

Virginia Administrative Code
Title 12. Health
Agency 5. Department of Health
Chapter 431. Sanitary Regulations for Hotels

12VAC5-431-10. Definitions.

Part I. Definitions and General Provisions

The following words and terms when used in these regulations shall have the following meanings, unless the context clearly indicates otherwise:

"Agent" means a legally authorized representative for the owner.

"Approved water supply" means a waterworks that has a valid waterworks operation permit from the department or a water supply that is evaluated for compliance with the Private Well Regulations ([12VAC5-630](#)), tested, and if found in reasonable compliance with the applicable standards, accepted and approved by the commissioner or the commissioner's designee.

"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.

"Commissioner" means the state health commissioner or his designee who has been delegated powers in accordance with subdivision 2 of [12VAC5-431-40](#).

"Department" means the Virginia Department of Health.

"Director" means the local health director or his subordinate who has been delegated powers in accordance with subdivision 2 of [12VAC5-431-40](#).

"District health department" means a consolidation of local health departments as authorized in § [32.1-31](#) C of the Code of Virginia.

"Division" means the Division of Food and Environmental Services of the Virginia Department of Health.

"Employees" means and includes all maids, porters, and any other persons whose duties include the cleaning of rooms, toilets, or any part of the building, or the rendering of service to guests.

"Hot water" has the meaning as defined by the Virginia Uniform Statewide Building Code.

"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.

"Local health department" means the department established in each city and county in accordance with § [32.1-30](#) of the Code of Virginia.

"Lodging unit" means any room that is established and maintained for use as a sleeping area for temporary occupancy.

"Office" means the Office of Environmental Health Services of the Virginia Department of Health.

"Operator" means any person who is responsible for the daily operation of a hotel.

"Owner" means any person who owns, leases, or proposes to own or lease a hotel.

"Permit" means a license to operate a hotel.

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Person in charge" means the individual present at a hotel who is responsible for the operation at the time of inspection.

"Sanitary survey" means an investigation or inspection of any condition that may affect public health.

"Sewage" means water-carried and nonwater-carried human excrement and kitchen, laundry, shower, bath, or lavatory wastes separately or together with such underground, surface, storm and other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"Sewage disposal system" means a sewerage system or treatment works designed not to result in a point source discharge.

"Sewer" means any sanitary or combined sewer used to convey sewage or municipal or industrial wastes.

"Sewerage system" means pipelines or conduits, pumping stations and force mains and all other construction, devices and appliances appurtenant thereto used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.

"Single-service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, wooden chopsticks, toothpicks and similar articles intended for one-time, one-person use and then discarded.

"Swimming pool" means any structure, basin chamber, or tank, located either indoors or outdoors, containing an artificial body of water intended to be used for swimming, wading, diving or recreational bathing, including spas and hot tubs, and having a water depth of 24 inches or more at any point.

"Transient" means any individual who occupies a lodging unit in a hotel.

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not

limited to pumping, power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for the ultimate disposal of residues or effluents resulting from such treatment.

"Variance" means a conditional waiver to a specific regulation granted by the commissioner pursuant to [12VAC5-431-100](#) to a specific owner relating to a specific situation or facility and may be for a specified time period.

"Virginia Uniform Statewide Building Code" means [13VAC5-61](#) of the Virginia Administrative Code.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-20. Purpose of Regulations.

These regulations have been promulgated by the State Board of Health to specify the following requirements to protect public health:

1. Criteria for assuring the safe preparation, handling, protection or temperature control for food;
2. Criteria for maintaining physical plant sanitation;
3. Criteria for the storage and cleansing of linens and towels;
4. Criteria for general housekeeping and maintenance;
5. Requirements for approved water and sewage disposal systems;
6. Criteria for vector and pest control;
7. Criteria for ice machines and dispensers of perishable food items; and
8. Procedure for obtaining a license.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-30. Applicability of Other Virginia Regulations to Hotels.

A. The following Virginia regulations shall be applicable to hotels:

1. Food Regulations ([12VAC5-421](#)).
2. Sewage Handling and Disposal Regulations ([12VAC5-610](#)).

3. Waterworks Regulations ([12VAC5-590](#)).
4. Sewerage Regulations ([12VAC5-580](#)).
5. Private Well Regulations ([12VAC5-630](#)).
6. Regulations Governing Tourist Establishment Swimming Pools and Other Public Pools ([12VAC5-460](#)).
7. Swimming Pool Regulations Governing the Posting of Water Quality Test Results ([12VAC5-462](#)).

