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Document No. 5353

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**OFFICE OF ELEVATORS AND AMUSEMENT RIDES**

Chapter 71

Statutory Authority: 1976 Code Sections 41‑16‑140 and 41‑18‑120

71‑4000. Purpose and Definitions.

71‑4100. Maintenance of On‑Site Information.

71‑4200. Operation Procedures for Amusement Devices; Owners/Operator’s Responsibility.

71‑4300. Operational Testing.

71‑4400. Maintenance Procedures for Amusement Devices.

71‑4450. Miscellaneous Safety Requirements for Amusement Rides.

71‑4500. Insurance Bond, or Other Security.

71‑4600. Permit Required.

71‑4610. Permit Application Requirements.

71‑4700. Fee Schedule.

71‑4800. Qualifications of Approved Special Inspectors.

71‑4910. Procedure for Hearing Contested Notices of Non‑Compliance and Assessments of Penalty.

77‑4920. Procedure for Applications for Variance.

71‑4950. Information to be Made Available to Commissioner.

71‑5000. Purpose and Definitions.

71‑5100. Safety Standards for New Installations.

71‑5200. Safety Standards for Existing Facilities.

71‑5300. Permits and Certificate Required.

71‑5310. Application for Construction Permit, Elevator Registration, and Operating Certificate.

71‑5400. Qualification of Special Instructors.

71‑5500. Inspections.

71‑5550. Accidents and Dangerous Facilities.

71‑5600. Fee Schedules.

71‑5700. Procedure for Hearing Contested Citations and Assessments of Penalty.

71‑5800. Procedure for Application for Variance.

71‑5900. Effective Date.

**Synopsis:**

The South Carolina Department of Labor, Licensing and Regulation, Office of Elevators and Amusement Rides, proposes to amend its regulations, appearing in Chapter 71 of the South Carolina Code of Regulations, following a comprehensive review conducted pursuant to S.C. Code Section 1‑23‑120(J).

A Notice of Drafting was published in the *State Register* on May 24, 2024.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

~~Indicates Matter Stricken~~

Indicates New Matter

**Text:**

ARTICLE 4

Amusement Rides Safety Code

(Statutory Authority: 1976 Code Section 41‑18‑120)

71‑4000. Purpose and Definitions.

1. Chapter 18 of Title 41, S.C. Code of Laws, 1976 (as amended) provides that the ~~Commissioner of Labor~~Director of the Department of Labor, Licensing and Regulation may promulgate regulations to guard against personal injuries in the assembly, disassembly, and use of amusement devices at carnivals, fairs, and amusement parks and to assure to any injured person the possibility of financial recovery for such injuries. It is the purpose of these regulations to set minimum acceptable safety standards for design, construction, operation and inspection of such amusement devices.

2. ~~All definitions found in 41‑18‑40 apply to these regulations~~Definitions.

A. Accepted engineering practice: that which conforms to accepted principles, tests, or standards of nationally recognized technical or scientific authorities.

B. Operator: the person having direct control of the starting, stopping, or speed of an amusement device.

C. NDT: Non‑Destructive Testing: Assorted testing methods used to disclose latent defects during which test the physical or chemical state of the material is not altered.

D. Imminent Danger: A condition which exists due to a mechanical, electrical, structural, design, or other defect which presents an excessive risk of serious injury to passengers, bystanders, operators, or attendants.

E. Operational Tests: Measurements of safety mechanisms which do not come into play during routine operation.

F. Open to the Public: Accessible or available to members of a community or population, irrespective of whether a fee is charged and without regard to the number of days that the device is available for use. It does not include a private club, organization, or institution utilizing a selection and approval process for membership that operates the device exclusively for the use of its members on premises owned or controlled by it. It also does not include a private residence where the device is operated by family members and their guests for non‑business purposes. A club, organization, or institution that offers memberships for less than thirty days is not private.

71‑4100. Maintenance of On‑Site Information.

All owners shall maintain ~~certain~~the following physical information at the site of operation of all amusement devices in South Carolina~~.~~:

A. Name Plate:~~‑~~ A unique identifying name plate in English shall be permanently affixed to each amusement device specifying location of manufacturer by city, state, and country. This name plate shall also have the serial number, device model number, and date of manufacture. In addition, a state ID number tag supplied by the Department shall be permanently affixed to the device.

B. Static and Dynamic Information:~~‑~~ Each owner shall maintain at the site of operation of the amusement device the following information: height, width, diameter, and weight when in a non‑operational state with no passengers and in a fully operational state with passengers.

C. Speed:~~‑~~ When the proper speed is essential to the operation of the device, each owner shall maintain at the site of operation of the amusement device the following information:

(1) Maximum revolutions per minute, or

(2) Maximum feet per second or miles per hour.

D. Direction of Travel:~~‑~~ When the proper direction of travel is essential to the design operation of the device, the manufacturer shall designate the direction of travel, including the reference point for this designation, and the owner will maintain this information at the site of operation of the amusement device.

E. Power Requirements:~~‑~~ Each owner will maintain at the site of operation of the amusement device the following information:

(1) Electrical‑Total electrical power required to operate the ride or device designated in watts, volts, and amperes, including minimum and maximum voltage limits.

(2) Mechanical‑The minimum horsepower necessary to operate the device safely.

F. Passenger Capacity:~~‑~~ Each owner shall maintain at the site of operation of the device the following specifications of the manufacturer:

(1) Maximum total passenger weight; and/or

(2) Maximum number of passengers by carrier unit and device total.

G. Recommended Balance of Passenger Loading or Unloading:~~‑~~ When passenger distribution is essential to the proper operation of the device, the appropriate loading and unloading procedure with respect to weight distribution shall be maintained at the site of operation.

H. Recommended Passenger Restrictions:~~‑~~ Where applicable, any passenger limitations such as, but not limited to height, weight, passenger placement, physical condition, or other appropriate restrictions, shall be maintained in full public view at the site of operation. The operator shall have the right to refuse access to a device to any person where the operator believes that access may jeopardize the safety of the rider or of any other person.

I. Environmental Restrictions:~~‑~~ Specifications for operational restrictions relating to environmental conditions such as, but not limited to wind, rain, corrosive atmosphere, and extreme heat or cold, shall be maintained at the site of operation of the device by the owner.

J. Fastener Schedule:~~‑~~ A manufacturer’s issued schedule for the correct or better grade, torque, and placement of all critical fasteners used in the assembly or erection, or both, of the amusement device shall be maintained by the owner at the site of operation of the device.

K. Numbering:~~‑~~ All passenger‑carrying compartments shall be numbered without duplication.

L. Evacuation:~~‑~~ An emergency evacuation plan shall be maintained at the site of operation of any amusement device where passengers may be more than five feet above the ground.

