

ARTICLE XX - CONDOMINIUMS¹⁸

20-1 STATEMENT OF INTENT

It is the intent of this article to permit the development of housing developments known as condominium units as a means of creating well-planned living environments within a compacted area.

20-2 DEFINITIONS

a. Condominium: The ownership of single units in a multi-unit organization consisting of land and buildings, in which the owner has title to his own unit and, with the owners of other units, has an individual undivided interest in the common areas and facilities that serve the development.

b. Condominium documents: The documents set forth in subsection (b) of Section 20-9 of these regulations.

For similar state laws, see Code of VA, § 55-79.41.

c. Condominium project: A real estate development located or to be located in the town consisting of a plan or project whereby a group of apartments, residential units or commercial units existing or proposed whether the unit involves a single structure, attached to or detached from other units, or is in one or more multiple unit

structures, on a single or contiguous parcels of real estate are offered or proposed to be offered for sale.

- d. Co-owner: A person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof who owns a condominium unit within the building or buildings.
- e. Developer: A person who undertakes to develop a real estate condominium project.
- f. Licensed professional engineer or registered architect: An engineer or architect licensed by the Commonwealth of Virginia.
- g. Purchaser: A person who has signed a contract of sale for the purchase of a condominium.

20-3

COOLING-OFF PERIOD

(a) The developer shall include in the contract of sale for each condominium unit a clause which reads as follows:

"Seller hereby grants to purchaser a period of ten days within which to review the condominium documents made available to purchaser pursuant to state law and applicable regulations adopted thereunder by the town. Notwithstanding any other provision of this agreement, if the purchaser is not satisfied with the said condominium documents, the purchaser may, at any time prior to midnight local time of the tenth day following the date the contract is signed by the purchaser, terminate this agreement in which case the purchaser's deposit shall be returned to him and the parties hereto shall have no further rights or liabilities one to the other thereunder."

(b) The clause in the sale contract which provides for the ten-day cooling-off period must be located:

(1) Either on the front page of the contract or immediately above the purchaser's signature, and

(2) Under the conspicuous caption: PURCHASER'S RIGHT TO CANCEL.

20-4 STATEMENT OF CONDITION OF STRUCTURE AND COMMON ELEMENTS

In cases where an existing apartment or other residential complex or nonresidential structure is being converted to a condominium project, the developer shall obtain and provide to all purchasers a statement reflecting the judgment of a licensed professional engineer or registered architect as to the present condition of the general structure and of the major common elements of the condominium project.

(a) This statement shall include the approximate dates of installation, the dates of major repairs and, where applicable, the expected useful life of each of the major common elements.

(b) The developer shall also provide an estimated cost of replacement of each of the major common elements, at current market prices, and shall indicate what the cost per category of co-owner would be if the co-owners were assessed for the estimated replacement cost.

(c) "General Structure: shall mean the foundation, main walls, halls, lobbies, stairways, and entrances and exits or communication ways.

(d) "Major common elements" means major general common elements which shall include but not be limited to the roof, heating equipment and system, air conditioning equipment and system, electrical system, plumbing system, elevator, swimming pool, roads, landscaping, recreation areas, structures, and appurtenances related thereto.

For state law defining common elements, see Code of VA, § 55-79.41. As to upkeep of condominiums, see Code of VA, § 55-79.79.

20-5 OPERATING BUDGET

The developer shall provide to all purchasers:

(a) A projected one-year operating budget, broken down to show costs per category of co-owner (e.g., co-owner of a one-bedroom, co-owner of a two-bedroom).

(b) A statement about the purpose of establishing "reserves," explaining that it is normal and good management to maintain reserves for expected capital expenses and specifying the items for which reserve funds are generally established. If reserve funds are not included in the

projected operating budget, it must be clearly stated that the budget does not include such reserves.

20-6 MANAGEMENT CONTRACT

The developer shall provide to all purchasers:

(a) A copy of the management contract. The developer must clearly specify in a cover sheet:

- (1) The term of the contract;
- (2) The amount and nature of the management fee;
- (3) The circumstances under which the management fee may be increased or decreased;
- (4) The details regarding the renewal of the contract; and
- (5) The conditions, if any, under which the contract may be cancelled or terminated;

(b) A statement disclosing any relationship between the developer's firm and its corporate officers and the management firm and its corporate officers.

20-7 WARRANTY

The developer shall warrant to each purchaser for a minimum of one year from the date of settlement, installation or renovation, whichever is later, that each of the major common elements, as defined in Section 20-4, shall be maintained at the expense of the developer in structurally sound

and good operating condition. This shall not include the cost of normal, routine maintenance.

For state law as to warranty by management against structural defects, see Code of VA, § 55-79.79.

20-8 CONFORMANCE WITH TOWN SUBDIVISION AND ZONING REQUIREMENTS

The developer shall be required to submit preliminary and final subdivision plats meeting the requirements of the Subdivision Ordinance, of this Code and to obtain approval of a final plat prior to recording a master deed.