B. These regulations are in addition to the requirements of the Virginia Uniform Statewide Building Code ([13VAC5-61](#)).

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-40. Administration of Regulations.

These regulations are administered by the following:

1. State Board of Health. The State Board of Health has the responsibility to promulgate, amend and repeal regulations necessary to protect the public health.
2. State Health Commissioner. The State Health Commissioner is the chief executive officer of the State Department of Health. The commissioner has the authority to act for the board when it is not in session (See § [32.1-20](#) of the Code of Virginia). The commissioner may delegate his powers under these regulations in writing to any subordinate.
3. State Department of Health. The State Department of Health is designated as the primary agent of the board for the purpose of administering these regulations.
4. District or local health department. The district or local health department is responsible for implementing and enforcing the regulatory activities required by these regulations.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-50. Right of Entry and Inspections.

In accordance with the provisions of § [35.1-5](#) of the Code of Virginia, the commissioner or his designee shall have the right to enter any property to ensure compliance with these regulations.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-60. Applicability of Administrative Process Act.

Part II. Procedural Regulations

The provisions of the Virginia Administrative Process Act (§ [2.2-4000](#) et seq. of the Code of Virginia) shall govern the procedures for rendering all case decisions.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-70. Emergency Orders.

The commissioner may, pursuant to § [32.1-13](#) of the Code of Virginia, issue emergency orders that are necessary to preserve the public health, safety, welfare and environment. Emergency orders arising out of matters governed by these regulations shall state the reasons and factual basis upon which the emergency order is issued. The emergency order shall state the time period for which it is effective.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-80. Enforcement of Regulations.

A. Notice. Whenever the commissioner has reason to believe that a violation of Titles 32.1 or 35.1 of the Code of Virginia or any provisions of these regulations has occurred or is occurring, the district or local health department shall so notify the alleged violator. Such notice shall: (i) be in writing, with a request to the owner to respond by providing any pertinent information relating to the issue; (ii) cite the statute, regulation or regulations that are allegedly being violated; and (iii) state the facts which form the basis for believing that the violation has occurred or is occurring. Such notification is not an official finding or case decision nor an adjudication, but may be accompanied by a request that certain corrective action be taken.

B. Orders. Pursuant to the authority granted in §§ [32.1-26](#) and [35.1-6](#) of the Code of Virginia, the commissioner may issue orders to require any owner or other person to comply with the

provisions of these regulations. The order may require the following:

1. The immediate cessation and correction of the violation;
2. Appropriate remedial action to ensure that the violation does not continue or recur;
3. The submission of a plan to prevent future violations;
4. The submission of an application for a variance; and
5. Any other corrective action deemed necessary for proper compliance with the regulations.

C. Hearing before the issuance of an order. Before the issuance of an order, the commissioner must comply with the requirements of § [35.1-6](#) of the Code of Virginia.

D. When order effective. All orders issued pursuant to this section shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of the owner or person violating these regulations or the address provided by the applicant on his application to operate a hotel. Violation of an order is a Class 3 misdemeanor. See § [35.1-7](#) of the Code of Virginia.

E. Compliance. The commissioner may act as the agent of the board to enforce all effective orders and these regulations. Should any person fail to comply with any effective order or these regulations, the commissioner may do any or all of the following:

1. Institute a proceeding to revoke the owner's permit in accordance with [12VAC5-431-320](#) ;
2. Request the attorney for the Commonwealth to bring a criminal action; or
3. Request the Attorney General to bring an action for civil penalty, injunction, or other appropriate remedy.

F. Not exclusive means of enforcement. Nothing contained in [12VAC5-431-70](#) or this section shall be interpreted to require the commissioner to issue an order prior to seeking enforcement of any regulation or statute through an injunction, mandamus or criminal prosecution.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#) , eff. March 1, 2002.

12VAC5-431-90. Suspension of Regulations During Disasters.

