townhall.virginia.gov

Final Regulation
Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC48-70
VAC Chapter title(s)	Common Interest Community Ombudsman Regulations
Action title	CIC Ombudsman Regulations General Regulatory Review
Date this document prepared	April 10, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.

The Common Interest Community Board ("the Board") is amending the Common Interest Community Ombudsman Regulations to (i) update and clarify provisions of the regulation, to include ensuring that the regulation reflects current agency procedures and practices; (ii) ensure the regulation compliments current Virginia law and is clearly written and understandable; (iii) remove requirements in the regulation that are not necessary to protect the public welfare or effectively administer the program; and (iv) reduce regulatory burdens while still protecting the public health, safety, and welfare.

This action proposes changes to (i) the definitions section; (ii) requirements for an association complaint procedure; (iii) requirements for filing a notice of final adverse decision (NFAD); and (iv) provisions regarding the waiver of NFAD filing fees.

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.

"CIC" means common interest community.

"CICO" means Common Interest Community Ombudsman.

"DPOR" means Department of Professional and Occupational Regulation.

"HHS" means U.S. Department of Health and Human Services.

"NFAD" means notice of final adverse decision.

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.

On March 25, 2025, the Common Interest Community Board adopted the final amendments to the Common Interest Community Ombudsman Regulations.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information.

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 promulgating agency is the Common Interest Community Board. Chapter 23.3 of Title 54.1 of the Code of Virginia enumerates the legal authority for the Board to make regulations regarding the association complaint procedure and the filing and review of NFADs.

Section 54.1-2354.4 of the Code of Virginia states, in part:

> A. The Board shall establish by regulation a requirement that each association shall establish reasonable procedures for the resolution of written complaints from the members of the association and other citizens.
>
> B. A complainant may give notice to the Ombudsman of any final adverse decision in accordance with regulations promulgated by the Board.

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 is intended to solve.

This regulation implements the requirements of § 54.1-2354.4 of the Code of Virginia, which provides that common interest community (CIC) associations "…establish reasonable procedures for the resolution of written complaints from the members of the association and other citizens."

As mandated by the General Assembly, the Board protects the public welfare, in part, by establishing through regulation the (i) requirements for an association complaint procedure; (ii) requirements for development, adoption, and distribution of the complaint procedure; (iii) requirements for retention of records of association complaints; (iv) procedure for the filing of a notice of final adverse decision (NFAD) with the Office of the CICO and review of an NFAD by the CICO; and (v) provisions for a final determination made by the CICO regarding a NFAD.

In accordance with the provisions of Executive Directive Number One (2022), the Board conducted a general review of this regulation in order to identify areas where regulatory requirements could be removed or reduced.

The goals of this regulatory action are to ensure the regulations complement Virginia law, reflect current agency procedures, provide clarification to provisions of the regulations, and reduce regulatory burdens by removing requirements that are not necessary to protect the health, safety, and welfare of the public or effectively administer the program.

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.

1. Section -10 is revised to incorporate statutory terms from §§ 54.1-2345, 54.1-2354.1, and 55.1-2307 of the Code of Virginia. The section is also revised to add the term "common interest community laws or regulations" and to clarify the meaning of other defined terms. The section is further revised to remove provisions in definitions that establish regulatory requirements and replace defined terms for which a statutory definition is incorporated by reference.
2. Section -50 is revised to incorporate requirements pertaining to the association compliant procedure that are currently in the definition for "association complaint procedure" in section -10, including a requirement that a complaint procedure disclose information regarding any appeal process.
3. Provisions regarding delivery of notices to a complainant in section -50 are revised to provide that such notices must be hand delivered, mailed, or delivered by third-party courier, with proof of delivery. Currently, the regulation requires that such notices must be either hand delivered or mailed by registered or certified mail. The section is further revised to provide that notices may be delivered electronically unless prohibited by the association's governing documents and provided that the association retains proof of delivery.
4. Section -50 is revised to increase from seven (7) to 14 days the time period for an association to provide a complainant with written acknowledgment of receiving the complaint following the association's receipt of the complaint.
5. Section -50 is revised to remove a provision that an association complaint provide a requested action or resolution.

6. Section -50 is revised to provide that notice of the date, time, and location where the association complaint will be considered by the association be provided to the complainant at least 14 days prior to consideration, unless otherwise agreed to in writing. Currently, the regulation provides that notice be given "within a reasonable time."
7. Section -50 is revised to remove a requirement that a notice of final determination by an association include specific citations to applicable association governing documents.
8. Section -90 is revised to (i) remove the requirement that the NFAD include applicable association governing documents; and (ii) to relocate a provision that establishes the date of a final adverse decision from the definition of "adverse decision" in section -10.
9. Section -100 is revised to incorporate provisions from an existing Board guidance document regarding consideration of requests to waive or refund NFAD filing fees.
10. Clarifying changes are made to section -110 to (i) provide that an NFAD is not complete will not be reviewed until the NFAD filing fee has been received or a waiver of the fee has been granted; and (ii) provide notice that information that was not part of a final adverse decision will not be considered in the review of the NFAD.

