

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
PROPOSED OR REPROPOSED	03/29/2017	Date Filed with Division of State Documents
Actions on Regulations		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 5/12/2017

2. COMAR Codification

Title Subtitle Chapter Regulation

05 20 02 01-10

3. Name of Promulgating Authority

Department of Housing and Community Development

4. Name of Regulations Coordinator **Telephone Number**
Mark S Petrauskas 301-429-7487

Mailing Address

7800 Harkins Road

City **State** **Zip Code**
Lanham MD 20706

Email
mark.petrauskas@maryland.gov

5. Name of Person to Call About this Document **Telephone No.**
Ramona Amin 301-429-7473

Email Address
Ramona.Amin@Maryland.gov

6. Check applicable items:
 New Regulations
 Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Ramona Amin, Assistant Attorney General, (telephone #301-429-7473) on March 10, 2017. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Kenneth C. Holt

Title

Secretary

Date

March 24, 2017

Telephone No.

301-429-7452

Title 05
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

Subtitle 20 REVITALIZATION PROGRAMS

05.20.02 Baltimore Regional Neighborhood Initiative

Authority: Housing and Community Development Article, §6-505(b) and 2-111,
Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Housing and Community Development proposes to adopt new
Regulations .01-.10 under COMAR 05.20.02 Baltimore Regional Neighborhood Initiative.

Statement of Purpose

The purpose of this action is to establish the policies, procedures and eligibility
requirements for grants and loans under the Baltimore Regional Neighborhood Initiative.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The Baltimore Regional Neighborhood Initiative (BRNI) will provide financial assistance to community development organizations to support local community development activities. The fiscal year 2017 General Fund expenditure for BRNI is \$3.61 million. PAYGO general fund expenditures increase by \$12.0 million annually from fiscal year 2018 through 2022 due to mandated appropriation for BRNI, a roughly 400 percent increase from fiscal year 2017 levels. Due to increased program activity, BRNI will require one additional staff person at DHCD to administer. Community Development Organizations, the communities that they serve, and local governments may benefit from the investment of BRNI funds in local projects, resulting in increased local economic activity and revenue. Although small businesses are not the direct recipients of Program financing, they may benefit from subcontracting opportunities on projects funded under the Program.

II. Types of Economic Impact.	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)		\$67,100
C. On local governments:	(R+)		Indeterminable

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	(+)	Indeterminable
F. Direct and indirect effects on public:	(+)	Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

- A. PAYGO general fund expenditures increase by \$12.0 million annually from fiscal year 2018 through 2022 due to mandated appropriation for BRNI. General fund expenditures increase by an estimated \$317,100 in fiscal year 2018, which reflects the mandated appropriation of \$250,000 for the Baltimore Metropolitan Council, and ongoing administrative costs.
- C. Local governments will benefit from increased public and private investment in their jurisdiction as well as a reduction in the public costs associated with disinvestment in distressed communities.
- E. Nonprofit entities that qualify as a community development organization are eligible recipients of program funding. These entities should benefit because they will have access to funding and will not need to raise all their funds through private donations. The amount of economic benefit is indeterminable but at a minimum should be equivalent to the amount of program funding made available. In fiscal year 2017 this amount is \$3.61 million.
- F. The general public will receive direct and indirect benefit from improved physical and social conditions caused by the projects funded under the program.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

Small businesses are not eligible as direct recipients of program funding. To the extent that small businesses are located in or near projects that are funded, the businesses will benefit from increased public and private investment in the area. In addition, subcontracting opportunities may be available to small business on projects that are funded under the program. However, the magnitude of this benefit cannot be determined.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Papagni, Program Officer, Division of Neighborhood Revitalization, Department of Housing and Community Development, 2 North Charles Street, Suite 450, Baltimore, MD 21201, or call 410-209-5807, or email to John.Papagni@Maryland.gov, or fax to 410-685-8270. Comments will be accepted through June 12, 2017. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2018
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
Yes
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
Special- Baltimore Regional Neighborhood Initiative Program Fund
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
- G. Small Business Worksheet:

Attached Document:

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 20 Revitalization Programs

Chapter 02 Baltimore Regional Neighborhood Initiative

Authority: Housing and Community Development Article, §6-505(b) and 2-111, Annotated Code of Maryland

.01 Purpose.