If in the case of a man-made or natural disaster, the commissioner finds that certain regulations cannot be complied with and that the public health is better served by not fully complying with these regulations, he may authorize the suspension of the application of the regulations for specifically affected localities and institute a provisional regulatory plan until

the disaster is abated.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-100. Variances.

A. The commissioner may grant a variance to these regulations by following the appropriate procedures set forth in this section.

B. Requirements for a variance. The commissioner may grant a variance if he finds that the hardship imposed, which may be economic, outweighs the benefits that may be received by the public and that granting such a variance does not subject the public to unreasonable health risks or environmental pollution.

C. Application for a variance. Any owner who seeks a variance shall apply in writing to the local health department. All requests for variances must be made in writing and received by the local health department prior to denial of the hotel permit or within 30 days after such denial. The application for a variance shall include:

1. A citation to the regulation from which a variance is requested;
2. The nature and duration of the variance requested;
3. Any relevant analytical data including result of relevant tests conducted pursuant to the requirements of these regulations;
4. Statements or evidence that establishes that the public health, welfare and environment would not be adversely affected if the variance were granted;
5. Suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare;
6. Other information believed pertinent by the applicant; and
7. Such other information as the district or local health department or commissioner may require.

D. Evaluation of a variance application. The commissioner shall act on any variance request submitted pursuant to subsection C of this section within 60 days of receipt of the request. In evaluating a variance application, the commissioner shall consider such factors as the following:

1. The effect that such a variance would have on the operation of the hotel;
2. The cost and other economic considerations imposed by this requirement;
3. The effect that such a variance would have on protection of the public health, safety,

welfare and the environment; and

4. Such other factors as the commissioner may deem appropriate.

E. Disposition of a variance request. The commissioner may grant, modify or deny a variance request.

1. If the commissioner denies a variance request, he shall provide the owner an opportunity to an informal hearing as defined by § [2.2-4019](#) of the Code of Virginia. Following this opportunity for an informal hearing, the commissioner may reject any application for a variance by sending a rejection notice to the applicant. The rejection notice shall be in writing and shall state the reasons for the rejection. A rejection notice constitutes a case decision.

2. If the commissioner proposes to grant a variance request, the applicant shall be notified in writing of this decision. Such notice shall identify the variance and the hotel involved and shall specify the period of time for which the variance will be effective. Such notice shall provide that the variance will be terminated when the hotel comes into compliance with the applicable regulation and may be terminated upon a finding by the commissioner that the hotel has failed to comply with any requirements or schedules issued in conjunction with the variance. The effective date of the variance shall be as noted in the variance letter.

3. All variances granted to any hotel may be transferable unless otherwise stated. Each variance shall be attached to the permit to which it is granted. Each variance is revoked when the permit to which it is attached is revoked.

4. No owner may challenge the terms or conditions of a variance after 30 calendar days have elapsed from the receipt of the variance.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-110. Hearing Types.

Hearings before the commissioner or his designee shall include any of the following forms depending on the nature of the controversy and the interests of the parties involved:

1. Informal hearings. An informal hearing is a meeting with an employee or director of the district or local health department held in conformance with § [2.2-4019](#) of the Code of Virginia.

2. Adjudicatory hearing. An adjudicatory hearing is a formal, public adjudicatory proceeding before the commissioner or a designated hearing officer held in conformance with § [2.2-4020](#) of the Code of Virginia.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#) , eff. March 1, 2002.

12VAC5-431-120. Request for Hearing.

A request for an informal hearing shall be made by sending the request in writing to the district or local health department in the locality where the hotel is located. Requests for hearings shall cite the reason or reasons for the hearing request and the section or sections of these regulations involved and must be received within 30 days of the decision by the district or local health department that led to the hearing request.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#) , eff. March 1, 2002.

12VAC5-431-130. Hearing As a Matter of Right.

Any person or named party whose rights, duties, or privileges have been or may be affected by any case decision made in the administration of these regulations shall have a right to both informal and adjudicatory hearings. The commissioner may require participation in an informal hearing before granting the request for a full adjudicatory hearing. EXCEPTION: No person other than an owner shall have the right to an adjudicatory hearing to challenge the issuance of a permit to operate unless the person can demonstrate at an informal hearing that the minimum standards contained in these regulations have not been applied and that he will be injured in some manner by the issuance of the permit.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#) , eff. March 1, 2002.

