

LOUDOUN COUNTY
RURAL ECONOMIC
DEVELOPMENT COUNCIL

July 15, 2022

Joe Kroboth III, Acting Director Planning & Zoning
Judi Birkett, Interim Assistant Director, DPZ

Re: Zoning Ordinance Rewrite – REDC Round 3 Public Input Comments

Mr. Kroboth and Ms. Birkett,

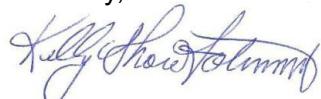
The Rural Economic Development Council (REDC) would like to thank the Zoning Ordinance Rewrite County Staff for your hard work to develop Loudoun County's new zoning ordinance to implement the 2019 General Plan.

In 2019 REDC formed the ZOR Ad hoc Committee per the REDC Bylaws, and has reviewed the Zoning Ordinance Rewrite (ZOR) chapters for continuity, compliance, consistency of similar uses, and alignment of goals with the 2019 General Plan. The committee considered the policies and actions in the General Plan to confirm that zoning ordinances were appropriate for the long-term viability and long-term success of rural Loudoun businesses.

Input from all REDC sector representatives was requested in order to reflect a balanced approach in our review of agricultural, agri-tourism, animal husbandry and other uses in the Rural Policy Area. Although the REDC Chair and Department of Economic Development (DED) Executive Director did not expect there to be a majority view on all topics, the attached report represents a majority view as a whole. For Staff's information, a copy of the survey and in-person votes quantifying the majority and minority views, are included as an attachment to this report.

In some areas you will note that additional information for missing sections and responses to questions are required to complete our review. In addition, REDC welcomes the opportunity to assist staff complete several sections during the development of the second draft text, which may require the specific expertise of our membership.

Sincerely,



Kelly S. Foltman, DVM
REDC Chair

cc: Loudoun County Board of Supervisors
Tim Hemstreet, County Administrator
Valmarie Turner, Assistant County Administrator
Buddy Rizer, Executive Director, DED

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LOUDOUN COUNTY
RURAL ECONOMIC
DEVELOPMENT COUNCIL

**REDC Round 3 Zoning Ordinance Rewrite
Public Input Report
Comments on ZOR Draft Text Released 4-18-2022
(7-15-2022)**

INTRODUCTION

The Rural Economic Development Council (REDC) Zoning Ordinance Rewrite Adhoc Committee was formed per the REDC Bylaws in 2019. The Adhoc Committee has reviewed the Zoning Ordinance Rewrite chapters for continuity, compliance, consistency of similar uses, and alignment of goals with the 2019 General Plan. The committee considered the policies and actions in the General Plan to confirm that zoning ordinances were appropriate for the long-term viability and long-term success of rural Loudoun businesses. Each REDC sector representative reviewed and provided input for a balanced approach regarding specific agricultural, agri-tourism, animal husbandry and other uses in the Rural Policy Area.

REDC HISTORICAL OVERVIEW

Prepared by: Jeffrey S Browning, President, Browning Equipment, Inc.,
Former REDC Chair, Current REDC ZOR Ad Hoc Committee member,
Current REDC representative to Zoning Ordinance Committee (ZOC)

The Loudoun County Board of Supervisors in July 1997 created the Rural Economic Development Task Force consisting of Loudoun citizens and charged them as follows:

"Construct a Rural Economic Development Plan that fosters economic growth that is compatible with preservation of natural resources, that strives for a high value of agricultural production that may be different from traditional agriculture, that supports the equine and tourism industries, that maintains high quality farmland, and that recognizes the need for continued low density planned residential growth."

The result of this effort was the November 1998 plan, "The 200,000 Acre Solution: A Rural Economic Plan by the Rural Task Force." Included in this plan were recommendations to help landowners farm with greater profitability, recommendations for new initiatives most likely to result in significant increases in the rural economy, and recommendations to secure the natural resource base of Loudoun's rural land. The organizational recommendation was for the creation of the Loudoun County Rural Economic Development Council (REDC). The then-existing Agricultural Advisory Committee which served the Board of Supervisors was ultimately replaced by the REDC in November of 2000.