The purpose of this chapter is to prescribe the policies and procedures for providing financial assistance for administering the Baltimore Regional Neighborhood Initiative Program.

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - (1) "Act" means Housing and Community Development Article, Title 6, Subtitle 5, Annotated Code of Maryland.
 - (2) "Application" means an application to the Department as described in Regulation .04 of this chapter.

(3) "Community development organization (CDO)" means a nonprofit corporation, foundation, or any other nonprofit legal entity whose purpose is to implement a clear revitalization strategy in a neighborhood or set of neighborhoods within Baltimore City or the inner-beltway communities of Baltimore County or Anne Arundel County.

(4) "Community enhancement project" or "project" means a project submitted by an applicant to the Secretary for approval in accordance with the Act and this chapter for one or more of the following purposes:

- (a) Down payment assistance for homebuyers to purchase and rehabilitate homes;
- (b) Programs to acquire or rehabilitate vacant or blighted properties;
- (c) Programs to improve existing residential and business properties;
- (d) Programs to achieve energy efficiency through weatherization and energy retrofits;
- (e) Development of mixed-use projects that combine housing, retail, and office space;
- (f) Development or enhancement of community open space or public infrastructure;
- (g) Workforce and employment development programs;
- (h) Strategic demolition;
- (i) Operating costs necessary to implement a community enhancement project; and
- (j) Development or implementation of any other community enhancement project that the Department considers necessary to further the purposes of the Act.

(5) "Department" means the Department of Housing and Community Development, a principal department of the State.

(6) "Financial assistance" includes a grant, loan, assurance, guarantee, other credit enhancement, reduction in the principal obligation of or in the rate of interest payable on a loan or portion of a loan, or prepayment of interest on a subordinate or superior loan or portion of a loan.

(7) "Fund" means the Baltimore Regional Neighborhood Initiative Fund established under Housing and Community Development Article, §6-510, Annotated Code of Maryland.

(8) "Local government" means any of the 23 counties of the State, the City of Baltimore, a municipal corporation of the State subject to the provisions of the State Constitution, Article XI-E, or any of their duly authorized agencies or instrumentalities.

(9) "Mixed use" means a use that combines commercial, business, institutional, open space, and residential uses, or some combination of those uses, in the same building or on the same site.

(10) "Nonprofit organization" means a corporation, foundation, or other legal entity that specifies in its charter or bylaws that no part of the net earnings may inure to the benefit of a private shareholder or individual holding any interest in the entity.

(11) "Program" means the Baltimore Regional Neighborhood Initiative established under the provisions of the Act.

(12) "Program agreement" means an agreement or agreements between the Department and a recipient of financial assistance to implement one or more community enhancement projects in a designated Sustainable Community.

(13) "Secretary" means the Secretary of Housing and Community Development.

(14) "Subcabinet" means the smart growth subcabinet established under Chapter .02 of the Act.

(15) "Sustainable community" means the part of a priority funding area that has been designated a sustainable community under Housing and Community Development Article, §6-205, Annotated Code of Maryland.

(16) "Sustainable community plan" means a plan consisting of one or more community enhancement projects or other revitalization projects that are located in a sustainable community.

.03 Eligible Applicants and Uses.

A. A recipient of financial assistance shall meet the following minimum requirements:

- (1) Be a CDO;
- (2) Not have defaulted on any prior financial assistance from the Department;
- (3) Not be currently barred or suspended from any of the Department's programs;
- (4) Have the legal capacity and all necessary legal authority to incur the obligations involved in the form of financial assistance provided under the Program; and
- (5) Be in good standing and qualified to do business in Maryland.

B. Financial assistance may be used for any costs and expenses related to the development or implementation of a community enhancement project as approved by the Secretary.

C. Total noncapital expenditures from the Fund to applicants may not exceed 40 percent of a Program agreement.

D. A recipient of financial assistance may grant or lend all or a portion of the financial assistance it receives from the Program to a designated third party to carry out the project in accordance with the terms and conditions of an agreement with the Department.

.04 Applications.

A. Applications for financial assistance shall be accepted in one or more competitive rounds to be announced by the Department annually.