12VAC5-431-140. Appeals.

A. Any appeal from a denial of a permit to operate a hotel must be made in writing and received by the local health department within 30 days of the date the denial letter was received.

B. Any request for hearing on the denial of an application for a variance pursuant to [12VAC5-431-200](#) E 1 must be made in writing and received within 30 days of receipt of the denial notice.

C. Pursuant to the Administrative Process Act (§ [2.2-4000](#) et seq. of the Code of Virginia), an aggrieved owner may appeal a final decision of the commissioner to the appropriate circuit court.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-150. Grandfather Clause.

Permits granted to hotels prior to March 1, 2002, shall remain valid until ownership changes or unless conditions at the hotel change in a manner that would adversely affect the public health, safety, welfare, or environment. Necessary alterations, modifications or repairs to a hotel shall not be grandfathered and shall comply with the version of the Virginia Uniform Statewide Building Codes in effect at the time the changes are made.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-160. Submission of Plans, Specifications and Other Data.

Whenever a hotel is constructed or remodeled or whenever an existing structure is converted to use as a hotel, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the director for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall detail such items as the layout of the hotel, plans for proposed buildings and structures, the proposed water source and distribution system, and the proposed sewage disposal system. Detailed plans and specifications shall be submitted for the food service establishment and swimming pool, if applicable. The director or the designee shall approve the plans and specifications if they meet the requirements of these regulations. No hotel shall be constructed, remodeled, or converted except in accordance with plans and specifications approved by the director or the designee. The director may waive the requirement for plans for minor modifications and renovations.

Whenever plans and specifications are required to be submitted to and approved by the director or his designee, he shall inspect the hotel prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of these regulations.

The director's or designee's approval of any plans or specifications is no guarantee that plans or specifications are without error and the owner shall have final responsibility for the accuracy and completeness of the plan and specifications, including subsequent construction

and installation.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-170. Application for a Permit.

Any person desiring to operate a hotel shall make written application for a permit on an approved application form at least 30 days prior to the opening of the hotel. As a minimum, such application shall include the name and address of the applicant who intends to operate the hotel, the proposed dates of operation, the number of rooms expected to be served on the busiest day, the type of sewage disposal system to be used, the type of water supply that will service the facility and the signature of the applicant. Upon review of the application, the director may require the applicant to submit such additional information as is required to evaluate the applicant's application for the permit.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-180. Permits.

A. No person shall own, establish, conduct, maintain, manage, or operate any hotel in this Commonwealth unless the hotel is permitted as provided in this section. All permits shall be in the name of the owner or lessee. Permits shall not be issued to newly constructed or extensively remodeled hotels until a certificate of occupancy has been issued by the building official. Only a person who complies with the requirements of these regulations shall be entitled to receive or retain such a permit.

B. Nontransference of hotel permits. Permits issued after March 1, 2002, shall not be transferable from one person to another or from one location to another. A new owner shall be required to make a written application for a permit. The application forms are obtainable at all local health departments.

C. Conditional permits. A conditional permit authorizes the owner of a hotel to operate the hotel under certain controlled conditions, which may include, but are not limited to, restrictions of the types of food the hotel can handle and type of swimming facility made available for public use.

D. Requirements for posting permits. The permit shall be posted in a place where it is readily observable by the public transacting business with the hotel.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-190. Issuance of a Permit.

Prior to the issuance of a permit, the director or his designee shall inspect the hotel to determine compliance with the requirements of these regulations. The department shall issue a permit to the applicant if its inspection reveals that the proposed hotel complies with the requirements of these regulations. The permit shall remain in effect (i.e., is self-renewing) unless otherwise suspended, revoked or surrendered by the owner. Ownership or lessee changes void the permit and the new owner must apply for a new permit.

A permit may be issued for a hotel that substantially complies with the criteria set forth in these regulations. The director shall be responsible for determining what constitutes substantial compliance.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-200. Denial of a Permit.

Whenever the department denies a hotel permit it shall, within 10 days of the inspection, send the applicant a written explanation of the reasons why the permit was denied.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-210. Suspension of a Permit.

