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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation	18 VAC 48-50
Regulation title	Common Interest Community Manager Regulations
Date	January 17, 2016

This information is required pursuant to Executive Order 17 (2014).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

Section 54.1-2349 of the Code of Virginia states in part that the Common Interest Community Board shall have the power and duty to promulgate regulations to carry out the requirements of Chapter 23.3 of Title 54.1 of the Code of Virginia.

In addition, 54.1-2349(A)(3) states that the Board shall establish criteria for the certification of employees of common interest community managers who have principal responsibility for management services provided to common interest communities or supervisory responsibility for employees who participate directly in the provision of management services.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No viable alternatives for achieving the purpose of the existing regulation could be determined. The regulation enables the Board to fulfill the statutory requirements established in Chapter 2 and Chapter 23.3 of Title 54.1 of the Code of Virginia. Further, the regulation is necessary to ensure that the Board’s statutory requirements are executed in the least burdensome and most efficient and cost effective manner possible while protecting the health, safety, and welfare of the citizens of Virginia.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
<p>Pat Crepeau, Catalyst the Potting Shed</p>	<p>Regulations do not seem to provide an honest and transparent bidding and contracting process for Associations that contract with CIC Managers. Therefore, there may not be adequate safeguards in place to prevent different forms of corruption.</p>	<p>The Board thanks the commenter for providing comments for consideration and provides the following response.</p> <p>The Board’s regulations were developed to ensure that the requirements to obtain and maintain a common interest community manager license are adequate to protect the health, safety, and welfare of the public while not being overly burdensome or cost-prohibitive to the regulated population. In addition, the Board “may not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations . . .” of the law (Section 54.1-2351.A of the <i>Code of Virginia</i>). Thus, the prohibited acts provided in 18VAC48-50-190 of the Common Interest Community Manager Regulations are not specific to the association’s internal procurement processes, but include provisions for which a manager could be found in violation if it acted in a manner that did not safeguard the interests of the public or engaged in dishonest or fraudulent conduct in providing management services, among others. If the commenter believes a licensed common interest community manager has not properly provided management services in a manner that protects the interests of the association, the commenter is advised to file a complaint with DPOR against the licensed common interest community manager so that it can be further reviewed.</p>



Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation meets the criteria set forth in Executive Order 17 (2014). The regulation establishes the criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities, as well as the standards of practice and conduct for common interest community managers and requirements for training programs. The regulation is necessary for the protection of public health, safety, and welfare, and is clearly written and understandable.

Result

Please state that the reason why the agency is recommending that the regulation should stay in effect without change.

The agency is recommending that the regulation stay in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

Code of Virginia § 54.1-2349.A mandates the Common Interest Community Board to promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation.

A concern raised by the sole comment received during the public comment period is addressed in the Board's prohibited acts section of regulation and compliant process. Therefore a change is not warranted.

The regulation is clearly written and easily understandable. The regulation does not overlap, duplicate, or contravene federal or state law or regulation. This is the first periodic review of the regulation since 2011. On December 10, 2015, the Board reviewed the regulation and, for reasons stated in this section, determined that the regulation should not be amended or repealed, but should be retained in its current form.