

# REGULATIONS

For information concerning the different types of regulations, see the Information Page.

## Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text.

Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### Final Regulation

**REGISTRAR'S NOTICE:** The Board of Housing and Community Development is claiming an exemption from Article 2 of the Administrative Process Act pursuant to § 2.2-4006 A 12 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to the Statewide Fire Prevention Code (§ 27-94 et seq.), the Industrialized Building Safety Law (§ 36-70 et seq.), the Uniform Statewide Building Code (§ 36-97 et seq.), and § 36-98.3 of the Code of Virginia, provided the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in § 2.2-4007.03, and (iii) conducts at least one public hearing as provided in §§ 2.2-4009 and 36-100 prior to the publishing of the proposed regulations.

**Title of Regulation:** 13VAC5-31. Virginia Amusement Device Regulations (amending 13VAC5-31-40, 13VAC5-31-50, 13VAC5-31-75, 13VAC5-31-210).

**Statutory Authority:** § 36-98.3 of the Code of Virginia.

**Effective Date:** September 4, 2018.

**Agency Contact:** Elizabeth O. Rafferty, Policy and Legislative Director, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7011, FAX (804) 371-7090, TTY (804) 371-7089, or email elizabeth.rafferty@dhcd.virginia.gov.

#### Summary:

The amendments to the Virginia Amusement Device Regulations are as follows:

13VAC5-31-40 and 13VAC5-31-210: Updates the referenced standards for amusement devices to the latest editions available.

13VAC5-31-50: The Virginia Certification Standards (13VAC5-21) (VCS), also a regulation under the authority of the board, was amended and became effective in September of 2014. It sets out periodic training and continuing education requirements for maintaining inspector certificates issued by the board. Prior to the

amendments to the VCS, the Virginia Amusement Device Regulations contained those requirements. Now that the VCS contains the requirements, those requirements are being deleted from the Virginia Amusement Device Regulations, and a reference to the VCS is added in place of the requirements.

13VAC5-31-75: Allows the full permit fee to be charged by the locality when the inspector is paid by the locality.

#### 13VAC5-31-40. Incorporated standards.

A. The following standards are hereby incorporated by reference for use as part of this chapter:

1. American National Standards Institute (ANSI) Standard No. B77.1-2011 for the regulation of passenger tramways; and
2. American Society for Testing and Materials (ASTM) Standard Nos. ~~F698-94, F747-06~~ F747-15, F770-11 ~~F770-15, F846-92 (2009)~~, F853-05, F893-10, F1159-14 ~~F1159-15b, F1193-06~~ F1193-16, F1957-99 (2011), F2007-12, ~~F2137-11~~ F2137-16, F2291-14 ~~F2291-15~~, F2374-10, F2375-09, ~~F2376-08~~ F2376-13, F2460-11, and ~~F2959-12~~ F2959-16, and F2974-15 for the regulation of amusement devices.

The standards referenced above may be procured from:

| ANSI                                   | ASTM   |
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| 25 W 43rd Street<br>New York, NY 10036 | 100 Barr Harbor Dr.<br>West Conshohocken,<br>PA 19428-2959 |

B. The provisions of this chapter govern where they are in conflict with any provisions of the standards incorporated by reference in this chapter.

C. The following requirements supplement the provisions of the ASTM standards incorporated by reference in this chapter:

1. The operator of an amusement device shall be at least 16 years of age, except when the person is under the supervision of a parent or guardian and engaged in activities determined not to be hazardous by the Commissioner of the Virginia Department of Labor and Industry;
2. The amusement device shall be attended by an operator at all times during operation except that (i) one operator is permitted to operate two or more amusement devices provided they are within the sight of the operator and operated by a common control panel or station and (ii) one

operator is permitted to operate two small mechanical rides with separate controls provided the distance between controls is no more than 35 feet and the controls are equipped with a positive pressure switch; and

3. The operator of an amusement device shall not be (i) under the influence of any drugs which may affect the operator's judgment or ability to assure the safety of the public or (ii) under the influence of alcohol.