Clearly, the REDC has in its name "Economic Development," and we are champions of businesses in rural Loudoun. We do, however, have an obligation to maintain the "Rural" focus which means country, open space, and farming. It is imperative that thought be given to the scale of rural uses. Expanded rural uses were offered by Loudoun County in the past when properties were downzoned and their perceived value in terms of potential development yield was reduced. These uses were ideas to give owners of large parcels options other than residential construction. Some of the uses of such scale that invite large numbers of patrons should be located on these larger parcels, rather than on smaller residential lots. An attempt to keep high intensity uses on larger parcels will also reduce conflicts with neighbors. The Loudoun County 2019 Comprehensive Plan clearly states (Rural Policy Area, Rural Economy Strategy 3.1):

"Ensure compatibility of rural economy uses through the evaluation of the scale, use, intensity, and design (site and building) of development proposals in comparison with the dominant rural character and adjacent uses."

The duty of the Zoning Ordinance is to implement the comprehensive Plan.

RURAL LOUDOUN'S ECO-SYSTEM

Prepared by: Alta Jones, Former Chair of REDC,
Current REDC ZOR Ad Hoc Committee member.

Rural Loudoun has a highly desirable combination of scenic beauty, natural resources and cultural heritage rooted with the past and present agriculture community. Nearby proximity to large populations and access to an educated workforce along with the natural resources, cultural heritage, local products and services to create Loudoun's rural ecosystem. Loudoun's rural businesses have embraced the packaging/branding of their local products and services with the added element of sharing our "sense of place." This sense of place is what makes Loudoun stand out and involves the entire ecosystem.

As our rural businesses continue to evolve and adapt their revenue models with new offerings, expand targeted customers and capture the power of collaboration strategies across business sectors, tension sometimes occurs between the different constituents of the ecosystem. Example neighbors (residents & businesses) are concerned about noise, traffic, protection of night skies, preserving cultural/historical assets and impact of business expansion as all constituents share viewsheds, environmental resources, have "rights", and operate with uncertainties. There are concerns such as what happens to our "sense of place" when outside corporations with ownership elsewhere buy up the land and assets or large swaths of relatively affordable housing? Will we lose our sense of community to support our local business, protect our natural resources, preserve our history, and support our neighbors in need?

We must continue to actively protect our natural resources, viewsheds, prime ag soils and historical assets. Our residents and businesses support the sale of our products and services especially during the off season and are an integral part of our ecosystem. Good relations with neighbors and our communities are good for business and our "sense of place."

REDC Round 3 Zoning Ordinance Rewrite Public Input Comments REPORT on ZOR Draft Text Released 4-18-2022

GENERAL COMMENTS

- Overall, the Prime Soils ZOAM should be included within the zoning district and development sections. It is REDC's understanding this will be done when ZOAM-2020-0001 (Zoning Ordinance Rewrite) is completed.
- Additionally, within Uses (Chapter 3) and Development Standards (Chapter 5) there are numerous areas where trails and or passive uses are mentioned. These areas should conform to and specify within the text the Linear Parks and Trails (LPAT) plan.

Chapter 3:

- LPAT references should be included in Use-specific standards for 3.05.05.17 rural retreats and 3.05.06.02 data centers.

Chapter 5:

- 5.04. Purpose: *Ensure the availability of open space for active and passive recreation.*
- 5.03.03.A.1.b. passive recreation (also include equestrian trails).
- 5.04.03.B.2. Public Open Space.
- 5.04.04.A.5. *Bonus credit shared use path should include LPAT trail system.*
- 5.04.06.B Passive Use Design Standards: Centrally located and accessible by a pedestrian and bicycle network. *Should reference accessibility via LPAT system and question why centrally located?*
- 5.04.07 Trails: *Hikers, bikers and equestrians should ALL be priority users and have trails developed with them in mind with work arounds as required to maintain continuity of the trail system throughout the county.*
- Bike-ped plan should allow for connectivity to natural surface LPAT trail system.

