



COMMONWEALTH of VIRGINIA

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TO: District Health Directors
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AUTHORITY: Title 35.1 of the Code of Virginia; *Sanitary Regulations for Hotels*, 12VAC5-431 *et seq.* (Regulations)

SUBJECT: Residential-Style Rentals

PURPOSE: To provide guidance regarding regulation of residential-style rentals, including room and whole-house or apartment rentals sometimes reserved through websites or property management agencies.

The Code of Virginia provides the Virginia Department of Health (VDH) authority to regulate hotels in order to prevent threats to public health. Code of Virginia § 35.1-1 (Definitions.) defines “hotel” as:

any place offering to the public for compensation transitory lodging or sleeping accommodations, overnight or otherwise, including but not limited to facilities known by varying nomenclatures or designations as hotels, motels, travel lodges, tourist homes, or hostels.

In 2017, Code of Virginia § 15.2-983 was amended by SB1578; the amended statute allows local governments to require operators of short-term rentals to register with the local government. However, the statute provides that the locality cannot require registration of entities that are licensed by VDH for purposes of providing space or room for lodging.

The Regulations, at 12VAC5-431-10, define what constitutes a “hotel” under the Regulations as follows:

“Hotel” means any establishment offering to the public for compensation transitory lodging or sleeping accommodations, overnight or otherwise, including but not limited to, facilities known by varying nomenclatures or designations as hotels, motels, travel lodges, tourist homes, or hostels and similar facilities by whatever name called that consist of two or more lodging units.

12VAC5-421-10 of the Regulations also defines “bed and breakfast facility,” and the Regulations provide regulatory language that is applicable to such bed and breakfast facilities.

“Bed and breakfast facility” means a residential-type establishment that provides two or more rental accommodations and food service on any single day to a maximum of 18 transient guests for a period of five or more days in any calendar year or any residential type of facility providing at least one rental accommodation for transient guests and food service for a total of 30 or more days in any calendar year.

Policy. The Regulations require that a “hotel” be permitted, and they prescribe the standards under which all hotels must be permitted and inspected. The Regulations provide direction for the scope of residential-style rentals falling under VDH regulation by defining the term “bed and breakfast” and providing standards for bed and breakfast facilities. Bed and breakfast facilities are defined by the provision of food service and detailed thresholds for minimum number of stays in a calendar year in relation to the number of accommodations offered. The Regulations do not contemplate or direct VDH to regulate residential-style rentals that are not bed and breakfast facilities.

Procedure. VDH regulates residential-style rentals only if operation meets the conditions described by the definition of a bed and breakfast facility. In the context of interpreting the regulatory definition of a bed and breakfast facility, provision of commercially prepared non-TCS (i.e., Time-Temperature Control for Safety), or whole, uncut produce shall not constitute food service.