D. Where an amusement device was manufactured under previous editions of the standards incorporated by reference in this chapter, the previous editions shall apply to the extent that they are different from the current standards.

## **13VAC5-31-50. Certification of amusement device inspectors.**

A. Any person, including local building department personnel, inspecting an amusement device relative to a certificate of inspection shall possess certification as an amusement device inspector in accordance with the Virginia Certification Standards (13VAC5-21).

~~B. Local building department personnel enforcing this chapter and private inspectors shall attend periodic maintenance training as designated by DHCD. In addition to the periodic maintenance training required above, local building department personnel and private inspectors shall attend 16 hours of continuing education every two years as approved by DHCD. If local building department personnel or private inspectors possess more than one BHCD certificate, the 16 hours shall satisfy the continuing education requirement for all BHCD certificates.~~

Note: Continuing education and periodic training requirements for DHCD certifications are set out in the Virginia Certification Standards (13VAC5-21).

### [ Part II

#### Enforcement, Permits and Certificates of Inspection

## **13VAC5-31-75. Local building department.**

A. In accordance with §§ 36-98.3 and 36-105 of the Code of Virginia, the local building department shall be responsible for the enforcement of this chapter and may charge fees for such enforcement activity. The total amount charged for any one permit to operate an amusement device or devices or the renewal of such permit shall not exceed the following, except that when a private inspector is used by the owner or operator of the device, the fees shall be reduced by 75%:

1. \$35 for each small mechanical ride or inflatable amusement device covered by the permit;
2. \$.55 for each circular ride or flat-ride less than 20 feet in height covered by the permit;
3. \$.75 for each spectacular ride covered by the permit that cannot be inspected as a circular ride or flat-ride in

subdivision 2 of this subsection due to complexity or height;

4. \$200 for each coaster covered by the permit that exceeds 30 feet in height; and

5. The local building department may charge an additional fee for permits and inspections of generators and associated wiring for amusement device events. Generators subject to these fees are those used exclusively with amusement devices and that are inspected by the local building department. The fee per event shall not exceed \$165 and shall not exceed the actual cost to perform the inspection or inspections.

Exception: Small portable generators serving only cord and plug connected equipment loads are not subject to the fee.

Notwithstanding the above fee limitations established in this section, the local building department shall be permitted to increase the fees up to 50% when requested to perform weekend or after-hour inspections.

B. Notwithstanding the provisions of subsection A of this section, when an amusement device is constructed in whole or in part at a site for permanent operation at that site and is not intended to be disassembled and moved to another site, then the local building department may utilize permit and inspection fees established pursuant to the USBC to defray the cost of enforcement. This authorization does not apply to an amusement device that is only being reassembled, undergoing a major modification at a site or being moved to a site for operation.

C. A permit application shall be made to the local building department at least five days before the date in which the applicant intends to operate an amusement device. The application shall include the name of the owner, operator or other person assuming responsibility for the device ~~or devices~~, a general description of the device ~~or devices~~ including any serial or identification numbers available, the location of the property on which the device ~~or devices~~ will be operated, and the length of time of operation. The permit application shall indicate whether a private inspector will be ~~utilized used~~. If a private inspector is not ~~utilized used~~, the applicant shall give reasonable notice when an inspection is sought and may stipulate the day such inspection is requested provided it is during the normal operating hours of the local building department. In addition to the information required on the permit application, the applicant shall provide proof of liability insurance of an amount not less than \$1,000,000 ~~\$1 million~~ per occurrence or proof of equivalent financial responsibility. The local building department shall be notified of any change in the liability insurance or financial responsibility during the period covered by the permit.

