**Regulatory Analysis**

Notice of Intended Action to be published: 261—Chapter 26
"Variance Procedures for Tax Increment Financing (TIF) Housing Projects"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.106A and 403.22
State or federal law(s) implemented by the rulemaking: Iowa Code section 403.22

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| December 20, 2024 | 1963 Bell Avenue |
| 1 to 1:15 p.m. | Des Moines, Iowa |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Iowa Economic Development Authority (Authority) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: lisa.connell@iowaeda.com

*Purpose and Summary*

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 26 and adopt a new chapter in lieu thereof. The chapter describes the procedures by which the Authority considers and approves variance requests for the low- and moderate-income set aside required for TIF-financed residential developments.

The new chapter eliminates language that is duplicative of statutory language and eliminates other unnecessary and inconsistent language. Additionally, the new chapter would provide updated criteria for evaluation of variance requests.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Local governments requesting a variance will bear the costs of the proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Local governments requesting a variance may benefit from the improved clarity of the chapter.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Local governments that wish to request a variance may incur costs associated with drafting the application and providing additional information if additional information is needed.

- **Qualitative description of impact:**

The proposed rulemaking will provide clarity about the Authority's processes for consideration of variance requests.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Authority staff time is required to review requests for variances, to seek additional information if needed, and to draft approval or denial of the variance request.

- **Anticipated effect on state revenues:**

The proposed rulemaking has no anticipated effect on state revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The proposed rulemaking does not impose any additional costs on petitioners requesting variances compared to the existing Chapter 26.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Authority has not identified any less costly methods or less intrusive methods that exist for addressing variance requests.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Authority did not consider any alternative methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Authority did not consider any alternative methods because the Authority did not identify a less costly or less intrusive method.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

The proposed rules do not have a substantial impact on small business. The rules do not establish compliance or reporting requirements. The rules do not establish design or operational standards.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 261—Chapter 26 and adopt the following **new** chapter in lieu thereof:

CHAPTER 26
VARIANCE PROCEDURES FOR TAX INCREMENT FINANCING (TIF) HOUSING PROJECTS

**261—26.1(403) Purpose.** These rules implement Iowa Code section 403.22. The authority is given the responsibility to rule on requests for variances in the percentage of low- and moderate-income benefit required in certain tax increment financing (TIF) districts for residential development as prescribed in the law. These rules establish procedures and criteria for variance requests.

**261—26.2(403) Definitions.**

*"Authority"* means the economic development authority created in Iowa Code section 15.105.

*"Housing project"* means a project in an urban renewal area established solely upon findings under Iowa Code section 403.2(3) that is primarily intended to support housing activities. These may include but are not limited to the following: public streets and utilities, site preparation, housing rehabilitation, real property acquisition, new housing construction, and conversion of existing structures into housing units.

*"Low- or moderate-income families"* or *"LMI families"* means the same as defined in Iowa Code section 403.17.

*"Municipality"* means the same as defined in Iowa Code section 403.17.

**261—26.3(403) Variance request procedure.**

**26.3(1)** A municipality may request a variance at any time.

**26.3(2)** Requests for a variance shall be submitted on forms prescribed by the authority. The authority may request additional information from the municipality as part of the application review. Application information will be available on the authority's website.

**26.3(3)** The authority may modify the request to maximize the level of benefit to low- or moderate-income families, while preserving the financial feasibility of the TIF-supported housing project.

**26.3(4)** The authority will notify municipalities of its decision in writing. If the request is approved, the authority will indicate the level of the variance and the conditions for compliance with the variance. If the request is denied, the authority will state its reasons for the denial.

**261—26.4(403) Criteria for review.** The authority will review the application on the following criteria:

1. Financial feasibility of the housing project with and without a variance of the low- and moderate-income benefit percentage.
2. Percentage of low- or moderate-income families in the community at the time of application as determined by the latest United States Department of Housing and Urban Development, Section 8, income guidelines.
3. Plan to utilize funds for housing activities benefitting low- or moderate-income families.
4. Other factors that may impact the project's need for a variance as determined by the authority.

These rules are intended to implement Iowa Code section 403.22.