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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC48-30
VAC Chapter title(s)	Condominium Regulations
Date this document prepared	November 20, 2023

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*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

No acronyms or technical terms are used in this report.

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 or 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 ("the Board").

Sections 54.1-2349 and 55.1-1971 of the Code of Virginia give authority to the Board to promulgate regulations regarding registration of condominiums. Section 54.1-2349 states, in part:

- A. The Board shall administer and enforce the provisions of this article. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:
 - 1. Promulgate regulations necessary to carry out the requirements of this article in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.)...
- B. 1. The Board shall have the sole responsibility for the administration of this article and for the promulgation of regulations to carry out the requirements thereof.

Section 55.1-1971 states, in part:

- A. The Common Interest Community Board shall prescribe reasonable regulations, which shall be adopted, amended, or repealed in compliance with law applicable to the administrative procedure of agencies of government. The regulations shall include provisions for advertising standards to assure full and fair disclosure, provisions for operating procedures, and other regulations as are necessary and proper to accomplish the purpose of this chapter.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

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 23.3 of Title 54.1 and Chapter 19 of Title 55.1 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 welfare of the citizens of Virginia.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

One comment was received via Town Hall following publication of the Notice of Periodic Review. However, the comment appeared to address the Common Interest Community Ombudsman Regulations (18 VAC48-70) and not the Condominium Regulations (18 VAC48-30). The commenter was advised of the opportunity to comment on the applicable regulation. An informal advisory group was not formed for purposes of assisting in the periodic review.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation meets the criteria set forth in the Office of Regulatory Management procedures.

The regulation contains the requirements to obtain and maintain a condominium registration in Virginia, and provides for standards of conduct for condominium declarants. The regulation is necessary to interpret and apply the requirements imposed upon the Board by the Virginia Condominium Act, and to protect the public welfare, in part by assuring full and fair disclosure in the offering and disposition of condominium interests. The regulation is clearly written and understandable.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

On September 21, 2023, the Board voted to retain the regulation “as is” without any change, as explained further in the “Small Business Impact” section. In accordance with the Governor’s Executive Directive Number One (2022), the Board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

Sections 54.1-2349 and § 55.1-1971 of the Code of Virginia mandate the Board 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.

The Board provides protection to the public welfare of the citizens of the Commonwealth by assuring full and fair disclosure in the offering and disposition of condominium interests, and establishing standards of conduct for condominium declarants.

One comment was received during the public comment period. However, the comment addressed the Common Interest Community Ombudsman Regulations. The regulation is clearly written, easily understandable, and does not overlap, duplicate, or conflict with federal or state law or regulation.

The Condominium Regulations are clearly written, easily understandable, and do not overlap, duplicate or conflict with federal or state law or regulation.

The most recent periodic review of the regulation occurred in 2019. Currently, the Board is conducting a comprehensive review of the regulation.