B. An application submitted to the Department shall:

- (1) Be on standard forms prescribed by the Department;

- (2) Be submitted by a CDO;
- (3) Be for a project that:
 - (a) Is located within Baltimore City or the inner-beltway communities of Baltimore County or Anne Arundel County; and
 - (b) Is part of and serves to implement a community enhancement project;
 - (4) State the amount and type of financial assistance requested;
 - (5) Provide a comprehensive description of the applicant and project including:
 - (a) The neighborhood revitalization plan and how the plan relates to the goals outlined in the community's larger sustainable community plan;
 - (b) A description of the community conditions and how the project or applicant will address those conditions;
 - (c) The ability of the project to address identified challenges within the community;
 - (d) A projected timeline for implementation of the project;
 - (e) The ability of the applicant to carry out the proposed project in accordance with the projected timeline;
 - (f) Other public and private resources available for implementing the project; and
 - (g) The social and economic opportunities created by the project;
 - (6) Provide a budget, in a form acceptable to the Department, that at a minimum shows anticipated project costs and expenses, anticipated sources of project revenue, and identification of the revenues that can be used to repay the financial assistance provided by the Program if provided as a loan;
 - (7) Propose benchmarks for evaluating whether the proposed project results in a desired outcome such as community stabilization or reversing the social, economic, and physical decline of the sustainable community in which the project is located;
 - (8) Describe any public input the applicant has received on the proposed project, including the nature and extent of the public support for or in opposition to the proposed project;
 - (9) If the project involves the applicant undertaking demolition, development, or rehabilitation demonstrate:
 - (a) The project will be in compliance with all applicable zoning requirements and standards, as well as the applicable building code of the local government in which jurisdiction the project is located upon completion; and
 - (b) The ability to gain site control of the project through ownership, leasehold interest, contract, option, or other written agreement satisfactory to the Department;
 - (10) Demonstrate that the project can be completed within the time period of the Program agreement, as determined by the Department;
 - (11) Contain the organizational documents of the applicant;
 - (12) Describe whether historic properties or districts will be impacted and how the applicant will comply with the requirements of State Finance and Procurement Article, §§5A-325—5A-326, Annotated Code of Maryland, and Financial Institutions Article, §13-1112(b), Annotated Code of Maryland; and
 - (13) Include other information or documentation the Department may require.
- C. An application for financial assistance may be submitted to fund one or more projects.
- D. A recipient of financial assistance may file one or more applications in accordance with schedules established by the Department.

.05 Application Processing.

- A. Each application shall be submitted to the Department to determine whether all of the information required under Regulation .04 of this chapter is contained in the application.
- B. Upon receipt of all required information, the Department shall:
 - (1) Accept public input on each application;
 - (2) Consider recommendations from other State units on each application;
 - (3) Provide written notice and a reasonable opportunity to comment to the political subdivision where the proposed community enhancement project is located as follows:
 - (a) If the application affects a neighborhood entirely within a municipal corporation, the Department must provide notice and a reasonable opportunity to comment to the municipal corporation and not the surrounding county; or
 - (b) If an application affects a neighborhood within more than one political subdivision, the Department must provide notice and a reasonable opportunity to comment to each political subdivision;
 - (4) Undertake an analysis of each application.
- C. All complete applications which meet the requirements of Regulation .03 and .04 of this chapter shall be evaluated on a point basis.
- D. The Department shall award up to a maximum of 200 total points across the following categories:
 - (1) The neighborhood revitalization plan and how the plan relates to the goals outlined in the community's larger sustainable communities plan;
 - (2) The description of the community conditions and the appropriateness of outlined strategies to address those conditions;
 - (3) The ability of each proposed community enhancement project to address identified challenges within the community; and

(4) The capacity and experience of the applicant and the applicant's partners to complete the proposals and leverage additional financing.

E. Upon the Department's completion of the review and scoring of the applications, the Department shall make a recommendation to the Secretary on the applications.

F. Upon receipt of the Department's recommendation, the Secretary:

- (a) May request additional information from the applicant or Department concerning the application, including oral presentations; and
- (b) Shall act on the application by approving, disapproving, or approving such application with modifications.