The director may suspend a permit to operate a hotel without an informal conference if the director finds the continued operation constitutes a substantial and imminent threat to the public health. Upon receipt of such notice that a permit is suspended, the permit holder shall cease operation immediately and begin corrective action.

Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing by certified mail or by hand delivery. Upon service of notice that the permit is immediately suspended, the former permit holder shall be given an opportunity to request an informal hearing. If a permit holder wants to request an informal hearing, he must submit a request in writing to the director within 10 working days after he receives notice of

the suspension. The written request shall be filed with the local department by the former holder of the permit. If a written request for an informal hearing is not filed within 10 working days, the suspension is sustained. Each holder of a suspended permit shall be afforded an opportunity for an informal hearing within three working days of receipt of a request for an informal hearing. The director may end the suspension at any time if the reasons for suspension no longer exist.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-220. Revocation of a Permit.

Prior to revocation, the director shall notify in writing the holder of the permit, or the person in charge, of the specific reason or reasons for which the permit is to be revoked. The permit shall be revoked at the end of the 30 days following service of such notice unless a written request for an informal conference is filed before then with the director. If no request for an informal conference is filed within the 30-day period, the revocation of the permit shall be final.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-230. Permits Issued under Prior Regulations.

Permits granted prior to March 1, 2002, shall not require a new permit so long as the ownership of the hotel has not changed and the permit holder otherwise complies with these regulations.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-240. Application After Revocation.

Any person whose permit has been revoked may apply for a new permit after complying with these regulations by following the procedures in [12VAC5-431-170](#).

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-250. Periodic Inspection.

Hotels shall be inspected by the designee of the commissioner. Annual random inspections shall be conducted on a percentage of hotels within each locality. Additional inspections shall be conducted in response to complaints filed with the department that directly affect the health and safety of the public. Further inspections shall be conducted as often as necessary for the enforcement of these regulations. It shall be the responsibility of the operator of a hotel to give the health commissioner or his designee free access to such premises at reasonable times for the purpose of inspection in accordance with § [35.1-5](#) of the Code of Virginia.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-260. Inspection Report.

Whenever an inspection of a hotel is made, the findings shall be recorded on the department's inspection report forms.

The original of the completed inspection report form shall be furnished to the person in charge of the hotel at the conclusion of each inspection. The completed inspection report form, being a public document, shall be made available for public disclosure to any person who requests it according to law.

The inspection report shall state any failure to comply with any time limit for corrections and may result in the closing of the hotel. An opportunity for an informal conference on the inspection findings, a time limit, or both, shall be granted provided that a written request is filed with local health department within 10 days following the inspection or the cessation of operations. When a request for a hearing is received, the procedures outlined in [12VAC5-431-120](#) shall be followed.

Whenever a hotel is required to cease operation under the provisions of [12VAC5-431-210](#), it shall not resume operations until a reinspection shows that conditions responsible for the order to cease operations no longer exists. Following a request for reinspection, it shall be made as soon as possible or within three working days.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-270. Correction of Violations.

The completed inspection report form may specify a reasonable period of time for the correction of the violations found. Where a period of time for the correction is specified, the correction shall be accomplished within the period specified and in accordance with the following provisions:

1. Should a substantial and imminent health hazard be declared by the director, including but not limited to substantial fire damage, sewage backing into the food preparation and service areas, lack of refrigeration or lack of water, the operator shall immediately cease operations. Operations shall not be resumed until authorized by the director. Authorization shall not be granted until such violations are corrected.
2. All violations specifying a reasonable period of time for correction shall be corrected as soon as possible, but in any event, within the period of time specified. A follow-up inspection shall be conducted by the director or his designee to confirm the corrections.
2. All violations specifying a reasonable period of time for correction shall be corrected as soon as possible, but in any event, within the period of time specified. A follow-up inspection shall be conducted by the director or his designee to confirm the corrections.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-280. Supervision.

Part III. Design, Construction and Operational Criteria

The operator of a hotel, or his designated representative who is responsible for the premises, shall be available on the premises while it is open for use.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-290. General Sanitation.

All buildings, other facilities, equipment fixtures, furnishings and the premises of a hotel shall be kept clean, in good repair, and maintained so as to protect the health, safety, and well-being of persons using those facilities.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-300. Floor Requirements.