CHAPTER 3: USES TABLES AND USE-SPECIFIC STANDARDS

3.02.01 Farm Market (off-site) is currently prohibited in the Urban and Suburban Use Table under Urban Employment. REDC suggests that this be a by-right use to encourage the establishment of off-site farm markets to create demand for Loudoun-grown products.

3.02.02-2 Equestrian Event Facility. This use is currently prohibited (blank) in JLMA-LE. REDC recommends this use be allowed by-right (P) or minor spex (M).

3.05.02.07 & 3.05.02.10 Seasonal Labor Dormitory and Tenant dwellings:

- **3.05.02.07 Seasonal Labor Dormitory.** OSHA regulations require a minimum of 100 sq ft. per laborer. Loudoun County standards should conform to OSHA regulations requiring a minimum of 100sq.ft. versus 200 sq.ft. minimum in the draft text.
- **3.05.02.10 Tenant Dwellings.** The number of tenant dwellings per farm is currently limited to a maximum of 4 per 85 acres and more. Recommendation would be to base the number of allowed seasonal labor dwellings on the number of verifiably payrolled laborers required to farm the acreage, and the availability of adequate sewer, water and electricity to support required housing.
- ZOR County Staff should work closely with REDC contacts with expertise to revise Seasonal Labor Dormitory and Tenant Dwelling calculations to reflect the needs of actual Loudoun County farmers.

3.05.04.14 Farm Markets. If the definition of farm market is for the majority of product to be made on that farm, then these should be allowed on gravel roads, where most farms are located. However, this seems to closely resemble the wayside stand definition. Suggest staff review farm market, farm market off site and wayside stand for overall consistency.

3.05.04.17 Mobile Vendors. REDC requests language to review when completed concerning the permitted use (P/M) of mobile vendors and or mobile vending in ARN, ARS and TLN-10, as this use is an important part of the rural economy.

- **Mobile Vending:** *Defined as the sale, display, solicitation or offer for sale, barter, exchange, gift or otherwise of food prepared within a self-contained vehicle, trailer or cart, should be allowed in ARN, ARS and TLN-10. Mobile vending does not include catering vehicles or ice cream trucks in continuous operation within the public right-of-way. REDC looks forward to reviewing language as it becomes available.*
- **Mobile Vendor:** *Any individual that operates or assists in the operation of a self-contained vehicle, trailer or cart which provides the sale, display, solicitation or offer for sale, barter, exchange, gift or otherwise of prepared food.*

3.05.05.01 Amphitheater. As allowed by Special Exception in the Rural Policy Area, this use should require hours of operation. With up to 2000 seats Road Access standards should require being on a paved road, and intensity should consider location in terms of adjacent properties and other road conditions. The Use Definition for Amphitheater should also differentiate it in size and intensity to a band stand, as is common at many other high-intensity use locations offering “performances” and “concerts” with or without tickets (such as limited breweries and farm wineries).

3.05.06.07 Sawmills. REDC comments with regard to Rural Use Specific Standards: Nurseries, ag processing, sawmills (with three levels), and slaughterhouses all require a special exception. The special exception requirement is excessive to someone looking to offer small scale grain cleaning/milling or animal processing services on their farm or saw milling services and should be further considered.

3.05.08.01 Agriculture/horticulture should not require five acre minimum for horticultural or ag uses not involving livestock. This will make it inadvertently illegal to produce hay, grow fruit trees etc., on small lots.

3.05.08.02 and .03 Agriculture Support Uses - Direct and Standalone. Equine uses:

- Currently there are both definitions and categories with the title of “Agriculture.” The definition can be found in Chapter 11. In Chapter 3 there is both a category of “3.05.08 Agriculture” and subcategories of:

3.05.08.01 Agriculture, Horticulture and Animal Husbandry
 3.05.08.02 Agriculture Support Uses (Direct Association with On-Site Ag Activity. Use Standards include Equestrian Event Facility and Stable, Livery
 3.05.08.03 Agriculture Support Uses (Standalone). Use Standards include Equestrian event facility and Stable or livery.