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.

The primary advantages to the public and regulated community include providing clarification to provisions of the regulations, ensuring the regulations complement Virginia law and reflect current agency procedures, and reducing regulatory burdens by removing requirements that are not necessary to protect the health, safety, and welfare of the public or to effectively administer the program.

There are no identifiable disadvantages to the public or the Commonwealth. It is not anticipated that the regulatory change will create any substantial disadvantages to the regulated community.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
Anonymous (Town Hall)	The definition of "Director" has been struck out, yet the term is used in sections 20 and 70. So in the new proposed working, it will be unclear what "director" means.	The Board thanks the commenter. The definition of "Director" is being incorporated by reference from § 54.1-2354.1 of the Code of Virginia. The cited section of the Virginia Code is in the enabling statute that governs the Common Interest Community Ombudsman and the association complaint procedure. The statutory meaning of "Director" will apply to that term as it is used in the CIC Ombudsman Regulations. The term will still mean "Director of the Department of Professional and Occupational Regulation."

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
70-60	N/A	N/A	N/A	A stylistic change to replace "shall" with "must" is made.
70-90	N/A	The section is revised to provide that the date of a final adverse decision is the date of the notice issued pursuant to subdivisions 8 and 9 of section -50. This	N/A	A technical correction is made. As revised the date of the final adverse decision is the date of the notice issued pursuant to subdivisions 9 and 10 of section -50.

		provision is relocated from the definition of "adverse decision."		
70-130	N/A	N/A	N/A	A stylistic change to replace "shall" with "will" is made.
70-9998	N/A	N/A	The forms section is revised to update the NFAD form and the Waiver of Filing Fee Request form to reflect changes to the regulation. A clarifying change is made to the CIC Complaint form.	The forms section is revised to update forms that are used in administering the regulation.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
70-10	N/A	Incorporates by reference applicable definitions from §§ 54.1-2345 and 55.1-1900 of the Code of Virginia. Provides definitions that are necessary to make the regulation clear and understandable and provides definitions for other specific terms used throughout the regulation.	*The section is reorganized into subsections. Subsection A provides for definitions that are incorporated by reference from § 54.1-2345 of the Code of Virginia. Subsection B provides for a definition that is incorporated by reference from § 54.1-2354.1 of the Code of Virginia. Subsection C provides for a definition that is incorporated by reference from § 55.1-1900 of the Code of Virginia. Subsection D provides for definitions that are incorporated by reference from § 55.1-2307 of the Code of Virginia. Subsection E provides for additional terms used in the regulation. *The section is revised to incorporate additional terms from the Code of Virginia. These are:

			• "Common interest community manager" from § 54.1-2345. • "Director" from § 54.1-2354.1. • "Governing documents" and "resale certificate" from § 55.1-2307. *The section is revised to add the term "common interest community laws or regulations." This new term refers to specific chapters in the Code of Virginia that are applicable to common interest communities or the regulations of the Board. *The term "adverse decision" is revised to remove a provision establishing the date of the final adverse decision. This provision is relocated to section -90. A clarifying change to this term is made so that the term refers to a final decision made by an association, and not a determination. *The term "association complaint procedure" is revised to remove requirements for information that must be included the association complaint procedure. These requirements are relocated to section -50. *The term "association governing documents" is removed. The term is effectively replaced with the term "governing documents" that is incorporated from § 55.1-2307 of the Code of Virginia. *The term "director" is removed. The term is replaced with the term incorporated from § 54.1-2354.1 of the Code of Virginia, which has the same meaning. *Clarifying changes are made to the term "association complaint." As revised, the term provides that an association complaint must concern a matter regarding an action, inaction, or decision by the (i) association; (ii) governing board; or (iii) managing agent that is in conflict with applicable CIC laws or regulations.

