

ALBEMARLE COUNTY CODE

CHAPTER 18. ZONING

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Sec. 5.1 Supplementary regulations.

The following supplementary regulations apply to referenced uses in all districts whether or not such uses are permitted by right or by special use permit. These supplementary regulations are in addition to all other requirements of this chapter, the Code, and all other applicable laws. Unless a

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- c. In approval of any retail sales area the board and/or the commission may limit the areas for retail sales in both size and location;
- d. Retail sales area exceeding fifteen (15) percent of the floor area of the main use pursuant to section 27.2.2.13 is intended to allow for uses which by their nature are bulky and require nonintensive use of the land. The board and/or the commission in approval of such increased sales area shall be mindful of the intent of this section to provide for only subordinate retail sales and avoid incompatible land uses.

(§ 5.1.24, 12-2-81; 2-20-91)

5.1.25 FARM WINERIES

Each farm winery shall be subject to the following:

- a. *Operational uses permitted by right.* The following operational uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm winery:
 - 1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine including, but not limited to, activities related to the production of the agricultural products used in wine, including but not limited to, growing, planting and harvesting the agricultural products and the use of equipment for those activities.
 - 2. The sale, tasting, including barrel tastings, or consumption of wine within the normal course of business of the farm winery.
 - 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 of the Virginia Code and the regulations of the Alcoholic Beverage Control Board.
 - 4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 - 5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 - 6. The sale of wine-related items that are incidental to the sale of wine including, but not limited to, the sale of incidental gifts such as cork screws, wine glasses and t-shirts.
 - 7. Private personal gatherings of a farm winery owner who resides at the farm winery or on property adjacent thereto that is owned or controlled by the owner, provided that wine is not sold or marketed and for which no consideration is received by the farm winery or its agents.
- b. *Agritourism uses or wine sales related uses permitted by right.* The following uses are permitted at a farm winery by right, provided they are related to agritourism or wine sales:
 - 1. Exhibits, museums, and historical segments related to wine or to the farm winery.
 - 2. Guest winemakers and trade accommodations of invited guests at a farm winery owner’s private residence at the farm winery.
 - 3. Hayrides.
 - 4. Kitchen and catering activities related to a use at the farm winery.

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5. Picnics, either self-provided or available to be purchased at the farm winery.
 6. Providing finger foods, soups and appetizers for visitors.
 7. Tours of the farm winery, including the vineyard.
 8. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be similar in kind to other uses permitted by right in this subsection, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this use.
- c. *Farm winery events, weddings, wedding receptions, and other events permitted by right and by special use permit.* Farm winery events, weddings, wedding receptions, and other events are permitted by right or by special use permit at a farm winery, provided that they are related to agritourism or wine sales, as follows:
1. *Eligibility.* Any farm winery use established in the county before January 18, 2017, is eligible to hold the events authorized in subsections (c)(2) and (c)(3). Any farm winery use established in the county on and after January 18, 2017, is eligible to hold the events authorized by subsections (c)(2) and (c)(3) if it has: (i) on-site fermentation and bottling processes; (ii) an on-site tasting room with regular hours in which it is open to the public; and (iii) a minimum of five (5) acres of fruits, grains, or other agricultural products planted on-site, or on any abutting lot under the same ownership, at least one growing season each calendar year and used or to be used in the production of the establishment's beverages, provided that the five (5) acre threshold shall not apply during periods of widespread crop damage due to pest damage, disease, frost damage, or storm damage, and further provided that none of these eligibility requirements shall apply where the sole events under this subsection (c) are holding up to four (4) educational programs related to agriculture per calendar year at which not more than two hundred (200) persons are in attendance at any time. The eligibility requirements of this subsection (c)(1)(i) and (iii) may not be waived, modified, or varied by special exception. A special exception to subsection (c)(1)(ii) may be granted to permit tasting room hours by appointment instead of regular hours in which the tasting room is open to the public.
 2. *By right.* Farm winery events, weddings, wedding receptions, and other events are permitted by right at a farm winery provided that not more than two hundred (200) persons are in attendance at the farm winery at any time and the events are related to agritourism or wine sales, subject to the following:
 - (a) *Zoning clearance.* For each farm winery licensed on and after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to holding any events if either the lot or the abutting lots on which the events allowed in this subsection occur is less than twenty-one (21) acres in size or the use will generate more than fifty (50) visitor vehicle trips per day; and
 - (b) *Notice.* The farm winery shall provide written notice that an application for a zoning clearance for one or more events allowed by this subsection has been submitted to the owner of each abutting lot under different ownership than the lot on which the proposed event would be located. The notice shall identify the proposed type, size, and frequency of events, and provide the name and telephone number of a contact person who will be on-site at the farm winery during each event or activity. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance.