D. Notwithstanding the provisions of subsection C of this section, a permit application is not required for a small mechanical ride or an inflatable amusement device that has a

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certificate of inspection issued by any local building department in this Commonwealth either a six-month period for small mechanical rides or within a one-year period for inflatable amusement devices prior to the dates the small mechanical ride or inflatable amusement device is to be used, regardless of whether the device has been disassembled and moved to a new site. In such cases, the local building department shall be notified at least three days prior to the operation of the small mechanical ride or the inflatable amusement device and the information required on a permit application as listed in subsection C of this section shall be provided to the local building department. In addition, and notwithstanding the provisions of subsection A of this section, the local building department shall be permitted to charge a \$50 inspection fee per event to the person notifying the local building department of an event where an inflatable amusement device is operating, if the local building department chooses to inspect any or all of the inflatable amusement devices operating at that event. An inspection report shall be provided to the person notifying the local building department of the event if such an inspection is conducted.

E. Local building department personnel shall examine the permit application within five days and issue the permit if all requirements are met. A certificate of inspection for each amusement device shall be issued when the device has been found to comply with this chapter by a private inspector or by an inspector from the local building department. It shall be the responsibility of the local building department to verify that the private inspector possesses a valid certificate of competence as an amusement device inspector from the Virginia Board of Housing and Community Development. In addition, local building department personnel shall be responsible for assuring that the certificate of inspection is posted or affixed on or in the vicinity of the device in a location visible to the public. Local building department personnel shall post or affix such certificates or permit the certificates to be posted or affixed by the private inspector. Permits shall indicate the length of time the device or devices will be operated at the site, clearly identify the device or devices to which it applies and the date of expiration of the permit. Permits shall not be valid for longer than one year, except that permits for small mechanical rides shall not be valid for longer than six months.

F. In addition to obtaining a certificate of inspection in conjunction with a permit application for amusement devices permanently fixed to a site, a new certificate of inspection shall also be obtained prior to the operation of an amusement device following a major modification, prior to each seasonal operation of a device, at least once during the operating season and prior to resuming the operation of a device following an order from a local building department to cease operation. This requirement shall not apply to small

mechanical rides meeting the conditions outlined in subsection D of this section.

G. For amusement devices manufactured prior to 1978, the owner or operator shall have the information required by §§ 2.1 10.1 through 2.6 10.6 of ASTM F698 F1193 available at the time of inspection. In addition, the operator of any amusement device shall be responsible for obtaining all manufacturer's notifications, service bulletins and safety alerts issued pursuant to ASTM F853 F770 and the operator shall comply with all recommendations and requirements set out in those documents. A copy of all such documents shall be made available during an inspection.

H. In the enforcement of this chapter, local building department personnel shall have authority to conduct inspections at any time an amusement device would normally be open for operation or at any other time if permission is granted by the owner or operator, to issue an order to temporarily cease operation of an amusement device upon the determination that the device may be unsafe or may otherwise endanger the public and to accept and approve or deny requests for modifications of the rules of this chapter in accordance with the modification provisions of the USBC.

I. In accordance with subdivision 7 of § 36-137 of the Code of Virginia, the local building department shall collect a 2.0% levy of fees charged for permits under this chapter and transmit it quarterly to DHCD to support training programs of the Virginia Building Code Academy. Localities that maintain individual or regional training academies accredited by DHCD shall retain such levy.

J. In accordance with § 36-98.3 of the Code of Virginia and 13VAC5-31-10 B, the procedures for violations of this chapter shall be as prescribed in the USBC.

K. In accordance with § 36-98.1 of the Code of Virginia, the Virginia Department of General Services (DGS) shall function as the local building department for the application of this chapter to amusement devices located on state-owned property. In accordance with §§ 36-98.2 and 36-114 of the Code of Virginia, appeals of the application of this chapter by the DGS shall be made directly to the State Building Code Technical Review Board. Further, as a condition of this chapter, such appeals shall be filed within 14 calendar days after receipt of the decision of DGS.

## Part VI Artificial Climbing Walls

### **13VAC5-31-210. General requirements.**

In addition to other applicable requirements of this chapter, artificial climbing walls shall be operated, maintained and inspected in accordance with ASTM F1159 F1193.

Notwithstanding any requirements of this chapter to the contrary, an artificial climbing wall may be moved, setup and operated without obtaining a permit provided the wall has a

certificate of inspection issued by a local building department in this Commonwealth within the prior 90 days and the expiration date of the wire ropes used with the device does not expire within that 90-day period.]