The floors of all lodging units, hallways, store rooms and all other spaces used or traversed by guests shall be of such construction as to be easily cleaned and shall be kept clean and in good repair. The requirements of this section shall not prevent the use of rugs, carpets, or natural flooring so long as they are clean and in good repair. Abrasive strips for safety purposes may be used wherever deemed necessary to prevent accidents.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-310. Walls and Ceiling Requirements.

The walls and ceilings of all lodging units, hallways, bathrooms, store rooms and all other spaces used or traversed by guests shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair. Cleaning of walls and ceilings shall be so done as to minimize the raising of dust and the exposure of guests thereto. Studs, joists, or rafters shall not be left exposed except when suitably finished and kept clean.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-320. Room Furnishing Requirements.

All equipment, fixtures, furniture, windows, and furnishings, including draperies, curtains, carpets, other floor materials shall be kept clean and free of dust, dirt, vermin, and other contaminants and shall be maintained in good order and repair.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-330. Air Volume, Heat, Light, and Ventilation Requirements.

The air volume, heat, light, and ventilation of each lodging unit shall be constructed and maintained in accordance with the Virginia Uniform Statewide Building Code.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-340. Box Springs, Mattresses, Bedding and Linen Requirements.

- A. Box springs and mattresses shall be clean and in good repair.
- B. Conventional mattress covers or pads shall be used for the protection of mattresses and shall be kept clean and in good repair.
- C. All sheets, pillowcases, towels, washcloths, and bathmats shall be kept clean and in good repair, freshly laundered and sanitized between occupants and changed at least once every 7 days if used by the same occupant.
- D. When a blanket is placed on the bed, the upper sheet shall be of sufficient length to fold and overlap the top section of the blanket.
- E. All clean bedding and linen shall be stored in a clean and dry place.
- F. All soiled bedding and linen shall be handled and stored so as not to contaminate clean bedding and laundry.
- G. Containers for transporting or storing bedding and linen shall be constructed of impervious materials and shall be smooth and easily cleanable.
- H. Laundry storage rooms shall be separated from staff living quarters and be kept in a clean and organized fashion. EXEMPTION: This subsection shall not apply to bed and breakfast facilities.
- I. All blankets, quilts, bedspreads, and comforters shall be maintained in a sanitary and good condition.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-350. Bed Spacing Requirements.

- A. Bed arrangements of lodging units shall provide not less than 24 inches clear space between each bed, cot, or bunk.
- B. No lodging unit shall contain more than two tiers of beds. When two tiers are used, there

shall be at least:

1. Three feet of clear vertical space between tiers of beds and between the top tier and ceiling; and

2. Four feet of space between tiered beds.

C. There shall be sufficient space between the floor and the underside of the beds to facilitate easy cleaning. In lieu of such space, the bed shall have a continuous base or shall be on rollers.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-360. Toilet, Lavatory, and Bath Facilities Requirements.

A. The required number of sanitary fixtures shall be in accordance with the Virginia Uniform Statewide Building Code.

B. Toilets, lavatories and bath facilities shall be maintained in a clean and sanitary condition and maintained in good repair.

C. The location and use of all public toilet and bath facilities shall be clearly indicated by appropriate signs.

D. Toilet, lavatory, and bath facilities for hotel patrons located in private homes shall be separate from toilet and bath facilities utilized by the owner or operator of said hotel.

E. All lavatories, bathtubs, and showers shall be provided with hot and cold water, except where otherwise specifically exempted by the department.

F. Toilet and bath facilities shall have:

1. Floors that are finished with a material that is smooth, easily cleanable, impervious to water, and coved to a height of four inches. The use of carpet is prohibited.

2. Shower compartments with walls that are in accordance with the Virginia Uniform Statewide Building Code. An effective water-tight joint between the wall and the floor shall be maintained.

3. Interior finishes that are smooth, easily cleanable, and impervious to water.

4. Where rubber or impervious mats are used, such mats clean and dry between usages.

5. Bathtub and shower stall floors that are finished with nonslip, impervious surfaces or provided with nonslip impervious bath mats.

6. Where glass bath or glass shower doors are used, such doors made of safety glass.

7. Toilet tissue, soap, towels, and a waste receptacle provided.

G. All plumbing installations shall be in accordance with the Virginia Uniform Statewide Building Code.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-370. Solid Waste.