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3. *By special use permit.* Farm winery events, weddings, wedding receptions, and other events at which more than two hundred (200) persons will be in attendance at the farm winery at any time are permitted by special use permit at a farm winery, provided that they are related to agritourism or wine sales.
 4. *Determining attendance at the farm winery at any time.* The attendance at the farm winery at any time under subsections (c)(2) and (c)(3) shall be the aggregate of the actual or allowed attendance at any time for any farm winery event, farm brewery event, farm distillery event, wedding, wedding reception, and other events. Attendance shall not include any owner or employee of the farm winery or any employee or owner of a vendor providing goods or services to the farm winery event, wedding, wedding reception, or other event pursuant to subsections (c)(2) and (c)(3). Attendance shall not include any individual engaging or participating in activities under subsections (a) and (b).
 5. *Other events.* For the purposes of this subsection, the term “other events” means events that are agritourism events or are wine sales related events, which are determined by the zoning administrator to be usual and customary at farm wineries throughout the Commonwealth, which do not create a substantial impact on the public health, safety, or welfare, and which are not expressly authorized under subsection (c) as farm winery events, weddings, or wedding receptions.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more events authorized under section 5.1.25(c)(3) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed events; (ii) the maximum number of persons who will attend each event at any given time; (iii) the frequency and duration of the events; (iv) the provision of on-site parking; (v) the location, height and lumens of outdoor lighting for each event; (vi) the location of any stage, structure or other place where music will be performed; and (vii) a traffic management plan, which demonstrates how traffic entering and exiting the farm winery for an event will be managed to ensure safe and convenient access to and from the site, and includes planned routes of vehicular access to the farm winery, on-site circulation, the use of shuttles or other transportation services, and traffic control personnel.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the events; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each farm winery licensed on and after November 12, 2014 shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm winery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm winery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.
 2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.

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3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
 4. *Times of day when outdoor amplified music prohibited.* Sound generated by outdoor amplified music is prohibited between 10:00 p.m. each Sunday through Thursday night and 7:00 a.m. the following morning, and between 11:00 p.m. each Friday and Saturday night and 7:00 a.m. the following morning.
- f. *Yards.* Notwithstanding any other provisions of this chapter, the following shall apply to each farm winery in the Rural Areas (RA) district:
1. *Permanent structures.* The minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after May 5, 2010.
 2. *Tents and portable toilets.* The minimum front, side, and rear yard shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm winery for tents and portable toilets used in whole or in part to serve any permitted use at a farm winery.
 3. *Off-street parking areas.* Off-street parking areas established on or after January 18, 2017 shall comply with the minimum front yard requirements in section 10.4 and the minimum side and rear yards shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm winery.
 4. *Special exception.* Any minimum yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to any abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent to the proposed reduction has been provided by the owner of any lot abutting the proposed reduced setback.
- g. *Uses prohibited.* The following uses are prohibited:
1. Restaurants.
 2. Helicopter rides.

(§ 5.1.25, 12-16-81, 1-1-84; Ord. 98-20(1), 4-1-98; Ord. 01-18(6), 10-3-01; Ord. 10-18(3), 5-5-10; Ord. 11-18(3), 3-9-11; Ord. 14-18(4), 11-12-14; Ord. 15-18(10), 12-9-15; Ord. 17-18(1), 1-18-17)

5.1.26 HYDROELECTRIC POWER GENERATION

- a. These provisions are intended to encourage the use of water power as a natural and replenishable resource for the generation of electrical power. While serving energy conservation and natural resource goals, these provisions are also intended to limit such use so as: not to be objectionable in the area in which it is located; not to unreasonably interfere with the passage of boats, canoes, fish and other aquatic life; not to unreasonably degrade the riverine and aquatic habitat or water quality, in general;
- b. The applicant shall submit with his application for special use permit, plans, profiles, studies and other supporting information addressing the issues in (a) above. No such application shall be approved until comment and recommendation has been received from the State Water Control Board, the Commission of Game and Inland Fisheries, and other appropriate federal, state and local agencies;
- c. Whether or not a site development plan is required, the applicant shall submit to the county engineer a certified engineer's report as described in section 4.14.8. In review of such report,

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- a. *Notice to abutting lot owners.* At least thirty (30) days prior to acting on the zoning clearance, the zoning administrator shall provide written notice of the application for a zoning clearance to the owner of each abutting lot under different ownership than the lot on which the proposed family day home would be located. The notice shall identify the proposed family day home, its size and capacity, its location, and whether a special exception under subsection (b)(1) is requested. The notice shall invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed or hand delivered at least thirty (30) days prior to the action on the zoning clearance. Mailed notice shall be sent by first class mail. Notice mailed to the owner of each lot abutting the site shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed to be compliance with this requirement.