71‑4200. Operation Procedures for Amusement Devices; Owners/Operator’s Responsibility.

1. Each owner of an amusement device shall read and become familiar with the contents of the manufacturer’s recommended operating instructions. Each owner shall prepare an operating fact sheet. This fact sheet shall be provided to each device operator and attendant of the amusement device. The owner’s fact sheet (on a device‑by‑device basis) shall include but not be limited to:

A. Specific device operation policies and procedures with pertinent information from the manufacturer’s instructions;

B. Description of the device operation;

C. Duties of the specific assigned position of the device operator or attendant;

D. General safety procedures;

E. Additional recommendations of the owner/operator; and

F. Specific emergency procedures in the event of an abnormal condition or an interruption of service.

2. The owner shall provide training and instructions for each operator and attendant of an amusement device. This training shall include, but not be limited to the following~~, where applicable~~:

A. Instructions on device operating procedures;

B. Instructions on specific duties of the assigned position;

C. Instructions on general safety procedures;

D. Instructions on emergency procedures;

E. Demonstration of the physical operation of the device;

F. Supervised observation of the device operator’s physical operation of the device; and

G. Additional instructions deemed necessary by the owner.

3. The owner will enforce compliance with the operating fact sheet and maintain operation within limits described by the information required by 71‑4100.

4. Every amusement device shall be maintained, operated, assembled and disassembled to be free from recognized hazards or defects which may cause serious injury.

71‑4300. Operational Testing.

1. The owner of a device shall use manufacturer’s operational tests, along with maximum intervals for these tests to be performed, to determine whether a safety mechanism is operating within operational limits as recommended by the manufacturer. If manufacturer’s guidelines for operational testing are not available, the owner shall use operational tests based on available guidelines for devices similar in design and function.

2. Non‑Destructive Testing (NDT): NDT shall be performed in conformance with manufacturer’s specifications. In addition, any hidden shaft or structural member in an amusement device may be required to undergo NDT after written notice to the owner is given by the Department. The notice will specify a date by which NDT shall be completed.

3. The owner of a device shall conduct the tests developed under Section 71‑4300 (1) and (2) at regular intervals and shall record the results of operational tests and shall provide the results to the ~~Commissioner~~Director upon request.

71‑4400. Maintenance Procedures for Amusement Devices.

1. Each owner of an amusement device shall read and become familiar with the contents of the manufacturer’s maintenance instructions and specifications. Based on the manufacturer’s recommendations, each owner shall develop and implement a program of maintenance and inspections providing for the duties and responsibilities necessary in the care of each amusement device. This program of maintenance shall include a checklist provided to each person performing the regularly scheduled maintenance on each device. The owner’s checklist (on a device‑by‑device basis) shall include but not be limited to the following:

A. A description of preventive maintenance assignments to be performed with frequency;

B. A description of inspections to be performed with frequency;

C. Special safety instructions, where applicable; and

D. Any additional recommendations of the owner.

2. The owner of the amusement device shall provide training for each person performing the regularly scheduled maintenance on the device, pertaining to their assigned duties. This training shall include, but not be limited to the following:

A. Instructions on inspection and preventive maintenance procedures;

B. Instructions on specific duties of the assigned position;

C. Instructions on general safety procedures;

D. Demonstrations of the physical performance of the assigned regularly scheduled duties and inspections;

E. Supervised observation of the maintenance person’s physical performance of his assigned regularly scheduled duties and inspections; and

F. Additional instructions deemed necessary by the owner.

3. Prior to carrying passengers, the owner shall conduct or cause to be conducted a daily pre‑opening inspection to insure proper operation of the device. Where the manufacturer provides relevant instructions for a daily inspection, the owner may incorporate these instructions into his inspection procedure. Where the manufacturer does not provide such instructions, the owner may incorporate relevant instructions for a daily inspection based on instructions from other amusement devices similar in design and function. The owner shall maintain a record of the daily inspection, signed and dated by the person performing it. These records shall be kept for a period of no less than three (3) years. The inspection program shall include, but not be limited to the following:

A. Inspection of all passenger‑carrying equipment, including restraint equipment and latches;

B. Visual inspection of entrances, exits, stairways, and ramps;

C. Visual inspection of grounds around and/or inside of the device;

D. Functional testing of all communication equipment necessary for the operation of the device;

E. Inspection or testing of all automatic and manual safety equipment, including flotation and tethering equipment where applicable;

F. Inspection or testing of brakes, including service brakes, emergency brakes, parking brakes, and back stops;

G. Visual inspection of any fencing, guarding and barricades;

H. Visual inspection of the device structure;

I. Visual inspection of electrical equipment and wiring;

J. Visual inspection of accessible pins and fasteners;

K. Visual inspection of blocking and shoring; and

L. The device shall be operated for a minimum of two complete operating cycles. A complete cycle shall include operation of all passenger‑carrying equipment.

4. Following any unscheduled cessation of operation necessitated by malfunction, adjustment, environmental conditions, mechanical, electrical, operational or structural modification, the device shall be unloaded and the device, or the specifically affected element, shall be appropriately inspected and operated without passengers to determine that the cause for cessation of operation has been corrected and does not create an operational problem.

5. If an inspector finds that the amusement device presents an imminent danger, he will notify in writing the amusement device operator, owner, and sponsor of the fair or carnival or owner of the land upon which the fair or carnival is located. If the device is not immediately removed from service, the inspector will file a report of the imminent danger with the ~~Commissioner of Labor~~Director. A temporary or permanent restraining order will be sought where appropriate.

6. The owner or lessee of any amusement device which, during the course of its operation, is involved in an accident which results in a serious injury shall report the injury to the Commissioner before the end of the next business day. The report will include the names and addresses of the injured parties, the hospital where treatment was rendered, type of injuries, type of device involved, owner, and any other information pertaining to the events leading up to, the nature of, and the outcome of the accident as well as the status of the device involved in the accident.

7. Any part which has caused, contributed to, or has been damaged during a catastrophic accident shall not be removed from a device or destroyed until inspected by the Department.

71‑4450. Miscellaneous Safety Requirements for Amusement Rides.

1. Electrical Systems~~.~~

A. ~~The following wiring systems are acceptable:~~Electrical systems shall comply with the NFPA 70, the 2020 National Electrical Code, and any later editions, as adopted by the General Assembly.

