

**FAIRFAX COUNTY PLANNING COMMISSION
LAND USE PROCESS COMMITTEE
WEDNESDAY, JUNE 22, 2017**

PRESENT: James T. Migliaccio, Lee District
Earl L. Flanagan, Mount Vernon District
Phillip Niedzielski-Eichner, Providence District
Peter F. Murphy, Springfield District, Chairman
Karen A. Keys-Gamarra, Sully District
James R. Hart, Commissioner At-Large
Janyce N. Hedetniemi, Commissioner At-Large
Ellen J. Hurley, Braddock District (Alternate)
John Ulfelder, Dranesville District (Alternate)

ABSENT: None

OTHERS: Frank A. de la Fe, Hunter Mill District
Julie Strandlie, Mason District
Timothy J. Sargeant, Commissioner At-Large
Kimberly Bassarab, Assistant Director, Planning Commission
Leslie Johnson, Zoning Administration Division (ZAD), Department of
Planning and Zoning (DPZ)
Lilly Yegazu, ZAD, DPZ

ATTACHMENTS:

- A. Summary of Existing Zoning Ordinance Provisions
- B. Memorandum – Short-Term Rentals
- C. Virginia Acts of Assembly, Chapter 741, Approved March 24, 2017

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Chairman James Migliaccio called the meeting to order at 7:10 p.m. in the Board Conference Room, 12000 Government Center Parkway, Fairfax, Virginia, 22035.

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Leslie Johnson, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ) and Lilly Yegazu, ZAD, DPZ, gave a presentation on the proposed Short Term Rental Zoning Ordinance Amendment.

A conversation ensued among Committee members; Ms. Johnson requested to return to the Committee with an update on outreach efforts in the fall.

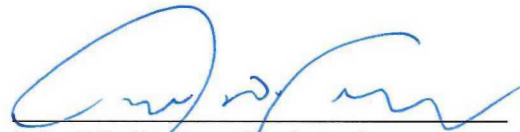
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The meeting was adjourned at 8:08 p.m.
James T. Migliaccio, Chairman

An audio recording of this meeting is available in the Planning Commission Office, 12000
Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Kimberly Bassarab

Approved: December 7, 2017



John W. Cooper, Clerk to the
Fairfax County Planning Commission

Summary of Existing Zoning Ordinance Provisions

DEFINITIONS, ARTICLE 20

BED AND BREAKFAST: A single family detached dwelling unit which is owner or manager occupied, in which five (5) or fewer guest rooms without cooking facilities are rented to transient visitors for a period not to exceed thirty (30) days.

DWELLING: A building or portion thereof, but not a MOBILE HOME, designed or used for residential occupancy. The term 'dwelling' shall not be construed to mean a motel, rooming house, hospital, or other accommodation used for more or less transient occupancy.

HOTEL, MOTEL: A building or portion thereof or a group of buildings which provide sleeping accommodations in six (6) or more separate units or rooms for transients on a daily, weekly or similar short-term basis, whether such establishment is designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, tourist home or otherwise. A hotel or motel shall be deemed to include any establishment which provides residential living accommodations for transients on a short-term basis, such as an apartment hotel. A hotel or motel may contain one or more eating establishments as a subordinate use, provided that such establishment is located within the principal hotel/motel structure, and meeting rooms and/or conference facilities.

ROOMING HOUSE: Any building or portion thereof containing sleeping accommodations for five (5) to twelve (12) persons wherein normally a charge is paid for such accommodations. The term 'rooming house' shall be deemed to include the term 'boarding house', but not motel or other accommodations used for transient occupancy.

DISTRICTS AND USE LIMITATIONS

NP: Not Permitted, P: Permitted, SE: Special Exception, SP: Special Permit

Dis.	Dwelling Units	Bed and Breakfast	Hotel, Motel	Rooming House	Use Limitations
R-A	P (detached SFD ¹ / MH ²)	SE	NP	NP	
R-P	P (detached SFD / POSO ³)	SE	NP	NP	
R-C	P (detached SFD / POSO)	SE	NP	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
R-E	P (detached SFD / POSO)	SE	NP	SP** / SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls ** limited to older structures (group 7)
R-1	P (detached SFD)	SE	NP	SP** / SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls ** limited to older structures (group 7)

¹ SFD – Single family dwelling

² MH – Manufactured homes

³ POSO - Privately-owned dwellings for seasonal occupancy, not designed or used for permanent occupancy, such as summer homes and cottages, hunting and fishing lodges and cabins.