 - b. *Special exception.* If the zoning administrator receives a written objection to the family day home from the owner of an abutting lot within thirty (30) days after the notice was mailed or delivered, the zoning clearance shall not be approved until after the applicant obtains a special exception for the family day home as provided in sections 33.5 and 33.9. In acting on a special exception, the board shall consider whether the proposed use will be a substantial detriment to abutting lots.
8. *Relationship to other laws.* The provisions of this section are supplementary to all other laws and nothing herein shall be deemed to preclude application of the requirements of the Virginia Department of Social Services, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency.

(§ 5.1.0.6, 12-10-80; Ord. 01-18(6), 10-3-01; § 5.1.56, Ord. 13-18(5), 9-11-13; Ord. 18-(6), 6-8-16, effective 7-1-16)

5.1.57 FARM BREWERIES

Each farm brewery shall be subject to the following:

- a. *Operational uses permitted by right.* The following operational uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm brewery:
 - 1. The production and harvesting of barley and other grains, hops, fruit, and other agricultural products, and the manufacturing of beer including, but not limited to, activities related to the production of the agricultural products used in beer including, but not limited to, growing, planting, and harvesting the agricultural products and the use of equipment for those activities.
 - 2. The sale, tasting, or consumption of beer within the normal course of business of the farm brewery.
 - 3. The direct sale and shipment of beer in accordance with Title 4.1 of the Virginia Code and the regulations of the Alcoholic Beverage Control Board.
 - 4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 - 5. The storage and warehousing of beer in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.

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6. The sale of beer-related items that are incidental to the sale of beer including, but not limited to, the sale of incidental gifts such as bottle openers, beer glasses, and t-shirts.
 7. Private personal gatherings of a farm brewery owner who resides at the farm brewery or on property adjacent thereto that is owned or controlled by the owner, provided that beer is not sold or marketed and for which no consideration is received by the farm brewery or its agents.
- b. *Agritourism uses or beer sales related uses permitted by right.* The following uses are permitted by right at a farm brewery, provided they are related to agritourism or beer sales:
1. Exhibits, museums, and historical segments related to beer or to the farm brewery.
 2. Guest brewmasters and trade accommodations of invited guests at a farm brewery owner's private residence at the farm winery.
 3. Hayrides.
 4. Kitchen and catering activities related to a use at the farm brewery.
 5. Picnics, either self-provided or available to be purchased at the farm brewery.
 6. Providing finger foods, soups, and appetizers for visitors.
 7. Tours of the farm brewery, including the areas where agricultural products are grown.
 8. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be similar in kind to other uses permitted by right in this subsection, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this use.
- c. *Farm brewery events, weddings, wedding receptions, and other events permitted by right and by special use permit.* Farm brewery events, weddings, wedding receptions, and other events are permitted by right or by special use permit at a farm brewery, provided that they are related to agritourism or beer sales, as follows:
1. *Eligibility.* Any farm brewery use established in the county before January 18, 2017, is eligible to hold the events authorized in subsections (c)(2) and (c)(3). Any farm brewery use established in the county on and after January 18, 2017, is eligible to hold the events authorized by subsections (c)(2) and (c)(3) if it has: (i) an on-site fermentation process; (ii) an on-site tasting room with regular hours in which it is open to the public; and (iii) a minimum of five (5) acres of fruits, grains, or other agricultural products planted on-site, or on any abutting lot under the same ownership, at least one growing season each calendar year and used or to be used in the production of the establishment's beverages, provided that the five (5) acre threshold shall not apply during periods of widespread crop damage due to pest damage, disease, frost damage, or storm damage, and further provided that none of these eligibility requirements shall apply where the sole events under this subsection (c) are holding up to four (4) educational programs related to agriculture per calendar year at which not more than two hundred (200) persons are in attendance at any time. Notwithstanding any other provision of this chapter, the eligibility requirements of this subsection (c)(1)(i) and (iii) may not be waived, modified, or varied by special exception. A special exception to subsection (c)(1)(ii) may be granted to permit tasting room hours by appointment instead of regular hours in which the tasting room is open to the public.