~~(1) Three Phase System with an equipment grounding conductor grounded at the power source that is not bonded to a neutral conductor (except at the source) and is constructed in accordance with the 1990 National Electrical Code. Compliance with the requirements of any later edition of the National Electrical Code will be accepted by the Director as compliance with the 1990 edition.~~

~~(2) Single Phase System with an equipment grounding conductor grounded at the power source that is not bonded to a neutral conductor (except at the source) and is constructed in accordance with the 1990 National Electrical Code. Compliance with the requirements of any later edition of the National Electrical Code will be accepted by the Director as compliance with the 1990 edition.~~

~~B. Ground fault interruption circuitry must be provided for wiring systems of 240 volts or less, 30 amps or less, for amusement devices in which water is a major medium. Control circuits 50 volts or less are exempt from this requirement. Permanent area lighting not attached to the amusement device or accessible by the public are exempt from this requirement when wired in accordance with the 1990 National Electrical Code. Compliance with the requirements of any later edition of the National Electrical Code will be accepted by the Director as compliance with the 1990 edition.~~

~~C. All electrical equipment and devices are to be guarded against access by unauthorized persons. All cable must be routed to reduce a tripping hazard.~~

~~D~~B. Dark Rides

(1) The track or bus supplying voltage to the individual cars shall be maintained at 50 volts or less potential.

(2) All areas shall have adequate emergency lighting to permit safe exiting in the event of power failure. This lighting must come on automatically in the event of power failure.

(3) All areas shall have lighting controlled by a switch at the operating control station, in addition to emergency lights. This lighting shall be adequate to allow safe exiting.

(4) All exits shall have illuminated exit signs mounted above the exit and wired to automatically be energized in the event of power failure or in the event that the area lighting control switch at the operating station is activated.

~~E~~C. All fluorescent lights shall have sleeving and be secured in place.

~~F~~D. Each electrically operated amusement device shall be provided with a lockable externally operated protected disconnect. This disconnect shall remove all power from the amusement device, and shall be clearly labeled.

2. Structural~~.~~

A. All devices shall be guarded against access by non‑authorized personnel into the area of operation.

B. One AB&C fire extinguisher of at least 10 lb. capacity shall be placed on all generator units of greater than 7.5 kilowatts. One AB&C fire extinguisher of at least 10 lb. capacity shall be provided for all gasoline powered amusement devices with engines greater than 5 HP and all remote fuel storage areas of 10 gallons or more. The fire extinguisher must be readily accessible and in good working order.

C. One AB&C fire extinguisher of at least 5 lb. capacity shall be placed on all generators less than 7.5 kilowatts. One AB&C fire extinguisher of at least 5 lb. capacity shall be provided for all gasoline‑powered amusement devices with engines 5 HP or less and all remote fuel storage areas not exceeding 10 gallons. The fire extinguisher must be readily accessible and in good working order.

D. There shall be a minimum of 6 feet between fences when the fence is attached to a portion of a device containing an electrical device. Where the electrical device is 240 volts or less, 30 amps or less, and equipped with GFI circuitry, the minimum distance need not be maintained. Common fences are acceptable under other conditions.

E. Dark Rides~~—~~: There shall be a minimum of one (1) smoke and fire detector per 500 square foot area and a five (5) lb. ABC fire extinguisher shall be located at all entrances and exits and at any operator station not located directly at an entrance or exit.

F. Blocking Requirements.

(1) The footing, blocking, or anchorage for amusement devices shall be sound, rigid, and capable of carrying the maximum intended load without settling or displacement. Unstable objects such as barrels, boxes, loose brick, or concrete blocks, shall not be used to support amusement devices.

(2) Blocking of an amusement device shall be sized so that the bearing surface of the blocking is equal to or greater than the bearing surface of the support pad of the amusement device.

(3) The height of the blocking shall not exceed the total width of the base of the blocks being used.

G. All amusement devices, generators and power distribution centers must be accessible to emergency vehicles.

H. All amusement devices must maintain a minimum clearance from overhead power lines in compliance with the National Electrical Code, as adopted by the General Assembly.~~a minimum 10’ clearance from any overhead power lines in both the static and dynamic states.~~

I. Internal combustion and electrical power sources, and power transmitting elements, shall be of adequate type, design and capacity to handle the design load.

J. Fuel tanks should be of adequate capacity to permit uninterrupted operation during normal operating hours. Where it is impossible to provide tanks of proper capacity for a complete day, the engine shall be shut down and the amusement device unloaded or evacuated during the refueling procedure. Under no circumstances shall the fuel supply be replenished while the engines are running.

K. An enclosed area in which an internal combustion engine is operated shall be ventilated. Exhaust fumes from the engine shall be discharged outside the area. The equipment shall be properly grounded.

L. Internal combustion power sources shall be located in a manner permitting proper maintenance and shall be protected either by guards, fencing or enclosures.

M. All amusement grounds shall be free from recognized hazards which may cause injury.

3. Ride Operation.

A. The owner shall not allow any device operator under the influence of controlled drugs or alcohol to operate or assist in the operation of the device.

B. When the operator is requested to stop~~requested, the operator must halt~~ a device and allow passengers desiring to disembark to do so, the operator must follow all manufacturer requirements for emergency evacuation procedures.

C. The owner shall have no fewer than one (1) operator per device. Additional assistance may be required as necessary.

D. The owner shall not allow an operator to leave the controls during operation of the device and shall not allow assistants to leave their assigned stations during operation of the device.

E. All buttons and switches on operating control stations shall be properly labeled in English as to their functions, and all emergency stopping devices shall be colored red.

F. All operators must be able to speak and comprehend the English Language sufficiently to communicate with patrons, follow instructions and comprehend the operating fact sheet.

4. Mechanical.

A. An amusement device capable of exceeding its maximum safe operating speed as stated by the manufacturer shall be provided with a speed limiting device.

B. Amusement rides shall continue to meet manufacturing specifications including all safety bulletins.

71‑4475. Additional Rules for Individual Amusement Devices.

1. Chair lifts and Trams shall be designed and maintained per ANSI B77.1 ~~1982~~2022 and all supplements thereto. Compliance with the requirements of any later edition published by the American National Standards Institute shall be accepted by the ~~Commissioner~~Director as compliance with this section.

2. Go ~~C~~Karts.

A. All wheel wells must be enclosed, except for Grand Prix style cars which race individually.

B. All tracks must have a liner rail, except for Grand Prix style cars which race individually.

C. Helmets must be provided for all patrons desiring to use them. Signs shall be posted to notify patrons that helmets are available upon request.

71‑4500. Insurance Bond, or Other Security.

1. Before any permit can be issued, the owner must file with and have accepted by the ~~Commissioner~~Director an approved Certificate of Insurance against liability for injury to persons arising out of the use of an amusement device, to be in an amount not less than that specified by South Carolina Code of Laws, 1976, Title 41, Chapter 18, as amended.