Dis.	Dwelling Units	Bed and Breakfast	Hotel, Motel	Rooming House	Use Limitations
R-2	P (ADU ⁴ / detached SFD)	SE	NP	SP** / SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls ** limited to older structures (group 7)
R-3	P (ADU/ detached SFD)	NP	NP	SP** / SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls ** limited to older structures (group 7)
R-4	P (ADU/ detached SFD)	NP	NP	SP** / SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls ** limited to older structures (group 7)
R-5	P (ADU/ detached & attached SFD)	NP	NP	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
R-8	P (ADU/ detached & attached SFD)	NP	NP	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
R-12	P (ADU/ attached SFD / MFD ⁵)	NP	NP	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
R-16	P (ADU/ attached SFD / MFD)	NP	NP	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
R-20	P (ADU/ attached SFD / MDF)	NP	NP	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
C-1	NP	NP	NP	SP** / SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls ** limited to older structures (group 7)
C-2	NP	NP	NP	SP** / SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls ** limited to older structures (group 7)
C-3	NP	NP	SE	SP** / SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls ** limited to older structures (group 7)
C-4	NP	NP	SE	SP** / SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls

⁴ ADU – Affordable dwelling unit

⁵ MFD – Multi family dwelling

Dis.	Dwelling Units	Bed and Breakfast	Hotel, Motel	Rooming House	Use Limitations
					** limited to older structures (group 7)
C-5	NP	NP	NP	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
C-6	NP	NP	SE	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
C-7	NP	NP	P	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
C-8	NP	NP	P	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
C-9	NP	NP	P	NP	
PDH	P (ADU/ detached & attached SFD / MFD)	NP	NP	P*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls, when represented on an approved development plan
PDC	NP	NP	P	P (secondary) *	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls, when represented on an approved development plan
PRC	P (ADU/ detached & attached SFD / MFD)	SE	P* SE**		*in areas approved for Convention/Conference Center ** in Villages and town centers
PR M	P (ADU secondary / MFD)		P (secondary)		
PTC			P	P*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls providing off-campus residence for more than four (4) unrelated persons who are students, faculty members, or otherwise affiliated with an institution of higher learning, when represented on an approved development plan
I-I	NP	NP	NP	NP	
I-1	NP	NP	NP	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
I-2	NP	NP	SE	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls

Dis.	Dwelling Units	Bed and Breakfast	Hotel, Motel	Rooming House	Use Limitations
I-3	NP	NP	SE	SE*	*Dormitories, fraternity/sorority houses, <u>rooming/boarding houses</u> , or other residence halls
I-4	NP	NP	SE	NP	
I-5	NP	NP	SE	NP	
I-6	NP	NP	NP	NP	

8-706 Additional Standards for Rooming Houses

1. Rooming houses shall be located on lots which have direct access to a major thoroughfare or a service drive parallel to same, or shall be located on lots within a Community Business Center (CBC) as delineated on the adopted comprehensive plan.

9-526 Additional Standards for Bed and Breakfasts

1. The Board shall determine that the proposed bed and breakfast use does not pose any adverse impacts on the surrounding properties and preserves the residential character of the adjacent area.
2. All bed and breakfast uses shall be permitted only in residential structures, including normal residential accessory structures. Alterations undertaken on structures shall be limited to those which will not alter the exterior appearance of the structure from that of a dwelling or normal residential accessory structure.
3. A bed and breakfast shall not include an eating establishment, however breakfast and other light fare may be provided for resident guests. In addition, this provision shall not preclude the filing and approval of a separate Group 7 special permit application for a restaurant.
4. No off-street parking or loading space for the bed and breakfast use shall be located in any required side or rear yard that abuts an R district and all off-street parking spaces shall be adequately screened to minimize adverse impacts on adjacent residential properties. No more than three (3) parking spaces for the bed and breakfast use shall be located in any required front yard unless specifically permitted by the Board on a finding that such parking provisions will not adversely affect the character of the surrounding residential area.

9-512 Additional Standards for Hotels, Motels

1. When located in an I district, such a use shall be an integral design element of a site plan for an industrial building or building complex containing not less than 100,000 square feet of gross floor area.