REDC comments that Equine Event Facility and Stable livery should both be under 3.05.08.01 Agriculture (versus Ag. Support Uses).

- REDC comments that 25 acres is excessive for an equine livery and that 10 acres should be a minimum. Pasture stocking rates will dictate how many animals can be present and many existing operations are on 15 acres doing best practices.
- For hours of operation on equestrian events (6am to 9pm and 6am to 10pm), this should not include *deliveries or preparation and care of animals during an event* outside of those times.
- C: Size of structure. Most Stable Livery and Stable Event uses as well as many Stable Private uses have indoor riding arenas of 100x200 which is a larger footprint than allowed for all combined structures on <25 acres and within 4,000 sq.ft. for all parcels 25-50 acres. REDC and LCEA members can assist Staff understand the requirements.

3.05.08.03 Agriculture Support Use (Standalone). Ag Education or Research Center requiring 25 acres for 200 attendees is inconsistent and may be high when Banquet Event Facilities can be on 20 acres for 200 attendees. (To make consistent, Banquet Event Facilities may require larger parcels than 20 acres in rural areas.)

3.05.08.05 Wayside stands. What percent of products can be sold that are not made on-site? Can, will or should this be defined?

3.05 Use-Specific Standards and/or 3.04. Temporary Uses REDC comments that *production or bona fide agricultural farms uses* that wish to host educational events be provided criteria similar and consistent to the BnB regulations to bundle applications for annual registration to reduce the time and cost. Similar to 3.05.03.01-1 table for private parties for BnBs, for an annual fee and inspection, bona fide ag farms should be able to apply for x-number of annual events for x-number of patrons based on acreage and on-site parking availability. This should include the ability to have catered food or mobile food vendors. Example is 3.05.03.01-1 table for private parties for BnB.

3.05.08.04 Limited Breweries Use-Specific Standards

- **Hours of operation.** For Limited Breweries and Farm Wineries, REDC comments with regard to Hours of Operation that current guidelines from Code of Virginia and Virginia ABC allow on-premises locations to sell alcohol between the hours of 6 am and 2 am Monday through Sunday. Entertainment and/or educational component activities regulations(e.g., noise, light, outdoor music, events) should be applied for more consistent hours as other rural business uses of similar intensity to better reflect the rural ecosystem.

Reference: Following text applies to both

§ 15.2-2288.3. (Eff. Jan. 1, 2022) Licensed farm wineries,

§ 15.2-2288.3:1. (Eff. Jan. 1, 2022) Limited brewery license.

*Local restriction upon such activities and events of [farm wineries / limited brewery] licensed in accordance with Title 4.1 to market and sell their products **shall be reasonable** and shall take into account the economic impact [on the farm winery/on such licensed brewery] of such restriction, the **agricultural nature** of such activities and events, and whether such activities and events are usual and customary.*

- **Attendance.** How is capacity considered for outdoor (licensed) space and vehicular traffic to comply with sketch plan (Chapter 7), parking, and road access standards (5.09.01)? Should a site visit be required for all new establishments?

Reference: Code of VA § 15.2-2288.3:1,

"Any locality may exempt any brewery licensed in accordance with subdivision 2 of § 4.1-208 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

The statement "*locality may exempt*" means that the locality can apply local regulations of minimum parking, road access or road upgrade requirements and subsequently choose whether to make exemptions.

- **Non-conformities.** REDC maintains that changes for existing businesses should not be prohibitive for continued operations. This is to be confirmed by Staff and with REDC review of Chapter 9 Non-conformities and rules/regulations for grandfathering. See grandfathering under Chapter 9 Non-conformities.