			Stylistic changes are made.
70-20	N/A	This section provides for a general requirement regarding the submission of documentation. Any documentation required to be filed with or provided to the Board, DPOR Director, or Office of the CICO, pursuant to applicable statute or the regulation must be filed with or provided to DPOR.	A stylistic change to replace "shall" with "must" is made.
70-30	N/A	The section provides that each association, as required by § 54.1-2354.4 of the Code of Virginia, must have a written process for resolving association complaints from association members and citizens. The association complaint procedure or form must conform with the requirements established in § 54.1-2354.4 of the Code of Virginia and the regulation. The association complaint procedure must conform with the requirements in the association governing documents, which documents must not be in conflict with § 54.1-2354.4 or the regulation.	The section is revised to remove the reference to an association complaint form. Stylistic changes to replace "shall" with "must" or "will" are made.
70-40	N/A	This section establishes requirements for associations to certify with the Board that a complaint procedure has been adopted and is in effect. Associations filing an initial common interest community association registration must certify that an association complaint procedure has been established and adopted at the date of registering or within 90 days of registering with the Board. An association that has been delinquent in registering with the Board and filing required annual reports must still have an established and adopted	Stylistic changes, including to replace the word "shall" with "will" are made.

		association complaint procedure. When such an association files an application for registration, it must certify that a complaint procedure has been established and adopted by the association's governing board. An association must certify with each annual report filing that the association complaint procedure has been adopted and is in effect.	
70-50	N/A	This section provides for the requirements for an association complaint procedure. An association complaint procedure must be in writing. An association complaint procedure must include the following provisions: • That the association complaint must be in writing. • That a sample of any form on which the complaint must be filed must be provided upon request. • The process by which complaints are delivered to the association. • That the association provide written acknowledgment of receipt of complaint to the complainant within seven (7) days of receipt. ○ The acknowledgment must hand delivered or mailed by registered or certified mail to the address provided by the complainant. ○ If consistent with established association procedure, the acknowledgment may be sent by electronic means provided the sender retains sufficient proof of delivery. • That any specific documentation that must be provided with the association	*The section is revised to provide that the association complaint procedure must include the contact information for the Office of the CICO. This requirement is currently in the definition of "association complaint procedure" in section -10 and is being relocated to this section. *Provisions regarding delivery of notices to a complainant are revised to provide that such notices must be hand delivered, mailed, or delivered by third-party courier, with proof of delivery. Delivery may be by electronic means, unless prohibited by the association's governing documents, provided the association retains sufficient proof of electronic delivery. This change provides flexibility to associations regarding delivery of notices. Currently, an association must provide notices by hand delivery or by mailing with registered or certified mail. The change also ensures that the association documents delivery of notices to the complainant. The change in the provisions regarding electronic delivery provide a clearer standard that electronic means of delivery are permissible unless prohibited by the association's governing documents. *The section is revised to increase from seven (7) to 14 days the time period for an association to provide a complainant with written acknowledgment of receiving the complaint following the association's receipt of the complaint. This change

		complaint be clearly described in the procedure. • To the extent the complainant has knowledge of the law or regulation applicable to the complaint, the complainant must provide that reference as well as the requested action or resolution. • That the association have a reasonable, efficient, and timely method for identifying and requesting additional information necessary for the complainant to provide in order to continue processing the association complaint; and establish a reasonable timeframe for responding to and for disposing of the complaint if the request for information is not received within the required timeframe. • That notice of the date, time, and location that the matter will be considered be hand delivered or mailed by registered or certified mail to the complainant at the address provided within a reasonable time prior to consideration as established by the complaint procedure. ○ If consistent with established association procedure, the acknowledgment may be sent by electronic means provided the sender retains sufficient proof of delivery. • That after the final determination is made, written notice of the final determination be hand delivered or mailed by registered or certified mail to the complainant at the address provided. ○ If consistent with established association procedure, the acknowledgment may be	reduces the stringency of the current requirement while still allowing for timely notification to the complainant. *A provision requiring that a complaint provide a requested action or resolution is removed. *The section is revised to provide that notice of the date, time, and location where the association complaint will be considered by the association be provided to the complainant at least 14 days prior to consideration, unless otherwise agreed to in writing. This change is intended to provide a clearer, objective standard for timely delivery of these notices. *Provisions regarding a notice of final determination are revised to remove a requirement that the notice include specific citations to applicable association governing documents. This requirement is not applicable to the association complaint process, which is designed to address alleged non-compliance with common interest community laws and regulations. *The section is further revised to provide that the association complaint procedure must include: • Information on an appeal process, if applicable, including relevant timeframes for filing the request for appeal; or • If no appeal process if available, notification that no appeal process is available and that the rendered decision is final. These requirements are currently in the definition of “association complaint procedure” and are being relocated to section -50. Stylistic changes, including to replace the word “shall” with “must” or “will” are made. Other changes are made for purposes of clarity.

