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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC 30-91
VAC Chapter title(s)	Subdivision Street Requirements
Date this document prepared	10/25/2022

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.

SSR – Subdivision Street Requirements

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 Subdivision Street Requirements (SSR) govern the acceptance of subdivision streets into the secondary system of state highways for maintenance by the Virginia Department of Transportation (VDOT). Section 33.2-326 of the *Code of Virginia* vests in VDOT the control, supervision, management

and jurisdiction over the secondary system of highways. Although § 33.2-705 grants authority to localities to establish highways, including subdivision streets on land being developed, if the locality or private developer wish to have VDOT assume maintenance of those streets, the design and construction of those streets must meet VDOT’s standards. The design-related provisions of the SSR are part of the department’s Road Design Manual (Appendix B of that Manual).

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.

In 2007, the General Assembly (in Chapter 382 of the Acts of Assembly) authorized the CTB to adopt new regulations establishing Secondary Street Acceptance Requirements, and specified several provisions that must be contained in those regulations. However, Chapter 382 also allowed for subdivision plats and construction plans submitted to VDOT prior to the effective date of the new regulations authorized by that Act to be built to the previously existing standards, which are found in this regulation, 24 VAC 30-91.

Streets which may be considered for acceptance in accordance with this regulation include: 1) streets where the street layout has been proffered pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303 of the *Code of Virginia* if the requirements of 15.2-2307 are met prior to July 1, 2009; 2) streets that are part of a recorded plat or final site plan valid pursuant to § 15.2-2261 of the *Code of Virginia* and approved in accordance with §§ 15.2-2241 through 15.2-2245 and 15.2-2286 of the *Code of Virginia* prior to July 1, 2009; 3) streets that are part of a preliminary subdivision plat valid pursuant to § 15.2-2260 of the *Code of Virginia* approved in accordance with §§ 15.2-2241 through 15.2-2245 and 15.2-2286 of the *Code of Virginia* prior to July 1, 2009; 4) streets that are part of a street construction plan approved by VDOT prior to July 1, 2009; and 5) if requested by the local governing body, the SSR shall apply if the conceptual sketch was submitted to the agency prior to July 1, 2009.

Therefore, no alternatives to the SSR can be considered.

At the recommendation of the Office of Regulatory Management (ORM), due to the advanced stage of this periodic review at the time new procedures were issued, this form has been prepared with consideration of the regulation in its current form as the only alternative.

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.

Commenter	Comment	Agency response
Nicole Keller	Hello Ms. Maxwell, I am writing to submit a public comment as part of the periodic review of the Subdivision Street Requirements [24 VAC 30-91], I believe that it is necessary for the protection of public health, safety,	The CTB agrees with the commenter regarding the importance of bicycle and pedestrian accommodations. More substantial accommodations were included in the 2011 Secondary Street Acceptance Requirements, which replaced the Subdivision Street Requirements.

	<p>and welfare and for the economic performance of newly built streets that a requirement for some form of active transportation accommodation is added to this Chapter. Newly constructed streets under state management should from this point forward be required to include either a sidewalk and/or bike lane. By requiring this, Virginia will continue to build a multi-modal transportation network that serves all people and encourages healthier and cleaner transportation. Thank you for registering my comment.</p>	
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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 SSR establishes the conditions and standards that must be met before certain subdivision streets constructed by entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT. Proposed developments that include roads to be accepted into the secondary system and that were initially received by VDOT prior to July 1, 2009 may be grandfathered under these requirements. The consistent construction, review, and acceptance of streets which meet specified requirements promotes the protection of public health, safety, and welfare. The standards ensure access by emergency response vehicles, reduce congestion, and ensure the safe, efficient movement of people and goods. The SSR is written in a manner which is clear and easily 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.

The Commonwealth Transportation Board is proposing to retain this regulation without making any changes. The regulation promotes public health, safety, and welfare as well as accepting only qualified roads into the state’s highway systems.

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 the 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.

The SSR has a positive impact on state resources as well as small businesses. This regulation helps reduce long-term traffic congestion, support and promote more economic activity and better transportations systems. VDOT believes the regulation is not overly complex, and there is no overlap, duplication, or conflict with federal or state laws or regulations. The SSR was originally adopted in 1949. In 2005, VDOT worked with external stakeholders to complete a comprehensive revision of the SSR. There have been no complaints received from the public, and the one public comment received during the periodic review was supportive of changes which were included in the 2011 Secondary Street Acceptance Requirements, which followed the SSR. There have been no amendments to the regulation since it was last reviewed in 2019.