2. Evidence of insurance may be:

A. A policy of insurance procured from one or more insurers acceptable to the Chief Insurance Commissioner of South Carolina as either:

(1) Licensed to transact insurance in South Carolina;

(2) Approved as a non‑admitted surplus lines carrier for risks located in this State;

B. Cash or other security acceptable to the ~~Commissioner~~Director.

3. The ~~Commissioner~~Director shall not accept any policy of insurance unless it shall obligate the insurer to give written notice to the ~~Commissioner~~Director thirty (30) days before any proposed cancellation, suspension or non‑renewal of the policy. ~~The Commissioner shall make available upon request an approved endorsement form.~~

71‑4600. Permit Required.

1. Before beginning operation of any amusement device within South Carolina, the owner shall have posted on the amusement device a valid permit to operate issued by the Commissioner. A permit to operate is valid for a period of one calendar year terminating on December 31 of the year issued.

2. All new amusement devices permitted ~~within South Carolina beginning July 1, 1993,~~ shall meet the requirements of the ~~1992~~2022 edition of ASTM Standards on Amusement Rides and Devices, and the South Carolina Amusement Ride Code and any later editions; or be certified by a licensed architect or professional engineer.

3. A complete set of manuals for assembly, maintenance and operation of the device shall be maintained by the owner. All manuals shall be in English. If manufacturer’s manuals or guidelines are not available, the owner shall use manuals or guidelines for devices similar in design and function.

71‑4610. Permit Application Requirements.

1. Each application for a permit shall be ~~in writing and received by the Commissioner~~ submitted electronically and received by the Director no less than ten (10) days before the first intended date of use.

2. Each permit application shall include the following information:

A. Name of the owner of the amusement device;

B. The address of the owner;

C. The name of the state under whose laws the owner is incorporated (if incorporated);

D. The model number and serial number of the amusement device and name and address of manufacturer;

E. Acceptable evidence of the liability insurance policy, bond, or other security covering the amusement device. The ~~Commissioner~~Director may~~, at his discretion,~~ require submission of the complete copy of insurance; and

F. An ~~notarized~~ inspection report ~~by a special inspector or in the alternative, a request for inspection by the Department~~.

3. In addition, each application for a permit for a temporary device shall include the following information:

A. Planned schedule of appearances in South Carolina, including dates and locations; and

B. Name of sponsor or land owner at each location where use is planned.

4. Owners of temporary amusement devices shall supply the Department with the local phone number on each site of operation~~, before the end of the same business day that the number is assigned by the telephone company, if a telephone is located at such site~~.

71‑4700. Fee Schedule.

1. A. Upon application for a permit with a request for inspection by the South Carolina Department of Labor, Licensing and Regulation, Division of Labor, an annual fee shall be charged at the rate of:

|  |  |  |
| --- | --- | --- |
|  | Kiddie device | $50.00 |
|  | Major/spectacular devices | $100.00 |
|  | Mobile/fixed roller coasters | $250.00 |

B. Fees under 71‑4700 include one permit inspection. Any return inspection resulting from the owner’s failure to comply, will be charged at a rate of $~~75~~150.00 per hour in addition to the annual fee, including travel time.

2. Any application for annual permit which is accompanied by an inspection report by an approved special inspector shall be charged an annual permit fee at the rate of $~~50.00~~150.00 for each device covered by that permit application.

71‑4800. Qualifications of Approved Special Inspectors.

1. A special inspector shall have the following qualifications:

A.(1) At least five (5) years’ experience in amusement device maintenance and safety and completion of approved courses in materials inspection and testing and in fasteners or in the alternative.

(2) A four‑year college degree in engineering or architecture with a minimum of twelve (12) semester hours of course work in the area of mechanics and strength of materials.

B. Evidence of successful completion of an approved Rides Safety Inspection course within the previous two (2) calendar years.

2. Each applicant for approval as a special inspector shall submit with his annual application evidence of insurance against errors and omissions (or approved general liability insurance) covering inspections of amusement rides and devices in an amount of no less than $500,000 per occurrence, procured from one or more insurers licensed to transact insurance in South Carolina or approved as a non‑ admitted surplus lines carrier for risks located in this State. Each policy, by its original terms or an endorsement, shall obligate the insurer that it will not cancel, suspend, or nonrenew the policy without thirty (30) days written notice of the proposed cancellation, suspension, or nonrenewal and a complete report of the reasons for the cancellation, suspension, or nonrenewal being given to the Director of the Department of Labor, Licensing and Regulation. In the event the liability insurance is cancelled, suspended or nonrenewed, the insurer shall give immediate notice to the Director.

3. Each applicant for approval as a special inspector shall submit with his annual application a license fee in the amount of $200.00.

4. Applications for approval as a special inspector shall be made annually on a form to be provided by the Director.

5. Special inspectors shall conduct all follow up, safety related complaint inspections, and abatement inspections as called for by the ~~division~~Director and shall be responsible for submitting all associated paperwork.

6. Special inspectors shall record and report the findings of all inspections conducted pursuant to S.C. Code 41‑18‑10 et seq. ~~on forms supplied by~~in a manner as required by the Department. Special inspectors shall execute and convey ~~the~~inspections ~~form~~ in a manner prescribed by the Department. The Director may suspend or revoke a special inspector’s license for failure to complete the inspection form as prescribed by the Department. The Director may also suspend or revoke a special inspector’s license for any misrepresentation or omission of any material fact related to the inspection. In addition to the foregoing, the director may withhold issuance of an Operating Certificate for failure to complete the inspection form as prescribed by the Department or misrepresentation or omission of any material fact related to the inspection.

7. Any special inspector may have his license revoked or may have a license denied to him who:

A. uses or discloses information gained in the course of or by reason of his official position for any purpose other than making official inspections;

B. receives compensation to influence his inspections;

C. uses a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure as a special inspector;

D. has had a license to practice a regulated profession or occupation including special inspector in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;

E. has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;

F. has intentionally used a fraudulent statement in a document connected with practice as a special inspector;

G. has obtained fees or assisted in obtaining fees under fraudulent circumstances;

H. has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;

I. lacks the professional or ethical competence to practice as a special inspector;

J. has been convicted of or has pled guilty to or nolo contendere to a felony or a crime involving drugs or moral turpitude;

K. has practiced as a special inspector while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice as a special inspector;

L. has sustained a physical or mental disability which renders further practice dangerous to the public;

M. has violated a provision of this article or of a regulation promulgated under this article.

8. Any special inspector whose license has been revoked or to whom a license has been denied may appeal this decision to the Director or his designee within thirty days of receipt of written notice of the decision revoking or denying his license. The Director or his designee will conduct a hearing to review the decision and will issue a written order of decision thereafter.

9. Any person aggrieved by the final action of the Director may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the Director’s decision pending completion of the appellate process.

71‑4910. Procedure for Hearing Contested Notices of Non‑Compliance and Assessments of Penalty.