20-9 ADMINISTRATIVE PROCEDURES

(a) At the time of the review of the developer's preliminary plat of subdivision the zoning administrator shall provide the developer with a copy of this chapter.

(b) Prior to offering any condominium unit for sale the developer shall submit copies of the following condominium documents to the zoning administrator:

- (1) All documents required by this chapter to be provided to purchasers;
- (2) The master deed or master lease and recording data;

(3) The contract of sale and the "Apartment Deed" or "Unit Lease" to be used to convey property to purchaser (these forms to be completely filled in and marked "specimen");

(4) The house rules, owners' associations or by-laws; and

(5) The final or substitute report issued by the state real estate commission.

(6) Copies of all documents containing information which is required by the Virginia Real Estate Commission pursuant to § 55-79.89, Code of Virginia, 1950, as amended, including all subsequent amendments or modifications thereto. This filing shall be simultaneous with the filing required by the Virginia Real Estate Commission.

These condominium documents shall be made available for inspection by the public in the office of the zoning administrator.

(c) In cases where an existing apartment or other structures are being converted to a condominium project, the developer shall submit copies of the condominium documents to the zoning administrator at least sixty days prior to offering any condominium units in such project for sale. The zoning administrator shall cause a notice of the receipt of such documents and their availability for public inspection (a) to be prominently posted in the apartment or other structure which is being converted and (b) to be published in a newspaper of general circulation.

(d) Upon receipt of all required documents the zoning administrator shall certify to the developer that the required documents have been filed in the zoning administrator's office.

(e) The developer shall provide copies of all condominium documents and a copy of these regulations in the sales office of the condominium project for inspection by the public.

(f) Prior to entering into a binding contract or agreement for the sale of any unit in a condominium project, the developer shall provide the prospective purchaser with a copy of the condominium documents related to that project.

(g) The formal notice required to be given to tenants pursuant to § 55-79.94(b), Code of Virginia, 1950, as amended, shall include a statement informing the tenants of the filing of the documents and information required by § 55-79.89, Code of Virginia, 1950, as amended, with the Virginia Real Estate Commission and the Town Zoning Administrator.

20-10 FAILURE TO COMPLY

Failure by the developer to comply with these regulations shall, at the option of the purchaser, render a contract of sale on a condominium unit null and void.

20-11 RECOMMENDATIONS

It is recommended that the developer of a condominium project which is being converted provide to each tenant residing in a unit being converted:

(a) An exclusive opportunity to purchase his unit for sixty days;

and

(b) A subsequent thirty day notice to vacate at the expiration of that period of time, if the tenant decides not to purchase his unit.

20-12 DEFINITIONS

a. Disabled: A person suffering from a sever, chronic physical or mental impairment which results in substantial functional limitations.

b. Elderly: A person not less than sixty-two (62) years of age.

20-13 RELOCATION EXPENSES

The developer of a condominium project which is being converted from multi-family rental use shall reimburse any tenant displaced by the conversion for amounts actually expended to relocate as a result of such dislocation; provided, however, that such reimbursement shall not be required to exceed the amount which the tenant would have been entitled to receive under State Law (§ 25-239(b) and § 250247.1, Code of Virginia) if

the real estate comprising the condominium had been condemned by the Department of Highways and Transportation.

20-14 ELDERLY AND DISABLED TENANTS

The developer of a condominium project which is being converted from multi-family rental use shall offer to those elderly or disabled tenants occupying apartments or units therein as their residence at the time of issuance of the general notice required by State law (§ 55-79.94(b)), leases or extension of leases on apartments or units they then occupy, or one other apartments or units of at least equal size and overall quality; provided, however, that no such lease or extension shall be valid unless all of the terms and conditions thereof are agreed upon by the lessor and the lessee; provided further that the rent for such apartment or unit shall not be in excess of reasonable rent for such comparable apartments or units in the same market area as such conversion condominium. No such developer shall be required to offer such leases or extensions on more than twenty (20%) percent of the apartments or units in such conversion condominium, nor shall any such lease or extension be required to be extended for more than three (3) years from the date of the general notice referred to hereinabove.

The requirements set forth hereinabove shall not apply in the case of any apartments or units which will, in the course of the conversion, be

substantially altered in the physical layout, restricted exclusively to non-residential use, or rendered legally uninhabitable because of renovations or rehabilitations which the developer intends in good faith to perform.

20-15 WHERE CONDOMINIUMS PERMITTED

Condominium developments shall be permitted in districts where multiple family residences are permitted.

20-16 OTHER REGULATIONS

Condominium developments shall conform to the area, yard, density, setback, floor area and ground area, height, and off-street parking requirements of the district in which they are located.

20-17 BUILDING CODES

All condominium developments, whether new construction or conversions, shall conform to all building codes to ensure the safety and protection of persons and property.

20-18 OTHER APPLICABLE LAWS

All condominium developments shall comply with State and Federal laws and regulations applicable to such developments.

18.