OFF-STREET PARKING, SECT. 11-104

1. Bed and Breakfast: Two (2) spaces per single family dwelling, provided that only one (1) such space must have convenient access to a street, plus one (1) space per guest room in the bed and breakfast
6. Hotel, Motel: One (1) space per rental unit, plus four (4) spaces per fifty (50) rental units, plus such spaces as are required for eating establishments, assembly rooms and affiliated facilities as determined by the Director

TRANSITIONAL SCREENING & BARRIERS, ARTICLE 13

	Dwellings, detached	Dwellings, attached	Dwellings, multiple family or mobile home	Child care centers, churches, chapels, nursery schools, private schools	Community uses (Group 4)
Bed and Breakfast					
Hotel, Motel	2 E, F or G	2 E, F, or G	1 E, F, or G	H	H

Transitional screening (planted in accordance with Par. 3 of Sect. 13-303)

Type 1 = 25' wide

Type 2 = 35' wide

Type 3 = 50' wide

Barriers

A = 42 – 48" wall

B = 42 – 48" solid fence

C = evergreen hedge with an ultimate height of at least 42 – 48"

D = 42 – 48" chain link fence (may be required to include inserts, coating or additional landscaping)

E = 6' wall

F = 6' solid fence

G = 6' chain link fence (may be required to include inserts or be coated)

H = one row of 6' trees



County of Fairfax, Virginia

MEMORANDUM

DATE: June 7, 2017

TO: Board of Supervisors

FROM: Robert A. Stalzer *RA Stalzer*
Deputy County Executive

SUBJECT: Short-Term Rentals

At the Board Meeting that took place on the March 14, 2017, the Board directed staff to form a working group with the goal of drafting Zoning Ordinance regulations for short-term rentals (transient rentals of less than 30 days, like those found on Airbnb) in accordance with the grant of legislative authority in Senate Bill 1578. This new use will likely also trigger other code amendments, particular to Chapter 4, Taxation. The presence of short-term rentals in residential communities is a growing national trend within the new "sharing economy," and is prevalent in Fairfax County, as well. A search of on-line platforms such as Airbnb, VRBO, HomeAway, and others yields varying results in terms of the overall number of short-term rentals currently operating within the county, but staff believes that there may be upwards of one thousand units offered as short-term rentals throughout the county. These rental units range in size from a single room within a home to an entire home with eight or more bedrooms.

Staff has had discussions with several Board members, who have expressed interest in the county's regulation of short-term rentals because of activity occurring within their districts. This memorandum provides an update on the working group's efforts and discusses the interim efforts to regulate the illegal short-term rentals operating throughout the county.

Ordinance Timeline

Immediate, ongoing

Conduct regular working group meetings; speak with interested stakeholders at Board members' direction; schedule and publicize public meetings

June 15, 2017

Update current short-term rentals' website to provide additional information about the complaint/enforcement process, a **survey*** link, and a listserv link

June/July 2017	Planning Commission Land Use Committee or Policy and Procedures Committee
June 27, 2017	Land Use Aides Meeting
July 18, 2017	Board of Supervisors' Development Process Committee (Pre-Meeting July 6, 2017)
July through September 2017	Conduct additional outreach and input sessions from interested stakeholders on potential text of short-term rental zoning ordinance provisions
September/October 2017	Board authorization of a zoning ordinance amendment regulating short-term rentals
October/November 2017	Planning Commission public hearing
December 2017/January 2018	Board of Supervisors' public hearing and vote

* Office of Public Affairs and Department of Planning and Zoning staff, with Office of the County Attorney review, designed a survey (attached) to gauge the community's interest in a variety of restrictions on short-term rentals (e.g., time offered for rental, location in the county, size of home). The survey was then vetted by the Short-Term Rental Working Group. To ensure that it attracts the highest level of participation possible, it is intentionally short and simple, and it provides an opportunity for open comments. Should you have any concerns with the survey questions or the intended release of the survey next week, please contact me (703-324-3440), Donna Pesto, or Lily Yegazu (both at 703-324-1314) at your soonest convenience to discuss those concerns.

Current Regulations

The zoning ordinance does not permit any transient occupancy in most zoning districts, particularly residential districts. Short-term rentals of thirty days or less are, therefore, currently illegal throughout the county unless the owner/operator has a special exception for a bed and breakfast use. Current zoning ordinance regulations provide that a bed and breakfast special exception is only allowed in the RP (Residential-Preservation District) through R-2 single family residential districts. The special exception filing fee is \$16,375.

Current Enforcement Activity

Presently, staff is investigating approximately fifteen complaints of illegal short-term rentals throughout the county. Staff anticipates that DCC (Department of Code Compliance) will soon issue several notices of violation. As noted in the timeline, staff is developing an enhanced website specifically dedicated to short-term rentals, which will include additional information regarding the complaint/enforcement process.