## DOCUMENTS INCORPORATED BY REFERENCE (13VAC5-31)

ANSI B77.1-2011, Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements, American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036 (<http://www.ansi.org/>)

American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959; (<http://www.astm.org/>):

~~ASTM F698-94, Standard Specification for Physical Information to be Provided for Amusement Rides and Devices~~

~~ASTM F747-06 F747-15, Standard Terminology Relating to Amusement Rides and Devices~~

~~ASTM F770-14 F770-15, Standard Practice for Ownership and Operation, Maintenance, and Inspection of Amusement Rides and Devices~~

~~ASTM F846-92 (2009), Standard Guide for Testing Performance of Amusement Rides and Devices~~

~~ASTM F853-05, Standard Practice for Maintenance Procedures for Amusement Rides and Devices~~

~~ASTM F893-10, Standard Guide for Inspection of Amusement Rides and Devices~~

~~ASTM F1159-14 F1159-15b, Standard Practice for Design and Manufacture of Patron Directed, Artificial Climbing Walls, Dry Slide, Coin Operated and Purposeful Water Immersion of Amusement Rides and Devices and Air Supported Structures that are Outside the Purview of Other F24 Design Standards~~

~~ASTM F1193-06 F1193-16, Standard Practice for Quality, Manufacture, and Construction of Amusement Rides and Devices~~

~~ASTM F1957-99 (2011), Standard Test Method for Composite Foam Hardness-Durometer Hardness~~

~~ASTM F2007-12, Standard Practice for Classification, Design, Manufacture, and Operation of Concession Go-Karts and Facilities~~

~~ASTM F2137-14 F2137-16, Standard Practice for Measuring the Dynamic Characteristics of Amusement Rides and Devices~~

~~ASTM F2291-14 F2291-15, Standard Practice for Design of Amusement Rides and Devices~~

ASTM F2374-10, Standard Practice for Design, Manufacture, Operation, and Maintenance of Inflatable Amusement Devices

ASTM F2375-09, Standard Practice for Design, Manufacture, Installation and Testing of Climbing Nets and Netting/Mesh used in Amusement Rides, Devices, Play Areas and Attractions

ASTM ~~F2376-08~~ F2376-13, Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems

ASTM F2460-11, Standard Practice for Special Requirements for Bumper Boats

ASTM ~~F2959-12~~ F2959-16, Standard Practice for ~~Special Requirements for~~ Aerial Adventure Courses

ASTM F2974-15, Standard Guide for Auditing Amusement Rides and Devices

VA.R. Doc. No. R16-4667; Filed April 9, 2018, 1:12 p.m.

## Final Regulation

REGISTRAR'S NOTICE: The Board of Housing and Community Development is claiming an exemption from Article 2 of the Administrative Process Act pursuant to § 2.2-4006 A 12 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to the Statewide Fire Prevention Code (§ 27-94 et seq.), the Industrialized Building Safety Law (§ 36-70 et seq.), the Uniform Statewide Building Code (§ 36-97 et seq.), and § 36-98.3 of the Code of Virginia, provided the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in § 2.2-4007.03, and (iii) conducts at least one public hearing as provided in §§ 2.2-4009 and 36-100 prior to the publishing of the proposed regulations.

Title of Regulation: 13VAC5-51. Virginia Statewide Fire Prevention Code (amending 13VAC5-51-11 through 13VAC5-51-155; adding 13VAC5-51-144.5, 13VAC5-51-144.7, 13VAC5-51-144.8, 13VAC5-51-144.9, 13VAC5-51-154.9; repealing 13VAC5-51-146).

Statutory Authority: § 27-97 of the Code of Virginia.

Effective Date: October 16, 2018.

Agency Contact: Elizabeth O. Rafferty, Policy and Legislative Director, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7011, FAX (804) 371-7090, TTY (804) 371-7089, or email elizabeth.rafferty@dhcd.virginia.gov.