1. Any owner to whom a Notice of Non‑Compliance or Notice of Proposed Penalty has been issued may serve a Notice of Protest upon the Commissioner within thirty (30) days of the receipt by the owner of the Notice of Non‑Compliance or of the Notice of Proposed Penalty.

2. Notice of Hearing

A. Service: Upon receipt of a Notice of Protest or any Notice of Non‑Compliance by any owner of any amusement device, the Commissioner shall serve notice of a hearing to be held to determine the issues.

B. Contests: The notice of hearing shall include:

(1) Time, place, and nature of the hearing. The time shall be at least thirty (30) days from the service of notice of hearing unless the owner shall ask in writing for a shorter time;

(2) A short statement of the issues involved; and

(3) Designation of the representative of the ~~Commissioner~~Director who shall conduct the hearing as Hearing Examiner.

3. Hearing Procedure

A. The Hearing Examiner will explain briefly the purpose and nature of the hearing, will ascertain who will present the case for each of the parties, and will hear all preliminary matters.

B. All persons who give testimony shall be sworn.

C. A party shall be entitled to present all relevant facts by oral or documentary evidence or by affidavit if the parties so agree.

D. Opposing parties shall have the right to cross‑examine any witness whose testimony is introduced.

E. A business entity which owns an amusement device may be represented at any hearing by an attorney licensed to practice in South Carolina, or by an officer or employee of the entity.

4. Within a reasonable time after the Hearing Examiner has heard all evidence and considered any written briefs or memoranda submitted, he shall make a written recommendation to the ~~Commissioner~~Director. The ~~Commissioner~~Director shall then make his final disposition of the proceedings and shall serve it upon all parties.

5. The ~~Commissione of Labor~~Director shall maintain a record of the proceedings which shall include testimony and exhibits.

71‑4920. ~~Procedure for Applications for Variance.~~

~~1. Any amusement device owner may apply to the Commissioner of Labor for a variance, either temporary or permanent, from any rule or regulation under this article.~~

~~2. Such variance shall be granted at the discretion of the Commissioner if the owner establishes by sufficient evidence that:~~

~~A. He is unable to comply with a rule or regulation because of unavailability of professional or technical personnel or data or of materials and equipment needed to come into compliance with the rule or regulation; and~~

~~B. He is taking effective alternative steps to safeguard the public against the hazard covered by the rule or regulation.~~

~~3. A variance application shall include:~~

~~A. The name and address of the petitioner;~~

~~B. Identifying information concerning the amusement device for which the variance is sought;~~

~~C. A specification of the standard or portion thereof from which the petitioner seeks a variance;~~

~~D. A representative by the petitioner, supported by representations from qualified persons having first‑hand knowledge of the facts represented, that he is unable to comply with the standards or portion thereof and detailed statement of the reasons thereof;~~

~~E. A statement of the steps the petitioner has taken or will take, with specific dates where appropriate, to protect the public against the hazard covered by the standard; and,~~

~~F. Where a temporary variance is sought, a statement of the time required to achieve compliance with the standard, not to exceed two (2) years.~~Repealed.

71‑4950. [Information to be Made Available to ~~Commissioner~~Director.]

The owner shall be responsible for maintaining and making available to the ~~Commissioner~~Director all information required by the Amusement Ride Safety Code and these regulations. This information shall be made available to the ~~Commissioner~~Director upon request.

ARTICLE 5

Safety Standards for Elevator Facilities

71‑5000. Purpose and Definitions.

1. ~~Chapter 16 of Title 41, South Carolina Code of Laws, 1976 (as amended) provides that the Commissioner of Labor~~The Director shall promulgate regulations governing maintenance, construction, alteration, and installation of elevator facilities and the inspection and testing of new and existing elevator installations so as to provide for the public safety and protect the public welfare. It is the purpose of these regulations to set minimum acceptable safety standards for the construction, alteration, maintenance, inspection, testing and operation of elevator facilities in South Carolina.

2. All definitions found in Section 41‑16‑20 apply to these regulations.

A. “Serious injury” means an injury that results in death or which requires immediate in‑patient hospitalization. Fractures and disfigurements are considered serious injuries, even where no hospitalization is required.

B. “Imminent danger” means a condition which exists due to a design, mechanical, structural or electrical defect which presents an excessive risk of serious injury to passengers, operators, or the general public.

71‑5100. Safety Standards for New Installations.

(Statutory Authority: 1976 Code Sections 41‑16‑10 et seq.)

1. All facilities installed after July 1, 1986, shall comply with the officially adopted editions of the ASME A17.1 Elevator Code and all supplements thereto, at the time the permit is issued. In the alternative, manlifts may comply with the ~~1992~~2015 editions of the ANSI A90.1 Safety Standards for Manlifts and all supplements thereto. In the alternative platform and stairway chairlifts may comply with ANSI A18.1 and all supplements thereto. Compliance with any later edition of the required safety codes shall be accepted by the director as compliance with the section.

2. All new facilities shall be free from recognized hazards or defects which may cause serious injury.

3. All safety devices provided by the manufacturer and installed on any new installation shall be maintained so as to operate properly per manufacturer’s specifications or be replaced with equivalent equipment.

4. Miscellaneous Safety Requirements for New Installations:

A. A 17.1, Rule 100.7 is repealed. Substitute Rule 5100‑4 A to read in its entirety‑Hoistway doors shall have floor numbers, not less than four inches in height, located on the hoistway side of the door within the area allowable for opening by the door restrictor.

B. Electrolysis protection for underground hydraulic elevator cylinders. All newly installed underground hydraulic pressure cylinders shall be encased in an outer plastic containment to minimize electrolytic corrosion.

(1) The plastic casing shall be capped at the bottom and all joints must be solvent or heat welded to insure water tightness.

(2) The plastic casing shall be constructed of polyethylene or polyvinyl chloride (PVC). The plastic pipe wall thickness must not be less than .125 inches (3.551mm).

(3) Replacements of existing hydraulic cylinders shall be protected by the aforementioned method where existing physical dimensions permit.

C. The key switches required to operate firefighters’ service on Phase I and II shall use a five pin key, S.C. #1000.

D. A17.1, Rule 106.1(b)(3) is repealed. Sump pumps or drains are not required in elevator pits by these regulations. Where indicated by design consideration, sump pumps or drains shall comply with ANSI A17.1, Rule 106.1(b)(3).

71‑5200. Safety Standards for Existing Facilities.