A. A minimum of one watertight, nonabsorbent and easily washable waste receptacle shall be provided in each lodging unit. Such receptacle shall be kept clean and in good repair.

B. Solid waste shall be collected daily from rooms and areas used by guests.

C. Solid waste shall be disposed of in accordance with all applicable local ordinances and state laws and regulations.

D. Solid waste shall be stored in either individual garbage containers, bins, or storage vehicles.

E. All such bulk storage containers or vehicles shall:

1. Have tight fitting lids or covers;

2. Be durable, rust resistant, water tight, rodent proof, readily washable, and kept in good repair.

F. Solid waste shall be removed from the hotel's premises at regular intervals. Collection frequency shall be such so as not to create:

1. Vector production and sustenance;

2. Objectionable odors; or

3. Any overflowing of solid waste or other unsanitary condition.

G. Solid Waste shall be transported in accordance with all applicable local ordinances and state law and regulation.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-380. Vector Control.

A. Vector control measures shall be employed to prevent vector infestations in or around hotels.

B. Insect and rodent control measures to safeguard public health and to prevent nuisance to the public shall be applied. Developed areas, buildings, and structures shall be maintained free of accumulations of debris.

C. Application of pesticides or rodenticides shall be conducted by a Virginia Department of Agriculture and Consumer Services certified pesticide applicator or under the direct supervision of a Virginia Department of Agriculture and Consumer Services certified applicator.

D. The presence of any rodent, such as mice and rats, reptiles or any insect infestation shall be evidence that sufficient vector control measures have not been implemented at the hotel and shall be considered a violation of these regulations.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-390. Spas, Swimming Pools, and Other Swimming Facilities.

Any spa, swimming pool, or other swimming facility located at or operated in connection with a hotel shall comply with the department's swimming pool regulations as specified in [12VAC5-430-30](#).

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-400. Water Supply Systems.

A. Water supply systems serving hotels shall comply with the department's Waterworks Regulations or Private Well Regulations as specified in [12VAC5-430-30](#).

B. The water supply distribution system shall be designed, constructed, and maintained in compliance with the Virginia Statewide Uniform Building Code.

C. Water heaters shall have installed an approved ASME pressure relief valve that is accessible for inspection and testing.

D. Where drinking fountains are provided, they shall be of an angle jet type with adequate water pressure at all times.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#) , eff. March 1, 2002.

12VAC5-431-410. Sewage Disposal.

A. Hotels shall provide an adequate and safe sewerage system.

B. Sewage and waste water shall be disposed of into a public sewerage system or by a sewage system constructed and operated in accordance with applicable laws and regulations of the department.

C. No untreated or partially treated sewage, liquid waste, or septic tank effluent shall be discharged directly or indirectly onto the surface of the ground or into public waters.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#) , eff. March 1, 2002.

12VAC5-431-420. Fire Safety.

Hotels shall comply with the requirements of the Virginia Statewide Fire Prevention Code ([13VAC5-51](#)).

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#) , eff. March 1, 2002.

12VAC5-431-430. Chemical and Physical Hazards.

A. Cleaning equipment, supplies, pesticides, rodenticides, chemicals, paints, and other toxic substances shall be kept isolated from guests and stored so as to prevent contamination of clothing, toweling, and bedding materials. All applications of chemicals including, but not limited to, cleaners and disinfectants shall be in accordance with the manufacturers' recommendations.

B. All toxic substances shall be clearly identified and accurately labeled as toxic.

C. Housekeeping carts shall be kept organized such that clean linens, single-service articles, ice buckets, and glassware stored on these units shall be protected from contamination by toilet brushes, soiled linen, cleaning agents, or any other possible sources of contamination.

D. All stairways shall be provided with firmly attached handrails and guardrails in accordance with the Virginia Uniform Statewide Building Code.

E. All boilers and pressure vessels shall be approved and maintained in accordance with the applicable state statutes.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-440. Food Services.

A. Eating and drinking establishments, commissaries, mobile units, and vending machines operated in conjunction with a hotel shall be operated in compliance with the Food Regulations ([12VAC5-421](#)).

