptions on real estate tax when certain conditions are met. This incentive can be offered locality wide, not just within the zone. In such cases where this incentive is offered locality-wide, the incentive criteria needs to be customized in the zone in order to be considered as a local enterprise zone incentive. **Real estate tax abatement, refunds, or rebates are prohibited under the State Constitution.**

**Machinery & tools tax grants:** The Uniformity Clause applies and there is no enabling legislation to allow for the exemption of this tax. Therefore, a locality wishing to offer an incentive related to the machinery and tools tax must first collect the tax uniformly from all appropriate taxpayers across the locality -those within the enterprise zone as well as those outside the zone. Once the tax is collected, the locality may offer businesses a grant based on their machinery and tool tax. This is usually done through the local Industrial Development Authority. **Machinery and tools tax abatement, refunds, or rebates are prohibited under the State Constitution.**

**BPOL tax, utility tax, or permit fees:** The Uniformity Clause does not apply to these taxes and fees. Localities are free to offer these incentives in the form of rebates, refunds, and abatements.

## Appendix III: Incentive Amendments Cont...

### 3. Examples of Local Incentives

An incentive that is available throughout a locality will not be considered an enterprise zone incentive unless special actions are taken to encourage greater utilization of the incentive within the proposed enterprise zone or a greater benefit is provided within the zone (i.e. lower qualification threshold or larger grant amount). Local governments provide a variety of financial and non-financial incentives to encourage economic growth and investment. The following list is not inclusive but serves as an example of the most frequently offered local enterprise zone incentives:

**Local Enterprise Zone Development Taxation Program:** Section 58.1-3245.6 through Section 58.13245.11 of the Code of Virginia enables designated zone localities to establish a Local Enterprise Zone Development Taxation Program. Incremental tax revenues generated from real property or machinery and tools, or both can be used to establish an enterprise zone development fund to pay for enhancements to government services that promote economic development.

**Tax Exemption:** §58.1-3221 of the Code of Virginia enables localities to defer the taxes on the increase in assessed value as a result of the rehabilitation of real estate for structures at least 15 years of age in enterprise zones and 20 years of age elsewhere in the jurisdiction.

**Local Tax Rebates:** BPOL tax fees, local sales tax on items purchased in the community for conduct and trade of business in the enterprise zone.

**Business Loans:** Facade improvement loans for both commercial and industrial properties, low interest loan funds for start-up and expansion, revolving loan funds composed of local and private funding sources.

**Fee Waivers:** Permit fees, sewer and water tap fees, utility fees.

**Public Improvements:** Highways, streets, sidewalks, water and sewer systems, signals, etc.

**Job Training:** Targeted training programs to meet business needs.

**Non-financial:** Fast track permitting, loan packaging assistance, and design assistance.

#### Suggested Rationale to Use When Developing Local Enterprise Zone Incentives

- a. Incentives should be directly linked to actions that are consistent with local enterprise zone revitalization and development goals.
- b. Survey existing zone businesses to gain feedback on existing local incentives and recommendations for new local incentives.
- c. Establish performance baselines that provide a threshold for qualification. Incentives should reward firms that make a commitment to invest in a zone by creating new jobs and/or investment.
- d. Develop measurable incentives.
- e. Incentives should represent sound fiscal policy and not provide an excessive level of benefit that would be inappropriate from an economic point of view.

## Appendix III: Incentive Amendments Cont...

### 4. Local Incentive Qualification Requirements

A locality should establish qualification requirements for each of its local incentives so that the incentives allow for a good return on investment for the locality (i.e. private investment or jobs leveraged). These requirements should be reasonable (not too restrictive) so that businesses can actually qualify. The detailed qualification requirements for each local incentive should be outlined in writing and approved by the local governing body prior to the submitting the amendment to DHCD. As part of this process, pertinent terms of the incentive qualifications should be defined as should the process for incentive application approval, life of the incentive, and the value of incentives. For example, if a locality is offering a machinery and tools tax grant based on the creation of five new jobs the locality needs to define “new jobs” for the purposes of the incentive qualification. Continuing with this example, would “new jobs” be considered net new, permanent full time and would there be any wage or benefit requirements in this definition?

In addition, a locality may establish conditions on the availability of such incentives. For example, a locality may propose to make grant funds available to new businesses during the first five years of zone operation. It may propose a three-year utility tax exemption for new or expanding firms or propose to restrict the availability of low interest business loans to new firms locating in the zone that agree to meet certain locally set hiring requirements. **Conditions should NOT require businesses to qualify for a state incentive in order to qualify for a local incentive.**

### 5. Financial Value of Incentives

The quantity of local enterprise zone incentives offered is not as important as the quality of local incentives. The incentives should be meaningful and beneficial to targeted business sectors. For example, if the cost of water and sewer service is higher in the county than in the city, the county zone may consider offering a water/sewer hookup fee incentive to help offset its higher service fees. The financial impact of the water/sewer hookup fee incentive should provide a considerable reduction, not just mere pennies in savings. Some incentives may have a different type of monetary value but can still have a valuable impact on the business. For example, if crime and vandalism to zone businesses is an issue, free consultations with the Crime Prevention through Environmental Design (CPTED) planner with the police department can be a valuable incentive where the value of the incentive would be the “consultant” market rate or police employee wage for such training.

### 6. Local Assigned Agents

A locality may designate an assigned agent, such as a local redevelopment and housing authority, a nonprofit entity or a private for-profit entity, to provide local incentives. This arrangement should be documented by a written commitment from the agent.

### 7. Termination

Section §59.1-284 of the Virginia Enterprise Zone Grant Act describes two circumstances that can result in the termination of a designated zone. First, in the event the local government or an assigned agent is unable or unwilling to provide regulatory flexibility, tax incentives or other public incentives as proposed in the application for zone designation, the zone may be terminated. This is avoidable if the applicant is able to amend the application by substituting an incentive that is equal or superior to the incentive originally approved. Second, if no business firms in an enterprise zone have qualified for state incentives within a five-year period, the zone will be terminated.