Outreach to Other Jurisdictions

Staff has met with other jurisdictions, including representatives from Alexandria, Arlington, Loudoun, the Virginia Municipal League, Virginia Association of Counties, and other interested parties, to discuss a uniform approach to short-term rental regulation. Such meetings will be ongoing. The next meeting is scheduled for July 20, 2017. At the Board's direction, staff has given specific consideration to the recently amended Arlington ordinance as a model. Arlington added a new use designation, "accessory homestay" to its list of permitted home occupation uses. "Accessory homestays" are:

- Not limited to owner occupied homes;
- Limited to the larger of either six lodgers, or two lodgers per number of bedrooms in the unit per night (but no more than allowed by Building Code);
- Required to have smoke detectors, fire extinguishers, and where applicable, carbon monoxide detectors accessible to all overnight lodgers;
- Required to comply with the building code; condominium and/or homeowners' association regulations;
- Prohibited in detached accessory buildings;
- Prohibited to be used for other commercial purposes such as parties, banquets, weddings, meetings, charitable fundraising, or any other gatherings for direct or indirect compensation.

Staff will continue to review and collaborate, where appropriate, with other jurisdictions in the development of proposed amendment to the Fairfax County Zoning Ordinance regulating short-term rentals. We look forward to discussing these topics with you in greater detail in the coming weeks.

Attachment: Short-Term Rental Survey

cc: Edward L. Long Jr., County Executive
Patricia D. Harrison, Deputy County Executive

Board of Supervisors
Short-Term Rentals
Page 4 of 4

David J. Molchany, Deputy County Executive
David M. Rohrer, Deputy County Executive
Joseph M. Mondoro, Chief Financial Officer
Elizabeth D. Teare, County Attorney
Claudia Arko, Office of the County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Donna Pesto, Deputy Zoning Administrator, DPZ
Lily Yegazu, Senior Assistant to the Zoning Administrator, DPZ
Laura Gori, Office of the County Attorney
Sarah Hensley, Office of the County Attorney
Jack W. Weyant, Director, Department of Code Compliance
Jay Doshi, Director, Department of Tax Administration
Juan B. Rengel, Department of Tax Administration
Brian Worthy, Office of Public Affairs

Short-Term Rentals in Fairfax County Community Survey

As a result of the General Assembly passing Senate Bill 1578 during the 2017 session, Fairfax County is developing regulations to govern the use of short-term rentals (transient rentals of less than 30 days, like those found on Airbnb and other online platforms) in the county. The regulations may address:

- Where these rentals would be allowed in the county
- How often they could be rented out
- What types of properties could be rented out
- How many people would be allowed to stay in a property at any one time

We want your feedback to help us develop the proposed rules. Please take this quick, 10-question [link to survey] by DATE.

For more information, including future public meeting dates, visit [URL HERE](#). Please check back regularly if you'd like to participate in these meetings.

Fairfax County Zoning Ordinance

Survey Questions Regarding Short-Term Rentals

1. Please select the option that best describes you? (Select one)
 - a. Fairfax County home owner (enter zip code) _____
 - b. Fairfax County renter (enter zip code) _____
 - c. Nonresident Fairfax County tourism-related business owner (enter zip code) _____
 - d. Nonresident/Non-Business Owner
2. If you are a resident of Fairfax County, in what type of home do you live? (Select one)
 - a. Detached, single-family home
 - b. Townhouse
 - c. Condominium
 - d. Apartment
 - e. Mobile/Manufactured dwelling
3. Short-Term Rentals are rentals of less than 30 consecutive days that are often listed on platforms such as Airbnb, HomeAway, FlipKey, or Roomarama. Are you aware of Short-Term Rentals operating in your neighborhood? (Select one)
 - a. Yes
 - b. No
 - c. Not sure
4. Should Fairfax County limit the number of adult guests per bedroom in a Short-Term Rental? (Select one)
 - a. Yes (specify maximum) _____
 - b. No
 - c. No opinion
5. Should a Short-Term Rental operator be able to rent rooms to different people/groups during the same time period? For example, if there are three rooms available to rent, can one group book two rooms and a different person/group book the other room for the same period of time. (Select one)
 - a. Yes
 - b. No
 - c. No opinion

6. Should Fairfax County require that Short-Term Rental operators be present in the Short-Term Rental while it is being used? (Select one)
- a. Yes
 - b. No
 - c. No opinion
7. Should Fairfax County limit the maximum number of nights per year a dwelling may be rented as a Short-Term Rental unit if the homeowner/operator is present in the Short-Term Rental while it is being used? (Select one)
- a. Yes (specify how many) _____
 - b. No
 - c. No opinion
8. Should Fairfax County limit the maximum number of nights per year a dwelling may be rented as a Short-Term Rental unit if the homeowner/operator is not required to be present in the Short-Term Rental while it is being used? (Select one)
- a. Yes (specify how many) _____
 - b. No
 - c. No opinion
9. Fairfax County should allow Short-Term Rentals in : (Select all that apply)
- a. Detached, single-family homes
 - b. Townhouses
 - c. Condominiums
 - d. Apartments
 - e. Mobile or manufactured dwellings
10. Have you ever rented a room or entire home through a Short-Term Rental website? (Select one)
- a. Yes
 - b. No
11. Please provide any additional comments you may have below.