1. All facilities for which construction or relocation was begun or which were in operation prior to July 1, 1986, in South Carolina shall comply with the requirements of the 1986 edition of the ANSI A17.3, the American National Standard Safety Code for Existing Elevators and Escalators. In the alternative, manlifts may comply with the 1985 edition of the ANSI A90.1 Safety Standards for Manlifts and all supplements thereto; existing power sidewalk elevators may comply with A17.1, 1987 edition, part IV; existing hand and power dumbwaiters may comply with A17.1, 1987 edition, part VII; existing special purpose personnel elevators may comply with A17.1, 1987 edition, part XV; and existing inclined stairway chairlifts and vertical wheel chair lifts may comply with A17.1, 1987 edition, part XX or part V, provided the lift is key operated and a sign is installed stating “for handicap use only”. Compliance with the requirements of any later edition of the required safety codes shall be accepted by the Commissioner as compliance with this section.

2. All existing facilities shall be free from recognized hazards or defects which may cause serious injury.

3. All safety devices provided by the manufacturer and installed on any existing facility shall be maintained so as to operate properly per manufacturer’s specifications, or replaced with equivalent equipment.

4. Miscellaneous Safety Requirements for Existing Facilities.

A. All sumps in pits shall be covered. The cover shall be level with the pit floor.

B. Except where compensating chains or ropes are attached to the counterweight, all counterweights shall be provided with a guard of sufficient size and strength to prevent accidental contact with the counterweight while working in the pit. Where existing clearance does not permit a guard, a warning chain attached to the counterweight would meet this requirement.

C. A permanent lighting fixture shall be provided in all pits, which shall provide an illumination of not less than five (5) footcandles (54 lux) at the pit floor. A light switch shall be located so as to be accessible from the pit access door.

D. Each elevator shall be equipped with switches to interrupt electric power to the elevator driving machine motor and brake. The switches shall be conspicuously marked “Stop” and “Run”.

(1) A switch shall be located so as to be accessible from the entry into the pit. If the pit is deeper than seven (7’) feet there shall be an additional stop switch which is accessible from the pit floor.

(2) A switch shall be located so as to be accessible from the door to all auxiliary machinery spaces.

E. Escalators shall be equipped with a stop switch located so as to be accessible from the point of access into the machinery space. When opened, this switch shall cause the electric power to be removed from the escalator driving machine motor and brake. The switch shall be conspicuously and permanently marked “Stop” and “Run”. No additional stop switch is required when the main disconnect switch is in the machinery space.

F. All ladders in pits shall be mounted adjacent to the side of the door where the unlocking device is located unless clearances prevent this.

G. All light fixtures shall be guarded and maintained in a fully operational condition.

H. Counterweight runby shall not be less than the setting of the top final limit plus two (2) inches,

I. Emergency signaling devices for facilities in unattended buildings shall have a minimum sound rating of 80 db measured ten (10) feet from the device.

J. [Deleted].

K. Car gates, when fully closed, shall extend from the car floor to a height of not less than six (6) feet, where existing overhead clearances permit.

L. All passenger elevators shall be equipped with a standby power source capable of operating emergency lighting and the alarm bell for a period of at least four (4) hours in the event the normal power source fails. No less than two (2) lamps shall be used for emergency lighting.

M. A17.3, Rule 3.11.3 is repealed. Substitute Rule 5200 4 M to read in its entirety:

(1) All automatic (non‑designated attendant) operation elevators having a travel of fifty‑four (54) feet from the lowest point of entry to the building shall conform to the requirements of ANSI/ASME A17.1, 1987 edition, Rules 211.3 through 211.8.

(2) All elevators having car switch operation or constant pressure operation or manual door opening and closing or nuclear facilities employing high radiation are not required to install Firemans Service.

(3) All existing installations shall have a conspicuous sign installed at each landing immediately adjacent to the push button station to inform the public that in a fire emergency they should not use the elevator but should use the exit stairs.

N. A17.3, Rule 2.7.4 is repealed. Substitute Rule 5200 4 N to read in its entirety: All passenger elevators installed within dormitories, apartment building, motels, hotels, and schools shall comply with the following:

(1) When a car is outside the unlocking zone, the hoistway doors or car doors shall be so arranged that the hoistway doors or car doors cannot be opened more than four (4) inches (102mm) from inside the car.

(2) When the car doors are so arranged that they cannot be opened when the car is outside the unlocking zone, the car doors shall be able to open from outside the car without the use of special tools.

(3) The unlocking zone shall extend from the landing floor level to a point no greater than eighteen (18) inches (457mm) above or below the landing floor level.

O. The owner of an existing facility whose car enclosure is being altered with materials or design different from the original must obtain an alteration permit from the department. At the completion of the alteration, an appropriate test for rated speed and rated load must be performed.

P. All existing passenger elevators equipped with door restrictors shall be provided with floor numbers conforming to the requirements of 71‑5100‑4‑B.

Q. The owner of every facility shall have available on the premises any keys needed for access to machinery spaces and operation of the facility.

71‑5300. Permits and Certificate Required.

1. Construction Permits:

A person, firm or corporation shall not erect, construct, alter or install after July 1, 1986, any facility without first obtaining from the ~~Commissioner~~Director a construction permit for such work.

2. Registration and Operating Certificate:

A person, firm, or corporation shall not operate any facility serving any building or structure without a certificate of registration and an operating certificate issued by the ~~Commissioner of Labor~~Director.

71‑5310. Application for Construction Permit, Elevator Registration, and Operating Certificate.

1. Each application for a construction permit for new installation, alteration, or relocation shall be made ~~on a form provided~~ in a manner as required by the ~~Commissioner~~Director and shall include three (3) copies of:

A. Detailed plans including:

(1) Sectional plan of car and hoistway;

(2) Sectional plan of machine room;

(3) Sectional elevation of hoistway and machine room, including the pit, bottom and top clearance of car, and counterweight;

(4) Size and weight of guide rails, and guide rail bracket spacing.

B. Name and address of the person who designed the installation for which plans are submitted; and

C. Statement of Contract Price.

2. Each application for a facility registration shall be made ~~on a form provided~~ in a manner as required by the ~~Commissioner~~Director and shall include the following for each facility:

A. Name and address of the owner;

B. Location;

C. Manufacturer;

D. Model or Type;

E. Contract load and speed;

F. Purpose or use;

G. Date of installation; and

H. Number of floors.

~~3. If an owner of a registered facility desires the Department to perform the annual inspection necessary to obtain an operating certificate, no further application for inspection by the Department to obtain an operating certificate is necessary.~~

~~4. If an owner desires a special inspector to perform the annual inspection necessary to obtain an operating certificate, the owner shall notify the Department of his intention in writing no less than ninety (90) days prior to the expiration date of the existing operating certificate. The notification must contain the following information:~~

~~A. Date;~~

~~B. Elevator number and location;~~

~~C. Date of Last inspection;~~

~~D. Special inspector name and I.D. number;~~

~~E. Owner name;~~

~~F. Name, signature and title of the individual requesting the special inspector.~~

