

FAIRFAX COUNTY

2020 Homeowners' Association and  
Condominium Association Legislative Update



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## PREFACE

The 2020 Homeowners' and Condominium Association Legislative Update includes an overview of the legislative amendments from the 2020 Virginia General Assembly Legislative Session and an overview of the activity of the Common Interest Community Board and the Office of the Common Interest Community Ombudsman. The guide is designed to be an interactive document connecting the public with the [Code of Virginia](#).

The Consumer Affairs Branch monitors the regulatory process and incorporates information about amended regulations into subsequent editions of the Fairfax County Homeowners' and Condominium Association Legislative Update. These updates are informational only, and should not be used or relied upon in place of the actual text of the relevant legislation. In addition, homeowners' and condominium association members should consult with private legal counsel regarding their specific legal rights and interests, and should in no way rely upon this informational guide for evaluating those specific legal rights and interests.

Please contact the Fairfax County [Department of Cable and Consumer Services](#), Consumer Affairs office at 703-222-8435, TTY 711, for additional information or assistance.

## 2020 LEGISLATIVE UPDATES

The General Assembly meets each January and bills that pass both chambers become law once signed by the governor. The Titles, Chapters, and Sections of the Code of Virginia pertaining to the governance of common interest communities which were impacted by the activity of the 2020 Virginia General Assembly session, are included. A brief summary of the changes or additions to the code is also provided. The Code of Virginia, in its entirety, can be viewed online using the [Virginia Legislative Information Service](#).

### [Virtual Board Meetings During a Governor Declared State of Emergency](#)

(Expires June 30, 2022)

g. 1. Notwithstanding any other provision of law, any public body, including any state, local, regional, or regulatory body, or a governing board as defined in [§ 54.1-2345](#) of the Code of Virginia may meet by electronic communication means without a quorum of the public body or any member of the governing board physically assembled at one location when the Governor has declared a state of emergency in accordance with [§ 44-146.17](#), provided that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location; (ii) the purpose of meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body or common interest community association as defined in [§ 54.1-2345](#) of the Code of Virginia and the discharge of its lawful purposes, duties, and responsibilities; (iii) a public body shall make available a recording or transcript of the meeting on its website in accordance with the timeframes established in [§§ 2.2-3707](#) and [2.2-3707.1](#) of the Code of Virginia; and (iv) the governing board shall distribute minutes of a meeting held pursuant to this subdivision to common interest community association members by the same method used to provide notice of the meeting.

2. A public body or governing board convening a meeting in accordance with this subdivision shall:

a) Give notice to the public or common interest community association members using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body or governing board conducting the meeting;

b) Make arrangements for public access or common interest community association members access to such meeting through electronic means including, to the extent practicable, videoconferencing technology. If the means of communication allows, provide the public or common interest community association members with an opportunity to comment; and

3. Public bodies must otherwise comply with the provisions of [§ 2.2-3708.2](#) of the Code of Virginia. The nature of the emergency, the fact that the meeting was held by electronic

communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes of the public body or governing board.

### [Title 36 Housing - Chapter 5.1 Virginia Fair Housing Law](#)

Prohibits discrimination in employment, public accommodation, public contracting, apprenticeship programs, housing, banking, and insurance on the basis of sexual orientation or gender identity. The bill also adds discrimination based on sexual orientation or gender identity to the list of unlawful discriminatory housing practices. The bill contains technical amendments.

[§ 36-96.1. Declaration of policy.](#)

[§ 36-96.1:1. Definitions.](#)

[§ 36-96.2. Exemptions.](#)

[§ 36-96.3. Unlawful discriminatory housing practices.](#)

[§ 36-96.4. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.](#)

[§ 36-96.6. Certain restrictive covenants void; instruments containing such covenants.](#)

### [Title 67 Virginia Energy Plan - Chapter 7 Covenants Restricting Solar Energy Collection Devices](#)

[§ 67-701. Covenants regarding solar power.](#)

Provides that a restriction on solar energy collection devices is not reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist that is satisfactory to the community association to show that the restriction is not reasonable according to the criteria established in the bill.

Authorizes any agency of state government to locate and operate a retail fee-based electric vehicle charging station on property the agency controls. The bill exempts state agencies from being considered a public utility solely because of the sale of electric vehicle charging service or the ownership or operation of an electric vehicle charging station and further exempts such service from constituting the retail sale of electricity. Currently, state-operated charging stations may be operated by the Department of Conservation and Recreation, Department of General Services, Department of Motor Vehicles, Department of Transportation, and public institutions of higher education.

[Title 55.1. Property and Conveyances - Chapter 18 Property Owners' Association Act](#)

[§ 55.1-1808. Contract disclosure statement; right of cancellation.](#)

Provides for a limited extension of the right of cancellation where such extension is provided for in a ratified real estate contract.

[§ 55.1-1809. Contents of association disclosure packet; delivery of packet.](#)

Requires the association disclosure packet to contain a statement of any restrictions on the size, place, duration, and manner of placement or display of political signs by a lot owner on his lot.

[§ 55.1-1814. Exceptions to disclosure requirements.](#)

Requires the association disclosure packet to contain a statement of any restrictions on the size, place, duration, and manner of placement or display of political signs by a lot owner on his lot.

[§ 55.1-1823.1. Electric vehicle charging stations permitted.](#)

Prohibits certain common interest community associations from prohibiting the installation of an electric vehicle charging station within the boundaries of a member's unit or limited common element parking space appurtenant to the unit owned by the unit owner or, in the case of a property owners' association, a lot owner's property, and sets forth provisions governing the installation and removal of such charging stations. The bill also requires the association member installing an electric vehicle charging station to indemnify and hold the association harmless from all liability resulting from a claim arising out of the installation, maintenance, operation, or use of such charging station.

## [Title 55.1. Property and Conveyances - Chapter 19 Condominium Act](#)

### [§ 55.1-1937. Termination of condominium](#)

Provides that the respective interests of condominium unit owners upon the termination of a condominium shall be as set forth in the termination agreement, unless the method of determining such respective interests is other than the relative fair market values, in which case the association shall provide each unit owner with a notice stating the result of that method for the unit owner's unit and, no later than 30 days after transmission of that notice, any unit owner disputing the interest to be distributed to his unit may require that the association obtain an independent appraisal of the condominium units. The bill provides a method of adjusting the respective interests of the unit owners if the amount of such independent appraisal of an objecting unit owner's unit is at least 10 percent more than the amount stated in the association's notice.

### [§ 55.1-1941. Amendment to condominium instruments; consent of mortgagee.](#)

Any amendment adopted without the required consent of a mortgagee shall be voidable only by an institutional lender that was entitled to notice and an opportunity to consent. An action to void an amendment shall be subject to the one-year statute of limitations set forth in subsection C of § 55.1-1934 beginning on the date of recordation of the amendment.

### [§ 55.1-1962.1. Electric vehicle charging stations permitted.](#)

Prohibits certain common interest community associations from prohibiting the installation of an electric vehicle charging station within the boundaries of a member's unit or limited common element parking space appurtenant to the unit owned by the unit owner or, in the case of a property owners' association, a lot owner's property, and sets forth provisions governing the installation and removal of such charging stations. The bill also requires the association member installing an electric vehicle charging station to indemnify and hold the association harmless from all liability resulting from a claim arising out of the installation, maintenance, operation, or use of such charging station.

### [§ 55.1-1990, Resale by purchaser; contract disclosure; right of cancellation.](#)

Provides for a limited extension of the right of cancellation where such extension is provided for in a ratified real estate contract.

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