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Fast-Track Regulation Agency Background Document

Agency name	Department of General Services
Virginia Administrative Code (VAC) Chapter citation(s)	1 VAC 30-150
VAC Chapter title(s)	Regulations for Public Use of the Robert E. Lee Monument in Richmond, VA
Action title	Repeal Regulations for Public Use of the Robert E. Lee Monument
Date this document prepared	January 20, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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 Department of General Services (DGS) is repealing this chapter as the real property has been transferred and no longer owned by DGS.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"DGS" means the Department of General Services

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.

On January 20, 2022 the Department of General Services will repeal Regulations for Public Use of the Robert E. Lee Monument in Richmond, VA.

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

DGS believes repealing this regulation will be non-controversial as the real property is no longer owned by the Commonwealth/DGS.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Department of General Services is the promulgating agency. The Code of Virginia §§ 2.2-1102 A.1, is the state legal authorities for promulgating/repealing this regulation.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

DGS needs to repeal the regulation as it is no longer needed since the property is no longer owned by the Commonwealth/DGS.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

N/A

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

None

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

None

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

None

Localities Particularly Affected

None

Other Entities Particularly Affected

None

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	N/A
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	N/A
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	N/A

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	N/A
Benefits the regulatory change is designed to produce.	N/A

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	N/A
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	N/A
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	N/A
Benefits the regulatory change is designed to produce.	N/A

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

None

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

N/A

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.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Department of General is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

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 or email Rhonda Bishton, 1100 Bank Street, Suite 420, Richmond, VA 23219, rhonda.bishton@dgs.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
1VAC30-150-10.		The Robert E. Lee Monument, located at 1700 Monument Avenue, is the largest monument on the City of Richmond's Monument Avenue. The 60-foot high statue, composed of a granite base and 14-foot tall bronze equestrian statue of Robert E. Lee, stands in the middle of Lee Circle, a traffic circle at the intersection of Monument Avenue and Allen Avenue. The purpose of this chapter is to establish and codify regulations governing the use of this state-owned property. This chapter applies to the Lee Monument. The following word or term when used in this chapter shall have the following meaning unless the context clearly indicates otherwise: "Lee Monument" means the statue of Robert E. Lee and the surrounding 25,000 square feet of state-owned property located at 1700 Monument Avenue in the City of Richmond. The Lee Monument does not include the abutting sidewalk or streets, which are the property of the City of Richmond.	Repeal
1VAC30-150-20.		The following rules apply to any person, including permit applicants and permit holders at the Lee Monument.	Repeal

		1. The Lee Monument shall be closed to the public from sunset each night until sunrise the following morning. 2. Any gathering that is expected to draw 10 or more participants requires a special event permit. 3. The maximum occupancy of the Lee Monument is 500 persons. 4. There shall be no motor vehicles on the Lee Monument at any time. 5. No banners, flags, posters, or other objects shall be placed on or affixed to the statue itself. 6. No persons shall climb on the statue itself. This provision also applies to the steps of the statue.	
1VAC30-150-30.		A. All permitted events must be coordinated with the City of Richmond to ensure that such event will not interfere with major vehicular traffic within the traffic circle. The areas surrounding the Lee Monument are residential zones. In conjunction with § 18.2-419 of the Code of Virginia and the City of Richmond's noise ordinance level restrictions, events at the grounds may only occur during the following hours, unless the times referenced in this subsection conflict with subdivision 1 of 1VAC30-150-20. 1. Monday through Friday: 9 a.m. to 4 p.m. and 7 p.m. to 9 p.m. 2. Saturday: 9 a.m. to 9 p.m. 3. Sunday: 2 p.m. to 9 p.m. B. Permitted events may last a maximum of two hours, with an additional 30 minutes to set up and 30 minutes to break down the event. If the City of Richmond will require road closure, permitted events will be authorized to last one hour, with an additional 30 minutes to set up and 30 minutes to break down the event. Permitted events shall not exceed these time parameters. C. The following items and activities are prohibited on the Lee Monument, and any violation will result in an immediate revocation of the	Repeal