~~Upon request, the Department will provide a form for the owner to submit the above information. This form will be provided free of charge.~~

~~After the initial request for use of a special inspector has been made, the licensed special inspector may, in the alternative to further individual annual requests for special inspection, file during the month of January a list of all facilities for which he has inspection contracts for the calendar year. This list shall include:~~

~~A. Elevator number and location;~~

~~B. Owner’s name and name and title of individual contracting with special inspector;~~

~~C. Date of last inspection.~~

~~In the event a special inspector’s contract is cancelled by the owner, the special inspector shall notify the department, in writing, within 30 days. A report of an inspection made not more than thirty (30) days prior to the expiration date of the existing operating certificate must be filed with the Department. The inspection report must be on a form provided by the Department and be received by the Department no later than the expiration date of the existing operating certificate. Where the owner fails to submit a timely notice of inspection by a special inspector or report of inspection, the Department will inspect according to 71‑5310 Section 3, whether the request for special inspection was made under paragraph 1 or 2 above.~~

71‑5400. Qualification of Special Inspectors.

1. Any applicant for a license as a special inspector shall present evidence of all qualifications as stated in the ~~1984~~2018 edition of QEI‑1, The American National Standard for Qualification of Elevator Inspectors, and ~~supplements~~any later editions thereto as adopted by the American National Standards Institute. Submission of a copy of a valid Inspector’s Certificate issued by any authority accredited by the American Society of Mechanical Engineers shall be evidence that the applicant has all required qualifications.

2. Each applicant for approval as a special inspector shall submit with his annual application evidence of insurance against errors and omissions (or approved general liability insurance) covering inspections of elevators in an amount of no less than $500,000 per occurrence, procured from one or more insurers licensed to transact insurance in South Carolina or approved as a non‑admitted surplus lines carrier for risks located in this State. Each policy, by its original terms or an endorsement, shall obligate the insurer that it will not cancel, suspend, or nonrenew the policy without thirty (30) days written notice of the proposed cancellation, suspension, or nonrenewal and a complete report of the reasons for the cancellation, suspension, or nonrenewal being given to the Commissioner. In the event the liability insurance is cancelled, suspended or nonrenewed, the insurer shall give immediate notice to the Commissioner.

3. Special inspectors shall conduct all follow‑up, safety related complaints, and abatement inspections as called for by the ~~division~~Department and shall be responsible for submitting all associated paperwork.

4. Special Inspectors shall record and report the findings of all inspections conducted pursuant to S.C. Code 41‑16‑10 et seq. ~~on forms supplied~~in a manner required by the Department. ~~Special inspectors shall execute and convey the form in a manner prescribed by the Department.~~ The Director may suspend or revoke a special inspector’s license for failure to complete the inspection form as prescribed by the Department. The Director may also suspend or revoke a special inspector’s license for any misrepresentation or omission of any material fact related to the inspection. In addition to the foregoing, the Director may withhold issuance of an Operating Certificate for failure to complete the inspection form as prescribed by the Department or misrepresentation or omission of any material fact related to the inspection.

5. Any special inspector may have his license revoked or may have a license denied to him who:

A. uses or discloses information gained in the course of or by reason of his official position for any purpose other than making official inspections;

B. receives compensation to influence his inspections;

C. uses a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure as a special inspector;

D. has had a license to practice a regulated profession or occupation including special inspector in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;

E. has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;

F. has intentionally used a fraudulent statement in a document connected with practice as a special inspector;

G. has obtained fees or assisted in obtaining fees under fraudulent circumstances;

H. has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;

I. lacks the professional or ethical competence to practice as a special inspector.

J. has been convicted of or has pled guilty to or nolo contendere to a felony or a crime involving drugs or moral turpitude;

K. has practiced as a special inspector while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice as a special inspector;

L. has sustained a physical or mental disability which renders further practice dangerous to the public;

M. has violated a provision of this article or of a regulation promulgated under this article.

6. Any special inspector whose license has been revoked or to whom a license has been denied may appeal this decision to the Commissioner or his designee within thirty days of receipt of written notice of the decision revoking or denying his license. The Commissioner or his designee will conduct a hearing to review the decision and will issue a written order of decision thereafter.

7. Any person aggrieved by the final action of the Commissioner may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the Commissioner’s decision pending completion of the appellate process.

71‑5500. Inspections.

1. All components, devices, and equipment, structures and other related items for facilities shall be inspected upon initial installation or registration, or at the time of alteration or repair prior to issuing an operating certificate and a minimum of one (1) time per year thereafter, prior to renewing an operating certificate.

Exceptions:

a) All nuclear facilities employing high radiation shall be inspected at least once every two (2) years or before use by workers during routine plant shutdown. Such inspections may be scheduled to coincide with routine plant shutdown.

b) Dumbwaiters shall be inspected each time they are installed or altered.

c) Handicap lifts shall be inspected every five (5) years.

d) Manlifts, television tower elevators and special purpose elevators shall be inspected every seven (7) years.

2. Nothing in this section shall be construed to prevent inspections by the State Engineer, the State Fire Marshal, a representative of the South Carolina Board for Barrier Free Design and/or Local Building Officials, within their respective jurisdictions of the facilities, equipment, components, shafts, lobbies and equipment rooms for compliance with any approved codes or standards not part of these rules and regulations.

3. An operating certificate shall be displayed in a conspicuous location within each elevator car, or on a permanent object adjacent to all other types of facilities. In the alternative, a facsimile copy of the original operating certificate may be posted within each elevator car or on a permanent object adjacent to all other types of facilities.

~~4. Expiration dates within a building may be standardized by pro‑rating inspection dates and fees.~~

~~5~~4. An owner who desires to operate a new elevator facility on a temporary basis pending completion of a project may apply for a temporary operating certificate. A temporary operating certificate, good for sixty (60) days, will be granted where:

A. the facility is not available for public use;

B. the facility is operated by a qualified operator;

C. the facility complies with all requirements of the ANSI A17.1 and SBC and NEC except:

(1) Smoke detectors

(2) Fire Service

(3) Finished floor in car

(4) Photo eyes

(5) Telephone

(6) Shunt trip disconnect for sprinklers

71‑5550. Accidents and Dangerous Facilities.

1. ~~When an accident occurs involving a covered facility and an employee(s) of the owner or lessee, the owner or lessee shall report the accident. according to the applicable Occupational Safety and Health regulations, South Carolina Rules and Regulations, Chapter 71, Article 1, Subarticle 3.~~ The owner or lessee of any facility which, during the course of its operation, is involved in an accident which results in a serious injury to any person other than an employee shall report the injury to the ~~Commissioner~~Director before the end of the next working day.