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2. *By right.* Farm brewery events, weddings, wedding receptions, and other events are permitted by right at a farm brewery provided that not more than two hundred (200) persons are in attendance at the farm brewery at any time and the events are related to agritourism or beer sales, subject to the following:
 - (a) *Zoning clearance.* For each farm brewery licensed on and after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to holding any events if either the lot or the abutting lots on which the events allowed in this subsection occur is less than twenty-one (21) acres in size or the use will generate more than fifty (50) visitor vehicle trips per day; and
 - (b) *Notice.* The farm brewery shall provide written notice that an application for a zoning clearance for one or more events allowed by this subsection has been submitted to the owner of each abutting lot under different ownership than the lot on which the proposed event would be located. The notice shall identify the proposed type, size, and frequency of events, and provide the name and telephone number of a contact person who will be on-site at the farm brewery during each event. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance.
 3. *By special use permit.* Farm brewery events, weddings, wedding receptions, and other events at which more than two hundred (200) persons will be in attendance at the farm brewery at any time are permitted by special use permit at a farm brewery, provided that they are related to agritourism or beer sales.
 4. *Determining attendance at the farm brewery at any time.* The attendance at the farm brewery at any time under subsections (c)(2) and (c)(3) shall be the aggregate of the actual or allowed attendance at any time for any farm winery event, farm brewery event, farm distillery event, wedding, wedding reception, and other events. Attendance shall not include any owner or employee of the farm winery or any employee or owner of a vendor providing goods or services to the farm winery event, wedding, wedding reception, or other event pursuant to subsections (c)(2) and (c)(3). Attendance shall not include any individual engaging or participating in activities under subsections (a) and (b).
 5. *Other events.* For the purposes of this subsection, the term “other events” means events that are agritourism events or are beer sales related events, which are determined by the zoning administrator to be usual and customary at farm breweries, which do not create a substantial impact on the public health, safety, or welfare, and which are not expressly authorized under subsection (c) as farm brewery events, weddings, or wedding receptions.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more events authorized under section 5.1.57(c)(3) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed events; (ii) the maximum number of persons who will attend each event at any given time; (iii) the frequency and duration of the events; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each event; (vi) the location of any stage, structure or other place where music will be performed; and (vii) a traffic management plan, which demonstrates how traffic entering and exiting the farm brewery for an event will be managed to ensure safe and convenient access to and from the site, and includes planned routes of vehicular access to the farm brewery, on-site circulation, the use of shuttles or other transportation services, and traffic control personnel.

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2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the events; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each farm brewery shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm brewery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm brewery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.
 2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
 3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
 4. *Times of day when outdoor amplified music prohibited.* Sound generated by outdoor amplified music is prohibited between 10:00 p.m. each Sunday through Thursday night and 7:00 a.m. the following morning, and between 11:00 p.m. each Friday and Saturday night and 7:00 a.m. the following morning.
- f. *Yards.* Notwithstanding any other provisions of this chapter, the following shall apply to each farm brewery in the Rural Areas (RA) district:
1. *Permanent structures.* The minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after May 5, 2010.
 2. *Tents and portable toilets.* The minimum front, side, and rear yard shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm brewery for tents and portable toilets used in whole or in part to serve any permitted use at a farm brewery.
 3. *Off-street parking areas.* Off-street parking areas established on or after January 18, 2017 shall comply with the minimum front yard requirements in section 10.4 and the minimum side and rear yards shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm brewery.
 4. *Special exception.* Any minimum yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to any abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent to the proposed reduction has been provided by the owner of any lot abutting the proposed reduced setback.
- g. *Uses prohibited.* The following uses are prohibited:
1. Restaurants.
 2. Helicopter rides.

(Ord. 14-18(4), 11-12-14; Ord. 15-18(10), 12-9-15; Ord. 17-18(1), 1-18-17)

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5.1.58 EVENTS AND ACTIVITIES AT AGRICULTURAL OPERATIONS

Each event or activity at an agricultural operation authorized below shall be subject to the following:

- a. *Purpose and intent.* The purpose and intent of this section 5.1.58 is to implement policies of the comprehensive plan and the requirements of Virginia Code § 15.2-2288.6. The stated elements of the county's vision for the Rural Area designated in the comprehensive plan include having a strong agricultural economy with large lots on which to produce agricultural products, opportunities to gain value from processing those products, and accessing local markets; maintaining a clearly visible rural character achieved by supporting lively rural industries and activities; having a significant tourist economy in which the rural landscape augments the visitors' experience; and having diverse, interconnected areas of viable habitat, healthy streams, sustainable supplies of unpolluted groundwater, and protected historic and cultural resources. The comprehensive plan's stated goal to protect the county's agricultural lands as a resource base for its agricultural industries and for the related benefits they contribute towards the county's rural character, scenic quality, natural environment, and fiscal health is achieved, in part, by allowing appropriately scaled low-impact events and activities on farms engaged in agricultural production as provided in this section. The comprehensive plan's stated goal to encourage creative and diverse forms of rural production and support rural land uses is achieved, in part, by allowing the events and activities such as farm sales, low-impact forms of agritourism, and other events and activities provided herein.