		permit and removal from the Lee Monument: 1. Weapons: any pistol, rifle, shotgun, or other firearm of any kind, whether loaded or unloaded, air rifle, air pistol, paintball gun, paintball rifle, explosive, blasting cap, knife, hatchet, ax, slingshot, blackjack, metal knuckles, mace, iron buckle, ax handle, chains, crowbar, hammer, or any club, bludgeon, or any other instrumentality used, or intended to be used, as a dangerous weapon. 2. Bricks, stones, rocks, or pieces of asphalt or concrete. 3. Glass bottles, glass jars, or glass containers of any kind. 4. Tents, tables, scaffolding, or staging. 5. Penetration of the ground by any object. 6. Stick-holding placards. 7. Solicitations, sales, collections, or fundraising activities. 8. Food or beverages of any type. 9. Auxiliary and portable lights. 10. Open air burning. Hand-held candles with drip guards are acceptable. 11. The use of unmanned aircraft systems (drones). 12. Hazardous, flammable, or combustible liquids or materials. 13. Animals, except service animals that are individually trained to do work or perform tasks for people with disabilities. 14. Fossil-fuel powered generators. D. Nothing in this chapter shall prohibit a disabled person from carrying, possessing, or using a wheelchair, cane, walker, or similar device necessary for providing mobility so that the person may participate in a permitted event. E. Nothing in this chapter shall prohibit certified law-enforcement officers or other public safety officials acting in their official capacity from carrying or possessing materials, weapons, or devices used in the performance of law-enforcement duties.	
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		F. Certain portions of subsections A, B, and C of this section may not apply to established events that have been approved for more than three consecutive years by the Department of General Services and the City of Richmond permitting processes prior to the enactment of this regulation.	
1VAC30-150-40.		A. Requests for a special event permit must be submitted in writing, on the forms required by the Department of General Services, and must be submitted to the Director of the Department of General Services at least 45 days prior to the requested event date. B. All applications shall contain at a minimum, the following information: 1. Type and purpose of event, meeting, or function. 2. Name, address, telephone numbers, and email address of the applicant. 3. Name of the organization, date of origin, status (corporation, unincorporated association, partnership, nonprofit corporation, etc.), address, and telephone numbers. If applicable, the federal tax ID number, registered agent's address, telephone numbers, and email address. 4. Organization's primary point of contact, to include name, title, permanent address, telephone numbers, and email addresses. 5. Organization's primary and alternative point of contact who will be on-site at the Lee Monument for the event, to include name, address, telephone numbers, and email addresses. The organization's on-site primary point of contact shall be responsible for the conduct of participants at the event. 6. If the event is designed to be held by, on behalf of, or for any person other than the applicant, the applicant shall file with the director written documentation from the person or organization seeking to host the event, authorizing the applicant to	Repeal

