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Periodic Review Report of Findings

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation	18 VAC48-30
Regulation title	Condominium Regulations
Date this document prepared	September 17, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

No acronyms are used in this report.

Legal Basis

Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

Sections 54.1-2349 and 55-79.98 of the Code of Virginia give authority to the Common Interest Community 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 chapter. 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 chapter 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 chapter and for the promulgation of regulations to carry out the requirements thereof.

Section 55-79.98 states, in part:

- A. The agency shall prescribe reasonable rules and regulations which shall be adopted, amended or repealed in compliance with law applicable to the administrative procedure of agencies of government. The rules and regulations shall include but not be limited to provisions for advertising standards to assure full and fair disclosure; provisions for operating procedures; and other rules and regulations as are necessary and proper to accomplish the purpose of this chapter.

Alternatives

Please 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 4.2 of Title 55 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

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

No comments were received during the public comment period following publication of the Notice of Periodic Review. An informal advisory group was not formed for purposes of assisting in the periodic review.

Effectiveness

Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), 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 Executive Order 14 (2018). 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 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. The regulation is designed to achieve its objective in the most efficient and cost effective manner.

Decision

Please explain the basis for the rulemaking entity’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

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

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, include 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, discuss why the agency’s decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

Sections 54.1-2349 and 55-79.98 of the Code of Virginia mandate the Common Interest Community 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 Common Interest Community 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.

No comments or complaints were received during the public comment period. The regulation is clearly written, easily understandable, and does not overlap, duplicate or conflict with federal or state law or regulation.

This regulation became effective on August 1, 2015, and this is the first periodic review of the regulation. On September 5, 2019, the Board discussed the regulation and, for the reasons stated in this section, determined through proper unanimous vote that the regulation should not be amended or repealed, but should be retained in its current form.