The comprehensive plan also recognizes that rural land uses depend on natural resources that are irreversibly lost when rural land is converted to residential and commercial uses, and that protecting rural land uses provides an opportunity to conserve natural, scenic, and historic resources – by maintaining farmland, forested areas, and other natural areas – and public fiscal resources – by limiting development and lessening the need to provide public services to wide areas of the County. In addition, the comprehensive plan recognizes that conflicts can arise not only between agricultural and residential uses, but also between different agricultural uses. Thus, to ensure that events and activities at agricultural operations do not conflict with the character of the Rural Area, to promote a vibrant rural economy while controlling the adverse impacts these events and activities may have on public fiscal resources and services, and to minimize possible adverse impacts resulting from events and activities, this section incorporates strategies provided in the comprehensive plan to address potential impacts.

This section shall be implemented and interpreted to achieve the objectives of its purpose and intent.

- b. *Findings.* The board hereby finds that the standards and restrictions in this section were established by considering their economic impact on agricultural operations and the agricultural nature of the events and activities authorized herein. The board further finds that one or more substantial impacts on the public health, safety, or welfare have been identified when a zoning clearance or a special use permit is required by this section. These substantial impacts, and the thresholds and standards related thereto, are based upon the comprehensive plan, study, experience from authorizing and regulating similar events and activities under this chapter, and existing state standards. In addition, the board finds that the thresholds and standards established herein are the minimum necessary in order to satisfy the relevant policies, goals, and objectives of the comprehensive plan without allowing the events, activities, and structures permitted by this section to cause substantial impacts and thereby endanger the public health, safety, or welfare.
- c. *Applicability; limitations.* This section applies only to the events and activities permitted by right and by special use permit under subsection (d). This section does not apply to the agricultural operation itself, to any farm winery subject to section 5.1.25, to any farm brewery subject to section 5.1.57, or to any farm distillery subject to section 5.1.59.

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d. *Events and activities permitted.* The following events, activities, and structures are permitted by right, permitted by right with approval of a zoning clearance, or by special use permit as set forth in the following table, provided that these events, activities, and structures are individually and in the aggregate subordinate to the agricultural operation, and subject to the applicable requirements of this section and this chapter:

1. *Eligibility for agricultural operation events.* Any agricultural operation event established in the County before May 15, 2019, may continue to be held as currently authorized in subsection (d) and as defined in Section 18-3.1. Any agricultural operation event established in the county on or after May 15, 2019, may be held only if the agricultural operation to which it is subordinate has a minimum of five (5) acres of land devoted to agricultural production on-site, or on any abutting lot under the same ownership, at least one growing season each calendar year.
2. A special exception to the minimum acreage requirement set forth in subsection (d)(1) may be granted provided the proposed agricultural operation events are consistent with the purpose and intent of this ordinance and the comprehensive plan, and would cause no substantial detriment to abutting properties.

Event or activity ¹	Criterion	By right	By right with zoning clearance ²	By special use permit ³
Agritourism: generally, for any number of events or activities, not regulated as another category of agritourism in this subsection or as an agricultural operation event	On sites ⁴ greater than or equal to 21 acres and the event or activity will generate 50 or fewer visitor vehicle trips per day (“VTPD”)	X		
	Either on sites less than 21 acres or the event or activity will generate more than 50 visitor VTPD		X	
	The event or activity would have more than 200 attendees at any single agricultural operation at any time, regardless of the number of visitor VTPD or the acreage of the site			X
Agritourism: educational programs, or workshops or demonstrations related to agriculture or silviculture	On sites ⁴ greater than or equal to 21 acres and the event or activity will generate 50 or fewer visitor vehicle trips per day (“VTPD”), and each event or activity would have 200 or fewer attendees at any single time, regardless of whether the number of these events or activities, in the aggregate would exceed 4 in a calendar year	X		
	The event or activity would have 200 or fewer attendees at any single time, regardless of the number of visitor VTPD or the acreage of the site, where the number of these events or activities, in the aggregate would not exceed 4 in a calendar year	X		
	Either on sites less than 21 acres or the event or activity will generate more than 50 visitor VTPD and each event or activity would have 200 or fewer attendees at any single time, where the number of these events or activities, in the aggregate would exceed 4 in a calendar year		X	
	The event or activity would have more than 200 attendees at any single agricultural operation at any time, regardless of the number of visitor VTPD or the acreage of the site			X