Thank you for your input.

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 741

An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-983, relating to the short-term rental of property.

[S 1578]

Approved March 24, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-983 as follows:

§ 4.1-100. (Effective until July 1, 2018) Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. *For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.*

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club

because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage

facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats

which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-100. (Effective July 1, 2018) Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of

alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. *For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.*

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully

manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen

facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic

beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-200. Exemptions from licensure.

The licensure requirements of this chapter shall not apply to:

1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for emergency medicinal purposes. Such person may charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have been supplied to the institution by the Board free of charge.

2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicine containing sufficient medication to prevent it from being used as a beverage.

3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide medicinal and technical preparations; which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used exclusively as medicine and not as beverages.

4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages.

5. The manufacture and sale of food products known as flavoring extracts which are manufactured and sold for cooking and culinary purposes only and not sold as beverages.

6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or both, in an amount not to exceed the limits permitted by federal law.

Any person who manufactures wine or beer in accordance with this subdivision may remove from his residence an amount not to exceed fifty liters of such wine or fifteen gallons of such beer on any one occasion for (i) personal or family use, provided such use does not violate the provisions of this title or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an amount not to exceed (a) one liter of wine per person per year or (b) seventy-two ounces of beer per person per year, provided such gift is for noncommercial purposes; or (iii) giving to any person to whom beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by volume for on-premises consumption at events organized for judging or exhibiting such wine or beer, including events held on the premises of a retail licensee.

Nothing in this paragraph shall be construed to authorize the sale of such wine or beer.

The provision of this subdivision shall not apply to any person who resides on property on which a winery, farm winery, or brewery is located.

7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his personal use or that of his family. However, such alcoholic beverages may be served or given to guests in such residence by such person, his family or servants when (i) such guests are 21 years of age or older or are accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption or possession of such alcoholic beverages by family members or such guests occurs only in such residence where the alcoholic beverages are allowed to be served or given pursuant to this subdivision, and (iii) such service or gift is in no way a shift or device to evade the provisions of this title. *The provisions of this subdivision shall not apply when a person serves or provides alcoholic beverages to a guest occupying the residence as the lessee of a short-term rental, as that term is defined in § 15.2-983, regardless of whether the person who permanently resides in the residence is present during the short-term rental.*

8. Any person who manufactures and sells cider to distillery licensees, or any person who manufactures wine from grapes grown by such person and sells it to winery licensees.

9. The sale of wine and beer in or through canteens or post exchanges on United States reservations when permitted by the proper authority of the United States.

10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting or private party limited in attendance to members and guests of a particular group, association or organization at a banquet or similar affair, or at a special event, if a banquet license has been granted. However, no banquet license shall be required for private meetings or private parties limited in attendance to the members of a common interest community as defined in § 54.1-2345 and their guests, provided (i) the alcoholic beverages shall not be sold or charged for in any way, (ii) the premises where the alcoholic beverages are consumed is limited to the common area regularly occupied and utilized for such private meetings or private parties, and (iii) such meetings or parties are not open to the public.

§ 15.2-983. Creation of registry for short-term rental of property.

A. As used in this section:

"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

"Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

B. 1. Notwithstanding any other provision of law, general or special, any locality may, by ordinance, establish a short-term rental registry and require operators within the locality to register annually. The registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator and the address of each property in the locality offered for short-term rental by the operator. A locality may charge a reasonable fee for such registration related to the actual costs of establishing and maintaining the registry.

2. No ordinance shall require a person to register pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

C. 1. If a locality adopts a registry ordinance pursuant to this section, such ordinance may include a penalty not to exceed \$500 per violation for an operator required to register who offers for short-term rental a property that is not registered with the locality. Such ordinance may provide that unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term rental. Upon repeated violations of a registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short-term rental.

2. Such ordinance may further provide that an operator required to register may be prohibited from offering a specific property for short-term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

D. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created

pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55-508 et seq.).