G. If the Secretary determines not to approve an application, the Department shall issue a written notice of denial.

H. Reconsideration.

- (1) An applicant may request initial reconsideration of a denial by submitting a written request to the Department, which must be received by the Department within 30 days following the date of the denial notice.
- (2) The request for reconsideration shall address each reason for the denial and provide documentation supporting reasons for reconsideration of the application.
- (3) The Department shall respond in writing to the applicant's request for reconsideration within 90 days of receipt by the Department of the request for reconsideration.
- (4) An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR 05.01.01.02.

.06 Program Administration.

- A. The Department may establish from time to time detailed program guidelines containing application schedules, procedures, underwriting standards, processing requirements, and other requirements or matters relating to the Program.
- B. The Department may establish fees related to the processing of applications, underwriting and servicing of financial assistance.
- C. The Department shall ensure that program guidelines, fee information, and application forms are publically available on its website and at its offices.
- D. After financial assistance has been awarded to a recipient of financial assistance, the Department may:
 - (1) Determine specific terms and conditions, including length of term and rate of interest, for the financial assistance, which may be awarded as grants, recoverable grants, unsecured loans, or loans secured by a mortgage or other lien or security interest, which security interest may be superior or subordinate to other mortgages, liens, or other security interests on the collateral;
 - (2) Require and obtain appraisals, credit information, and other information related to making loans and enforcing the terms and conditions;
 - (3) Enforce the terms of grants, loans, or other financial assistance according to their terms and conditions;
 - (4) Commence and pursue any action to protect or enforce any right conferred by law, contract, or other agreement;
 - (5) Modify any provision of any grant, loan, or other financial assistance in order to facilitate the successful completion or operation of a project; and
 - (6) Exercise all powers authorized under the Act that are necessary or desirable for the implementation of the Program.

.07 Books and Accounts.

- A. A recipient of financial assistance and its contractors, and subcontractors shall maintain such books, accounts, and records, and shall file with the Department such financial and other reports as the Department may from time to time require.
- B. All of these books, accounts, and records shall be open to the inspection of representatives of the Department or other agencies of the State during reasonable working hours.
- C. Books, accounts, and records of designated third parties, contractors, and subcontractors shall be maintained and made available for inspection for 3 years past the date of termination of the contractual relationship between a contractor or subcontractor and the recipient of financial assistance.
- D. Recipient of financial assistance shall submit reports to the Department on the progress or implementation of a project in accordance with an agreement with the Department

.08 Nondiscrimination; Drug and Alcohol Free Workplace.

- A. An Applicant may not discriminate on the basis of race, color, religion, national origin, sex, marital status, physical or mental disability, sexual orientation, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in any aspect of the Program, or in any aspect of employment by any Applicant in connection with any project financed or assisted under the Program.
- B. An Applicant shall comply with all applicable federal, State, and local laws and Department policies and programs regarding discrimination and equal opportunity in employment, housing, credit practices, and drug and alcohol free workplaces, including:

- (1) Titles VI and VII of the Civil Rights Act of 1964, as amended;
- (2) Title VIII of the Civil Rights Acts of 1968, as amended;
- (3) The Fair Housing Amendments Act of 1988, as amended;
- (4) State Government Article, Title 20, Annotated Code of Maryland, as amended;
- (5) The Department's Minority Business Enterprise Program, as amended;
- (6) The Governor's Executive Order 01.01.1989.18, Drug and Alcohol Free Workplace, and any Department or State regulations adopted or to be adopted to carry out the requirements of that Order; and
- (7) The Americans with Disabilities Act of 1990, as amended.

C. Covenants implementing these requirements, including affirmative action measures, shall be included in appropriate agreements between the Department and other parties, and between Applicants and other parties.

.09 Waiver.

The Secretary may waive or vary provisions of this chapter to the extent that the waiver or variance is consistent with the Act and if, in the written determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

.10 False Statements.

A. An individual may not knowingly make or cause to be made a false statement or report in any document required to be furnished to the Secretary or the Department by an agreement relating to financial assistance.

B. An individual applying for or benefiting from financial assistance under the Program may not knowingly make or cause to be made a false statement or report for the purpose of influencing the action of the Secretary or the Department on an application or for the purpose of influencing the action of the Secretary or the Department affecting financial assistance already provided.

C. An individual who violates §A or B of this regulation is subject to immediate cancellation or acceleration of the financial assistance provided by the Program and any other penalties authorized by law.