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Exempt Action: Final Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) Chapter citation(s)	13VAC5 – 31
VAC Chapter title(s)	Virginia Amusement Device Regulations
Action title	Update the Virginia Amusement Device Regulations
Final agency action date	December 14, 2020
Date this document prepared	December 2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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 affected stakeholder groups 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 group participants

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 for additional proposals to be submitted and to comment on the proposed regulation and an additional public hearing is held. The BHCD then meets to consider proposals and public comments to develop a final regulation to complete the regulatory process.

The following are the substantive changes made to the VADR:

13VAC5-31-40 – Updates the referenced standards for the American Society for Testing and Materials

13VAC5-31-75 – Updates the fee schedule for permits and allows local building departments to increase fees 50% when a reinspection is required

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). “Mandate” is defined as “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 national recognized model codes and as such, must 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.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Board of Housing and Community Development adopted final regulations for the Virginia Amusement Device Regulations December 14, 2020.