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Exempt Action: Proposed Regulation Agency Background Document

Agency name	Board of Housing and Community Development (BHCD)
Virginia Administrative Code (VAC) Chapter citation(s)	13VAC5-31
VAC Chapter title(s)	Virginia Amusement Device Regulations (VADR)
Action title	Update the VADR
Date this document prepared	January 5, 2023

This information is required for executive branch review pursuant to 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. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to 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*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Amusement Device Regulations (VADR) govern the construction and operation of amusement devices, which are by statutory definition devices or structures open to the public by which persons are conveyed or moved in an unusual manner for diversion and passenger tramways. The regulations are closely related to the Uniform Statewide Building Code (13 VAC 5-63) (USBC) and under state law the USBC applies to amusement devices to the extent that the VADR does not set out differing requirements. Both regulations utilize nationally recognized model building codes and standards to provide the technical requirements for the actual construction of the regulated buildings. Every three years, new editions of the model codes become available. At that time, the BHCD initiates a regulatory action to incorporate the newest editions of the model codes into the regulation as well as accepting proposals for changes to the regulation from stakeholders and the public. The Department of Housing and Community Development staff maintains mailing lists for workgroups involving different subject areas of regulation and conducts workgroup meetings attended by stakeholder groups and the public to develop consensus recommendations, when possible, concerning proposals which have been submitted. The Department uses an online program incorporating the provisions of the regulation and the model codes

and standards to facilitate the submittal of proposals. A public hearing is held during the workgroup meeting stage of the process and a comment period established. Once workgroup meetings are completed, the BHCD has a series of meetings to consider each proposal and those proposals approved are incorporated into the proposed regulation. After the publishing of the proposed regulation, the BHCD establishes a comment period and holds an additional public hearing. The BHCD then meets to consider public comments to develop a final regulation to complete the regulatory process.

The following are a summary of the substantive changes to the VADR:

13VAC5-31-20

Adds definition for "serious injuries/illnesses".

13VAC5-31-30

Clarifies that non-mechanized playground equipment is not considered an amusement device.

13VAC5-31-40

Updates the ASTM referenced standards with the most current Editions.

Mandate and Impetus

Identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The promulgation of the VADR is required per Section 36-98.3 of the Code of Virginia. Section 36-98.3 indicates that when promulgating the VADR the Board, "shall have due regard for generally accepted standards as recommended by nationally recognized organizations." The regulations are closely related to the Uniform Statewide Building Code (13 VAC 5-63) (USBC) and under state law, the USBC applies to amusement devices to the extent that the VADR does not set out differing requirements. The VADR uses nationally recognized model codes and as such, must be periodically updated to comply with such codes. Also, due its relationship to the USBC it is necessary for the VADR to be updated in tandem with the USBC; the USBC is being updated in a separate action.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Kyle Flanders, 600 E Main St, St 300, Richmond, VA 23219, 804-786- 6761 (o) 804-371-7090 (f) email kyle.flanders@dhcd.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.