B. When reusable glassware is provided by the hotel, it must be properly washed, rinsed, and sanitized. An approved three-compartment sink or a commercial dishwashing machine shall be provided in a kitchen or separate room for the purpose of performing this function. Sanitized glassware shall be stored in a clean site that is removed from sources of contamination. A single-service cover is to be placed on the opening of the glassware prior to its removal from the cleaning site. If this cover is removed by the guest, then the glassware is presumed to be soiled and shall be washed and sanitized.

C. Single-service articles shall be properly stored and protected from contamination. The reuse of these items is prohibited.

D. Ice buckets shall be constructed and repaired with safe materials and shall be corrosive resistant, nonabsorbent, nontoxic, smooth, easily cleanable and durable under conditions of normal use. Single-service ice buckets may be used if intended for one use only and if made from clean, sanitary safe materials.

E. When ice buckets are provided by hotels, they must be properly washed, rinsed and sanitized. An approved three-compartment sink or commercial dishwashing machine shall be provided in the kitchen or a separate room for the purpose of performing this function. A food grade liner may be used in lieu of a three-compartment sink to protect ice from contamination as long as the liner and ice bucket itself are clean and of approved construction. When ice buckets are provided, they must have either an approved lid or a food grade liner available to protect ice from contamination.

F. Bottled or packaged water shall be obtained from an approved source and shall be packaged, handled, sorted and dispensed in a way that protects it from contamination.

G. Any hotel that makes ice available in public areas, including but not limited to lobbies, hallways, and outdoor areas, shall restrict access to such ice in accordance with the following provisions:

1. Newly constructed facilities. After March 1, 2002, any newly constructed hotel that installs ice-making equipment, and any existing hotel that installs or replaces ice-making

equipment, shall install only automatic dispensing, sanitary ice-making and storage equipment in areas accessible to the public. Any such establishment may install open-type bin ice machines in areas not accessible to the public provided they meet the requirement of subdivision 2 of this subsection.

2. Existing facilities. After March 1, 2004, any existing hotel that has not converted to automatic dispensing, ice-making and storage shall no longer permit unrestricted public access to open-type ice bins and shall dispense ice to guests only by having employees give out prefilled, individual sanitary containers of ice or by making available prefilled, disposable, closed bags of ice.

H. EXEMPTION: Bed and breakfast facilities are exempt from subsection B of this section. Bed and breakfast facilities shall comply with all applicable sections of the Food Regulations of the Board of Health ([12VAC5-421](#)).

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-450. Lodging Unit Kitchens.

A. Cooking by guests in lodging units that have not been equipped with kitchens or in efficiency-type kitchen facilities that do not conform to the Virginia Statewide Uniform Building Code is prohibited.

B. Kitchen-equipped lodging units shall have:

1. A sink suitable for dishwashing with hot and cold water.
2. A refrigerator capable of maintaining a food temperature of 41°F or less.
3. Utensils and equipment, if supplied, that are easily cleanable, durable, and kept in good repair. Utensils supplied in lodging units shall be washed, rinsed, and sanitized after each occupancy and have a notice stating: "For your convenience, dishes and utensils have been washed and sanitized. If you would like to further sanitize these items, please contact the manager." The sanitizing agent shall be available in the office.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-460. Examination of Employees for Communicable Diseases.

All hotel employees shall submit to such examination or examinations as may be considered

necessary by the commissioner when such employees are suspected of having a communicable disease. It shall be the duty of the owner or manager of any hotel to exclude from service in the establishment any employee who is known to be infected with a communicable disease, except in circumstances individually approved by the commissioner.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-470. Pets.

The person operating a hotel may establish and enforce rules designed to prohibit or control pets. No guest shall allow his pet to run at large or be a nuisance.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.

12VAC5-431-480. Posting of Rates and Code of Virginia Sections.

All operators shall post conspicuously in each lodging unit occupied by transient guests the rates for the room together with §§ [8.01-42.2](#), [35.1-27](#) and [35.1-28](#) of the Code of Virginia in which are prescribed the duties, liability of guests for hotel damage, and limitation of liability of guests for hotel damage from innkeepers.

Statutory Authority

§§ [35.1-11](#) and [35.1-13](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 18, Issue 10](#), eff. March 1, 2002.