		sent by electronic means provided the sender retains sufficient proof of delivery. • That the notice of final determination be dated as of the date of issuance and include specific citations to applicable association governing documents, laws, or regulations that led to the final determination. ○ The notice of final determination must also include the registration number of the association and, if applicable, the license number of the common interest community manager. • That the notice of final determination include notification of the complainant's right to file a Notice of Final Adverse Decision with the Board via the CICO, and applicable contact information.	
70-60	N/A	This section provides for distribution of the association complaint procedure by the association. The section provides that the association complaint procedure must be readily available upon request to all association members and citizens. The section further provides that the complaint procedure must be included as an attachment to the resale certificate described in § 55.1-2310 of the Code of Virginia.	A stylistic change to replace "shall" with "must" is made.
70-70	N/A	The section provides for recordkeeping and record production requirements. An association must maintain a record of each association complaint filed with the association in accordance with §	Stylistic changes, including to replace the word "shall" with "must" and removing gendered terms are made.

		54.1-2354.4 A 1 of the Code of Virginia. The applicable code section requires the record be maintained for no less than one (1) year after the association acts upon the complaint. An association must provide to the DPOR Director or designee any document, book, or record concerning the association complaint. Unless otherwise specified by the DPOR Director or designee, the association must comply within 14 days of receipt of the request. The DPOR Director or designee may extend the 14-day timeframe upon showing of extenuating circumstances prohibiting delivery within 14 days of receiving the request.	
70-90	N/A	This section provides for the filing of a NFAD. A complainant may file a NFAD concerning any final adverse decision issued by an association. The NFAD must be filed within 30 days of the adverse decision. The NFAD must be in writing on forms provided by the Office of the CICO. The forms must request the following information: • Name and contact information of the complainant; • Name, address, and contact information of the association; • Applicable association governing documents; and • Date of the final adverse decision. The NFAD must include: • A copy of the association complaint; • The final adverse decision;	*The section is revised to remove the requirement that the NFAD include applicable association governing documents. This change is made because the association complaint process is designed to address alleged non-compliance with common interest community laws and regulation. It does not address compliance or non-compliance with association governing documents. *The section is revised to provide that the date of a final adverse decision is the date of the notice issued pursuant to subdivisions 9 and 10 of section -50. This provision is relocated from the definition of “adverse decision” in section -10. Stylistic changes, including to replace the word “shall” with “must” or “will” are made.

		• Reference to the laws or regulations the final adverse decision may have violated; • Any supporting documentation related to the final adverse decision; and • A copy of the association complaint procedure. The NFAD must be accompanied by a $25 filing fee or a request for a waiver of this fee.	
70-100	N/A	The section provides for waiver of the NFAD filing fee. The Board may waive the filing fee or refund a filing fee upon good cause shown that the filing fee will cause undue financial hardship for the complainant.	*The section is revised to incorporate provisions from an existing guidance document (Guidance Document 5331: CIC Waiver of Filing Fee for Final Adverse Decision) regarding consideration of requests to waive or refund filing fees. *The current HHS Poverty Guidelines, as updated annually in the Federal Register, will be used to establish the threshold for whether a filing fee will be waived or refunded as a result of financial hardship. *The complainant must submit supporting documentation satisfactory to the Board that provides proof of income in order to determine whether the requesting complainant is at or below the HHS Poverty Guidelines. *A waiver or refund of the filing fee will be granted if proof of income is at or below the then-current HHS Poverty Guidelines. The revised provisions include a web address for the HHS Poverty Guidelines. The Board established the process and standards for consideration of waiver requests in order to provide an objective method for determining the appropriateness of waiving or refunding the filing fee.
70-110	N/A	This section provides for review of NFADs.	*The section is revised to clarify that an NFAD is not complete and will not be reviewed until the filing fee has

		The section provides that upon receipt of a NFAD, the Office of the CICO will provide written acknowledgment of receipt of the NFAD to the complainant and will provide a copy of the NFAD to the governing board, and, if applicable, the CIC manager of the association that made the final adverse decision. The NFAD will not be reviewed until the filing fee has been received or a waiver of the filing fee has been granted by the Board. Additional information may be requested from the association that made the final adverse decision. The association must provide such information to the Office of the CICO within a reasonable time.	been received or waiver of the fee has been granted. *The section is further revised to clarify that information that was not part of the final adverse decision will not be considered. The CICO cannot consider information or documentation that is not part of the record of the association's decision. Stylistic changes, including to replace the word "shall" with "will" are made.
70-130	N/A	The section provides that the Office of the CICO carry out those activities enumerated in § 54.1-2354.3 of the Code of Virginia.	A stylistic change to replace "shall" with "will" is made.
70-9998	N/A	This section contains forms used to administer the regulation.	The forms section is revised to update forms that are used in administering the regulation.