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Event or activity¹	Criterion	By right	By right with zoning clearance²	By special use permit³
Agritourism: farm tours	The number of farm tours in which the agricultural operation is participating would not exceed 4 in a calendar year, and each farm tour would have 200 or fewer attendees at any single agricultural operation at any time, regardless of the number of visitor VTPD or the acreage of the site	X		
Agritourism: farm tours	The number of farm tours in which the agricultural operation is participating would exceed 4 in a calendar year, regardless of the number of attendees at any single agricultural operation at any time, the number of visitor VTPD, or the acreage of the site		X ⁵	
Sales: The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation, including farm sales but excluding harvest-your-own activities	On sites greater than or equal to 21 acres and the activity will generate 50 or fewer visitor VTPD	X		
	On sites less than 21 acres or the activity will generate more than 50 visitor VTPD		X	
	Structures used for the sales activity, in the aggregate, if the gross floor area devoted to sales is less than or equal to 4,000 square feet	X		
	Structures used for the sales activity, in the aggregate, if the gross floor area devoted to sales is greater than 4,000 square feet			X
Sales: harvest-your-own activities	On any site, regardless of the acreage of the site, the number of visitor VTPD, or the number of attendees at any time	X		
Sales: The preparation, processing, or sale of food products in compliance with Virginia Code § 3.2-5130(A)(3), (4) and (5) or related state laws and regulations (“sale of food products”)	On sites greater than or equal to 21 acres and the activity will generate 50 or fewer visitor VTPD	X		
	On sites less than 21 acres or the activity will generate more than 50 visitor VTPD		X	
Other Events or Activities: Agricultural operation events	The event will generate 50 or fewer visitor VTPD and will occur on sites greater than or equal to 21 acres	X		
	The event will generate more than 50 visitor VTPD or occur on sites less than 21 acres but have 200 or fewer attendees at any time		X	
	The event will have more than 200 attendees at any time, regardless of the number of visitor VTPD or the acreage of the site			X
	The number of events in a calendar year would exceed 24, regardless of the number of visitor VTPD, number of attendees, or the acreage of the site			X
Other Events or Activities: Other events or activities which are determined by the zoning administrator to be usual and customary uses at agricultural operations throughout the Commonwealth	The applicable criteria will depend on whether the proposed event or activity is classified as agritourism, sales, or an event; and the applicable criterion of the events or activities listed above shall apply	Determined by how event or activity is classified	Determined by how event or activity is classified	Determined by how event or activity is classified

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1. If two or more events or activities categorized as “Agritourism” or “Other Events or Activities” are being, or will be, conducted on-site simultaneously for any duration, the number of visitor VTPD and the number of attendees shall each be aggregated, and the requirements of the more restricted event or activity shall apply. For the purposes of this provision, an event or activity requiring a special use permit is more restricted than an event or activity permitted by right, either with or without a zoning clearance, and an event or activity permitted by right with a zoning clearance is more restricted than an event or activity permitted by right.
 2. The zoning clearance shall be obtained under section 31.5 and shall include considering the matters in subsection (e).
 3. The special use permit shall be obtained under section 33 and, in addition to the requirements of that section, shall include the information required by subsection (f).
 4. The term “site,” as used in this section, means one or more abutting lots under the same ownership on which the agricultural operation and the event or activity is located.
 5. A single zoning clearance may be obtained for all agricultural operations participating in a farm tour.
- e. *Matters to be considered in review of request for approval of zoning clearance.* In reviewing a request for approval of a zoning clearance, the zoning administrator’s review shall include verifying that the proposed event or activity complies with the applicable minimum yard standards in subsection (h), Virginia Department of Transportation entrance standards, Virginia Department of Health health and sanitation standards, and shall ensure that on-site travelways can accommodate emergency vehicles, adequate on-site parking is provided in a location that complies with this chapter, environmental impacts are addressed by compliance with the applicable regulations or performance standards of this chapter and chapter 17, and that all improvements comply with the applicable requirements in section 4. In addition, for any zoning clearance for a farm tour that may have more than 200 attendees at any single agricultural operation at any time, the zoning administrator shall consider the traffic management plan submitted by the person requesting the zoning clearance. The traffic management plan shall demonstrate how traffic entering and exiting each agricultural operation participating in the farm tour will be managed to ensure safe and convenient access to and from the site and safe travel on public streets.
1. *Notice.* The agricultural operation shall provide written notice that an application for a zoning clearance for agricultural events and activities allowed by this subsection has been submitted to the owner of each abutting lot under different ownership than the lot on which the proposed event would be located. The notice shall identify the proposed type, size, and frequency of events, and provide the name and telephone number of a contact person who will be on-site at the agricultural operation during each event. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance.
- f. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more event or activity (“use”) for which a special use permit is required under subsection (d) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each use; and (vi) the location of any stage, structure or other place where music will be performed.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning, depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- g. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:

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1. *Zoning clearance.* Each agricultural operation shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the agricultural operation. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the agricultural operation will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being generated, to monitor compliance with the applicable standards in section 4.18, or both.
 2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
 3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
 4. *Times of day when outdoor amplified music prohibited.* Sound generated by outdoor amplified music is prohibited between 10:00 p.m. each Sunday through Thursday night and 7:00 a.m. the following morning, and between 11:00 p.m. each Friday and Saturday night and 7:00 a.m. the following morning
 5. *Notice.* The agricultural operation shall provide written notice that an application for a zoning clearance for outdoor amplified music allowed by this subsection has been submitted to the owner of each abutting lot under different ownership than the lot on which the proposed event would be located. The notice shall identify the proposed type, size, and frequency of events at which outdoor amplified music will be played, and provide the name and telephone number of a contact person who will be on-site at the agricultural operation during each event. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance.
- h. *Yards.* Notwithstanding any other provision of this chapter, the following minimum front, side, and rear yard requirements shall apply to any event or activity:
1. *Structures used for agritourism, events, and sales.* The minimum yards for structures used for agritourism, events, and the sale of agricultural or silvicultural products shall be as follows:
 - a. *New permanent structures and temporary structures.* The minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures used for agricultural operation events or agritourism and any new permanent structure or temporary structures, provided that the minimum front yard on an existing public road in the rural areas (RA) district shall be thirty-five (35) feet for structures used for sales.
 - b. *Existing permanent structures.* If an existing permanent structure does not satisfy any minimum yard requirement under subsection (h)(1)(a), the minimum yard required shall be the distance between the existing permanent structure and the street, road, access easement, or lot line on November 12, 2014, and that distance shall not be thereafter reduced. An enlargement or expansion of the structure shall be no closer to a street, road, access easement or lot line than the existing structure.
 2. *Outdoor event and activity areas.* The minimum front, side, and rear yards for outdoor event and activity areas shall be a minimum of one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the agricultural operation. These minimum standards shall not apply to any portion of the agricultural operation that is engaged in production agriculture or silviculture, even though it also is used for an agritourism activity.

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3. *Parking areas, tents, and portable toilets.* The minimum front, side, and rear yards for parking areas, tents, and portable toilets shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the agricultural operation.
 4. *Special exception.* Any minimum yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to any abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent to the proposed reduction has been provided by the owner of any lot abutting the proposed reduced setback.
- i. *Uses prohibited.* The following uses are prohibited:
1. Restaurants.
 2. Helicopter rides

(Ord. 14-18(2), 11-12-14; Ord. 19-18(2), 5-15-19)

5.1.59 FARM DISTILLERIES

Each farm distillery shall be subject to the following:

- a. *Operational uses permitted by right.* The following operational uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm distillery:
1. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer.
 2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distillery and the Alcoholic Beverage Control Board pursuant to the provisions of Virginia Code § 4.1-119(D).
 3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of the alcoholic beverages.
- b. *Agritourism uses or sales related uses permitted by right.* The following uses are permitted by right at a farm distillery, provided they are related to agritourism or the sale of alcoholic beverages other than wine or beer:
1. Exhibits, museums, and historical segments related to alcoholic beverages other than wine or beer or to the farm distillery.
 2. Guest distillers and trade accommodations of invited guests at a farm distillery owner’s private residence at the farm distillery.
 3. Hayrides.

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4. Kitchen and catering activities related to a use at the farm distillery.
 5. Picnics, either self-provided or available to be purchased, at the farm distillery.
 6. Providing finger foods, soups, and appetizers for visitors.
 7. Tours of the farm distillery, including the areas where agricultural products are grown.
 8. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be similar in kind to other uses permitted by right in this subsection, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this use.
- c. *Farm distillery events, weddings, wedding receptions, and other events permitted by right and by special use permit.* Farm distillery events, weddings, wedding receptions, and other events are permitted by right or by special use permit at a farm distillery, provided that they are related to agritourism or the sale of distilled spirits, as follows:
1. *Eligibility.* Any farm distillery use established in the county before January 18, 2017 is eligible to hold the events authorized in subsections (c)(2) and (c)(3). Any farm distillery use established in the county on and after January 18, 2017 or which had not submitted an application to the United States Bureau of Alcohol, Tobacco, and Firearms for licensure in the county before January 18, 2017, is eligible to hold the events authorized by subsections (c)(2) and (c)(3) if it has: (i) on-site distillation and bottling processes; (ii) an on-site tasting room with regular hours in which it is open to the public; and (iii) a minimum of five (5) acres of fruits, grains, or other agricultural products planted on-site, or on any abutting lot under the same ownership, at least one growing season each calendar year and used or to be used in the production of the establishment's beverages, provided that the five (5) acre threshold shall not apply during periods of widespread crop damage due to pest damage, disease, frost damage, or storm damage, and further provided that none of these eligibility requirements shall apply where the sole events under this subsection (c) are holding up to four (4) educational programs related to agriculture per calendar year at which not more than two hundred (200) persons are in attendance at any time. Notwithstanding any other provision of this chapter, the eligibility requirements of this subsection (c)(1)(i) and (iii) may not be waived, modified, or varied by special exception. A special exception to subsection (c)(1)(ii) may be granted to permit tasting room hours by appointment instead of regular hours in which the tasting room is open to the public.
 2. *By right.* Farm distillery events, weddings, wedding receptions, and other events are permitted by right at a farm distillery provided that not more than two hundred (200) persons are in attendance at the farm distillery at any time and the events are related to agritourism or the sale of distilled spirits, subject to the following:
 - (a) *Zoning clearance.* For each farm distillery licensed on and after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to holding any events if either the lot or the abutting lots on which the events allowed in this subsection occur is less than twenty-one (21) acres in size or the event will generate more than fifty (50) visitor vehicle trips per day; and
 - (b) *Notice.* The farm distillery shall provide written notice that an application for a zoning clearance for one or more events allowed by this subsection has been submitted to the owner of each abutting lot under different ownership than the lot on which the proposed event would be located. The notice shall identify the proposed type, size, and frequency of events, and provide the name and

