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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Housing and Community Development
<b>Virginia Administrative Code (VAC) citation(s)</b>	<u>13</u> VAC <u>5</u> - <u>31</u>
<b>Regulation title(s)</b>	Virginia Amusement Device Regulations (VADR)
<b>Action title</b>	Update of VADR to reference the newest available nationally-recognized standards
<b>Date this document prepared</b>	December 10, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Subject matter and intent

*Please describe briefly the subject matter, intent, and goals of the planned regulatory action.*

The subject matter is the regulation of amusement devices, which are devices or structures open to the public by which persons are conveyed or moved in an unusual manner for diversion, including passenger tramways. The regulations are closely related to the Uniform Statewide Building Code (13VAC5-63) (USBC), which applies to amusement devices to the extent not superseded by the provisions of the VADR. Local building departments charged with enforcement of the USBC also enforce the VADR. The intent and goal of this action is to update the VADR to incorporate the latest editions of the ASTM standards for amusement devices and to amend any administrative and enforcement provisions of the VADR as determined necessary for the proper enforcement of the regulation and to coordinate the VADR with the USBC.

### Legal basis

*Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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The agency is the Board of Housing and Community Development. The legal authority for amendments to the regulation is § 36-98.3 of the Code of Virginia.

This action is exempt from Article 2 of the Administrative Process Act in accordance with subdivision A 12 of § 2.2-4006 of the Code of Virginia.

### Purpose

*Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.*

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Updating the VADR to use of the newest available ASTM standards for amusement devices at the same time that the USBC is being amended assures coordination between the regulations and that the statutory mandate is met to base both regulations on the latest editions of nationally-recognized model codes and standards to assure the protection of the health, safety and welfare of the users of portable amusement devices and the construction of amusement devices permanently affixed to a site at the least possible cost.

### Substance

*Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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The action will update the ASTM standards for amusement devices to the latest available standards which address new designs and arrangements of amusement devices. In addition, administrative and enforcement provisions of the VADR will be updated as determined necessary by the Board in conjunction with the updating of the USBC and in response to proposals or comments received from interested or affected parties.

## Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.*

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As the use of the latest ASTM standards for amusement devices and the coordination of the VADR with the USBC is a statutory directive, the agency believes this action to be the least burdensome or intrusive method of meeting the essential purpose of the action as well as assuring the least intrusive or costly impact on small businesses.

## Public participation

*Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.*

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The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Kyle Flanders; address: 600 East Main Street, Suite 300, Richmond, VA 23219; telephone number: (804) 371-7150; fax number: (804) 371-7092; email address: sbco@dhcd.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held prior to and following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.