	apply for the permit on behalf of the person or organization. 7. The estimated number of participants for the event. The maximum occupancy for the Lee Monument is 500 persons. 8. Requested date and start and end times. 9. Whether the event is being advertised, to include advertising on social media platforms. 10. Proof that all needed permit applications have been submitted to the City of Richmond, to include a road closure permit if necessary. The applicant understands that if the City of Richmond will require road closure, authorized events will be permitted to last one hour, with an additional 30 minutes to set up and 30 minutes to break down the event. All events will begin at the agreed upon time and must fall within the allowable time periods addressed in this section. 11. List of requested items or equipment to be used during the event. 12. Waste management plan and a point of contact for the plan, including name and telephone number. C. Notwithstanding the 45-day requirement for a special event permit, the applicant may apply for a permit for an event that is proposed to be conducted in less than six days, provided: 1. The applicant submits a completed special event permit application in accordance with this chapter. 2. A showing by the applicant, in writing, clearly describing why the circumstances giving rise to the proposed event did not reasonably allow the applicant to apply for a permit within the 45-day time period. 3. The event has not been planned for more than six days in advance of the proposed event. 4. Proof that all needed permit applications have been submitted to the City of Richmond, to include a road closure permit if necessary. The applicant understands that if the	
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	City of Richmond will require road closure based on the size of the event, authorized events will be permitted to last one hour, with an additional 30 minutes to set up and 30 minutes to break down the event. All events will begin at the agreed upon time and must fall within the allowable time periods addressed in this section. D. Permit applications may be submitted up to one year in advance of the proposed event. E. The Director of the Department of General Services shall take action on all permit applications within 10 business days of receiving a complete special event permit application, and as soon as practicable but not more than three business days for applications submitted for events to be held within six business days. If no permits are required by the City of Richmond, the department shall approve or deny the application within 10 days. If one or more permits are required by the City of Richmond, the department shall acknowledge receipt of the application within 10 business days, but the Director of the Department of General Services shall not grant final approval until proof that all permits required by the city, to include a road closure permit, have been issued. F. The Director of the Department of General Services shall deny a request for a permit if: 1. Another application has been previously submitted with a request for the same date and time; 2. Upon advisement from law enforcement, the director determines that approving the permit and allowing the event to occur would pose a significant threat to public safety; 3. Any of the conditions are not agreed to by the applicant; 4. The director concludes that the event could not possibly conform to the conditions prescribed in this chapter; 5. Any of the information contained in the application is	
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		found to be false or inaccurate; or 6. The City of Richmond denies a needed permit. G. If a permit request is denied, the director shall send, in writing, an explanation of why the event permit was denied and if applicable, provide the applicant with alternative times or dates. H. If a permit is denied due to a preexisting application for the same time and date, the director shall notify the applicant if the originally requested date and time become available. I. Authorization for the use of the Lee Monument will be set forth in a letter addressed to the applicant. J. The director or the director's designee may contact the applicant and the event organizer at any time to discuss or clarify the contents of the application or any additional conditions or restrictions to be applied.	
1VAC30-150-50.		A. The event organizer is responsible for providing a safe and secure event and may be required to provide general security, crowd control, and assistance to participants based on the size of the event. If general security is required by the Commonwealth, it shall be provided by law-enforcement personnel licensed by the Commonwealth of Virginia. B. By submitting an application for a special event permit under this chapter, the applicant understands the following statements and conditions and agrees to comply with all rules, conditions, and restrictions: 1. The applicant agrees to all prohibitions and restrictions identified in this chapter; 2. The applicant and organization agree to indemnify the Commonwealth of Virginia against any loss or damage to the monument that may occur in connection with the applicant or event organizer's use of the property; 3. The applicant agrees to leave the premises clean and orderly.	Repeal

		4. The applicant and participants agree to obey all state and local laws and ordinances; 5. The applicant agrees to notify law enforcement, to include the Division of Capitol Police, if any unlawful activities occur during the permitted event. In addition to 9-1-1, the applicant should call the Capitol Police emergency number at (804) 786-4357. For non-emergencies, applicants should call (804) 786-2568; 6. Unlawful activities will be handled by law enforcement, to include the Division of Capitol Police; and 7. The applicant shall be required to notify the Director of the Department of General Services of any changes to the information contained in the permit application as soon as practicable. C. Violations of this chapter [or of any other provision of state law] shall result in immediate revocation of the permit by the Director of the Department of General Services or the director's designee, and in the event such revocation occurs, all participants shall be required to immediately vacate the monument. Failure of any person to immediately vacate the monument after proper notice shall be considered trespassing in violation of § 18.2-119 of the Code of Virginia.	
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If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements	Other regulations and law that apply	Intent and likely impact of new requirements

N/A

*If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.*

*If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.*

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage

N/A