The report will include the names and addresses of the injured parties, the hospital where treatment was rendered, type of injuries, type of device involved owner, and any other information pertaining to the events leading up to the nature of and the outcome of the accident, as well as the status of the device involved in the accident.

2. If the inspector finds that a facility presents an imminent danger, he will notify in writing the facility operator, owner or lessee. If the facility is not immediately removed from service, the inspector will file a report of the imminent danger with the ~~Commissioner of Labor~~Director. A temporary or permanent restraining order will be sought where appropriate.

71‑5600. Fee Schedules.

1. Construction Permits

A. The fee for a construction permit shall include the fee for registration and the first annual operating certificate of a facility.

|  |  |  |
| --- | --- | --- |
|  | Contract Price/Per Facility | Fee |
|  | $1 ‑ $ 10,000 | $250.00 |
|  | $ 10,001 ‑ $ 30,000 | $295.00 |
|  | $ 30,001 ‑ $ 50,000 | $345.00 |
|  | $ 50,001 ‑ $ 80,000 | $390.00 |
|  | $ 80,001 ‑ $ 100,000 | $410.00 |
|  | $100,001 ‑ $200,000 | $460.00 |
|  | $200,001 ‑ and up | $510.00 |

B. Fees under 71‑5600 include one turn‑over inspection. Any return turn‑over inspection, for failing to comply, will be charged at a rate of $~~75.00~~150.00 per hour including travel time.

C. A fee of $250.00 will be charged upon issuance of a temporary certificate, good for a period of no more than sixty (60) days. At the end of sixty (60) days the owner may a) apply for a renewal of a temporary certificate with a fee of $250.00; b) have the elevator ready for a complete turnover inspection; or c) remove the elevator from service.

2. Operating Certificate:

A.(1) The fee for an annual operating certificate, after registration, whether initial or renewal, with inspection by the South Carolina Department of Labor, Licensing and Regulation shall be as follows:

|  |  |  |
| --- | --- | --- |
|  | Number of Floors | Fee |
|  | 2 to 5 | $125.00 |
|  | 6 to 12 | $150.00 |
|  | 13 and above | $175.00 |

(2) The fee for an operating certificate, after registration whether initial or renewal, with inspection by the South Carolina Department of Labor, Licensing and Regulation shall be as follows:

|  |  |  |
| --- | --- | --- |
|  | Type of Elevator | Fee |
|  | Handicap lifts | $75.00 every five years |
|  | Manlifts | $200.00 every seven years |
|  | Television tower | $300.00 every seven years |

Special Purpose Personnel Elevators:

|  |  |  |
| --- | --- | --- |
|  | 2‑5 floors | $125.00 every seven years |
|  | 6‑12 floors | $150.00 every seven years |
|  | 13 and above floors | $175.00 every seven years |

B. The fee for an annual operating certificate, after registration, whether initial or renewal, upon report of a special inspection shall be $~~50.00~~150.00 per facility.

C. The fee for a reinspection due to failure to make timely corrections of all deficiencies noted in an annual inspection report will be $~~75.00~~150.00 per hour of inspection time, including travel time.

3. License for Special Inspector:

A. The fee for an annual license as a special inspector shall be $200.00.

71‑5700. Procedure for Hearing Contested Citations and Assessments of Penalty.

1. Any owner aggrieved by any action taken pursuant to these rules may file a Notice of Protest within thirty (30) days of the date of the action protested.

2. Notice of Hearing.

A. Service: Upon receipt of a Notice of Protest by any owner of any facility, the ~~Commissioner~~Director shall serve notice of the time, place, and nature of a hearing to be held to determine the issues.

B. Contests: The Notice of Hearing shall include:

(1) Time, place, and nature of the hearing. The time shall be at least thirty (30) days from the service of Notice of Hearing unless the owner shall ask in writing for a shorter time;

(2) A short statement of the issues involved; and

(3) Designation of the representative of the ~~Commissioner~~Director who shall conduct the hearing as Hearing Examiner.

3. Hearing Procedures.

A.(1) The Hearing Examiner will explain briefly the purpose and nature of the hearing, will ascertain who will present the case for each of the parties, and will hear all preliminary matters.

(2) All persons who give testimony shall be sworn.

(3) A party shall be entitled to present all relevant facts by oral or documentary evidence or by affidavit if the parties so agree.

(4) Opposing parties shall have the right to cross‑examine any witness whose testimony is introduced.

(5) In all proceedings commenced by the filing of a Notice of Protest, the burden of proof shall rest with the Department ~~of Labor~~.

(6) A business entity which owns a facility may be represented at any hearing by an attorney licensed to practice in South Carolina, or by an officer or employee of the entity. Where the owner contracts with a property manager whose regular duties include management of the licensed facility, an officer or employee of the property manager may represent the owner.

B. Within a reasonable time after the Hearing Examiner has heard all evidence and considered any written briefs or memoranda submitted, he shall make a written recommendation to the ~~Commissioner~~Director. The ~~Commissioner~~Director shall then make his final disposition of the proceedings and shall serve it upon all parties.

C. The ~~Commissioner~~Director shall maintain a record of the proceedings which shall include testimony and exhibits.

71‑5800. Procedure for Application for Variance.

1. Any owner of any facility may apply to the ~~Commissioner of Labor~~Director for a variance, either temporary or permanent, from any rule or regulation under this article.

2. Such variance shall be granted at the discretion of the ~~Commissioner~~Director if the owner establishes by sufficient evidence that:

A. ~~He is unable to comply with a rule or regulation because of unavailability of p~~Professional or technical personnel or data or of materials, design or equipment ~~needed to come into compliance with the rule or regulation~~are unavailable; and

B. ~~He is taking a~~Alternative steps are being taken to safeguard against the hazard covered by the rule or regulation.

3. A variance application shall include:

A. The name and address of the petitioner;

B. Identifying information concerning the facility for which the variance is sought;

C. A specification of the standard or portion thereof from which the petitioner seeks a variance;

D. A representation by the petitioner, supported by statements from qualified persons having first‑hand knowledge of the facts represented, that he is unable to comply with the standards or portion thereof and detailed statement of the reasons thereof;

E. A statement of the steps the petitioner has taken or will take, with specific dates where appropriate, to protect against the hazard addressed by the standard; and,

F. Where a temporary variance is sought, a statement of the time required to achieve compliance with the standard, not to exceed two (2) years.

71‑5900. Effective Date.

The effective date of these regulations shall be July 1, 1986.

**Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Rationale:**

The updated regulations will among other things: update language reflecting the current structure of the Office; update references to codes applicable to the programs; delete obsolete language; update language regarding forms; incorporate references to amusement ride manufacturer requirements; amend fees; and correct punctuation.