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telephone number of a contact person who will be on-site at the farm distillery during each event. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance.

3. *By special use permit.* Farm distillery events, weddings, wedding receptions, and other events at which more than two hundred (200) persons will be in attendance at the farm distillery at any time are permitted by special use permit at a farm distillery, provided that they are related to agritourism or the sale of distilled spirits.
 4. *Determining attendance at the farm distillery at any time.* The attendance at the farm distillery at any time under subsections (c)(2) and (c)(3) shall be the aggregate of the actual or allowed attendance at any time for any farm winery event, farm brewery event, farm distillery event, wedding, wedding reception, and other events. Attendance shall not include any owner or employee of the farm winery or any employee or owner of a vendor providing goods or services to the farm winery event, wedding, wedding reception, or other event pursuant to subsections (c)(2) and (c)(3). Attendance shall not include any individual engaging or participating in activities under subsections (a) and (b).
 5. *Other events.* For the purposes of this subsection, the term “other events” means events that are agritourism events or are distilled spirits sales related events, which are determined by the zoning administrator to be usual and customary at farm distilleries, which do not create a substantial impact on the public health, safety, or welfare, and which are not expressly authorized under subsection (c) as farm distillery events, weddings, or wedding receptions.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more events authorized under section 5.1.59(c)(3) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed events; (ii) the maximum number of persons who will attend each event at any given time; (iii) the frequency and duration of the events; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each event; (vi) the location of any stage, structure or other place where music will be performed; and (vii) a traffic management plan, which demonstrates how traffic entering and exiting the farm distillery for an event will be managed to ensure safe and convenient access to and from the site, and includes planned routes of vehicular access to the farm distillery, on-site circulation, the use of shuttles or other transportation services, and traffic control personnel.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the events; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each farm distillery shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm distillery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm distillery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.

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2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
 3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
 4. *Times of day when outdoor amplified music prohibited.* Sound generated by outdoor amplified music is prohibited between 10:00 p.m. each Sunday through Thursday night and 7:00 a.m. the following morning, and between 11:00 p.m. each Friday and Saturday night and 7:00 a.m. the following morning.
- f. *Yards.* Notwithstanding any other provisions of this chapter, the following shall apply to each farm distillery in the Rural Areas (RA) district:
1. *Permanent structures.* The minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after May 5, 2010.
 2. *Tents and portable toilets.* The minimum front, side, and rear yard shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm distillery for tents and portable toilets used in whole or in part to serve any permitted use at a farm distillery.
 3. *Off-street parking areas.* Off-street parking areas established on or after January 18, 2017 shall comply with the minimum front yard requirements in section 10.4 and the minimum side and rear yards shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm distillery.
 4. *Special exception.* Any minimum yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to any abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent to the proposed reduction has been provided by the owner of any lot abutting the proposed reduced setback.
- g. *Uses prohibited.* The following uses are prohibited:
1. Restaurants.
 2. Helicopter rides.

(Ord. 15-18(10), 12-9-15; Ord. 17-18(1), 1-18-17)

5.1.60 DRIVE-THROUGH WINDOWS

Each drive-through window shall be subject to the following:

- a. If the building is adjacent to a public street, any drive-through windows shall be located on the side or rear of the building, away from the public street.
- b. No drive-through lane shall be located between a building and a public street unless separated from the right of way by a landscaped area that complies with section 32.7.9.5(b), (c), (d), and (e) and is at least ten (10) feet in depth extending the length of the drive-through lane.
- c. No portion of a drive-through lane shall be located within fifty (50) feet of a residential district, the rural areas district, the Monticello Historic district, or any part of a planned development district allowing residential uses.