- **Agricultural production.** REDC comments that 3.05.08.04 Limited Breweries should be positioned to transition to growing products that can be directly used in the production of their product as Virginia Tech continues to determine agriculture products that can economically and sustainably grow in this region. Methods:

- A. Determining a ratio of the number of acres in on-site agriculture per acre of brewery to be utilized for agriculture production.
- B. Business uses allowed on Farms not currently covered by an agricultural production requirement should as best practice have a farm plan identifying what crops would be suitable for the property and acreage assigned as part of their process.

Reference: § 4.1-206.1. (Effective July 1, 2022) Manufacturer licenses.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other

grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. . .

For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use.

Farm wineries are required to plant vines on the site of their primary establishment. This helps wineries to both reflect the agricultural attributes of the rural area and to create a natural buffer between their business and surrounding properties. This approach would also place breweries in better compliance with state code to have agricultural products produced on site that are used in the manufactured product.

- **Size of Operation.** REDC comments for 3.05.08.04 Limited Breweries and Farm Wineries that use-specific standards should **apply three or four "Levels" or "tiers" for various size operations**, as is done for a number of other rural economy uses and use-specific standards. This would accommodate small to large operations while managing impacts.

Agricultural Processing: NEW Use-Specific Standards request (for 3.05.06 or 3.05.08)

- REDC requests new use-specific standards under 3.05 Agriculture for the current Agricultural Processing use. The Draft ZOR Text does not allow Agricultural Processing either 1) in the definition of Agriculture OR 2) in the rural use table under Agriculture; it is a separate use under the "Industrial/Production" section. The only mention of "Agricultural Processing" in the draft text is as a principal use which would only be allowed by Special Exception, which is cost prohibitive to small ag operations.

REDC comments that:

- Under 3.02 Use Tables and 3.05 Use-Specific Standards: Small scale processing of agricultural products grown within Loudoun should be allowed on farms in ARN and ARS. Small producers often have multiple small parcels that may not be contiguous. The requirements should be amended to allow processing of products from multiple parcels in Loudoun County owned by the same individual on one parcel that is also used for production, instead of, as currently written, to require individual processing centers on each parcel. The requirement for at least 51% of the processing be from products grown or raised in Loudoun County should remain.
- Under 11.03 Definitions: The definition of Agricultural Processing should be part of the definition of: Agriculture, Horticulture, Animal Husbandry, Feedlot, Farm Co-ops to recognize that agricultural processing is an intrinsic activity in those uses. The definition of "farm" should be amended such that processing by itself does not define a farm. Processing should be eliminated from the "Farm" definition.

CHAPTER 4 – OVERLAY DISTRICTS

Overall comments: New guidelines are needed that better reflect the ecological issues that may negatively impact rural business operations in overlay districts.

Examples:

- **4.03. Floodplain Overlay District.** Fencing, tree planting still needs study for Floodplain Overlay District (FOD).
- **4.04. Mountainside Development Overlay District (MDOD).** Should all uses be permitted the same in ARN/ARS, or should some level of oversight (M? S?) be required in MDOD areas for protection of the business and customers?
- **4.05. Limestone Overlay District (LOD).** The mineral content in Limestone Overlay District (LOD) is beneficial for winery terroir. These areas should have protection against other uses that could negatively impact the LOD. Staff should determine how areas in LOD can not allow some uses to be by-right.

CHAPTER 5 – DEVELOPMENT STANDARDS

Section 5.01: Site Development

5.01.03. Site Development, Uses on Lots. Evaluating intensity of scale for multiple business uses on a parcel or property needs to include the property topography characteristics, soil conditions, road access and other factors used to assess public health and safety.

- Where two or more primary uses are located on one parcel should the required parcel size be evaluated to be the sum of all minimum lot sizes (similar to parking) rather than the current requirement that the acreage meet only the size requirement for the largest use? (*Note: REDC majority vote disagreed with this option.*)
- Alternatively, if more than one primary use is applied for, should the application be reviewed via a site or sketch plan/visit with consideration given to intensity of use (volume of patrons, parking, traffic, noise, lighting, etc.) to confirm acreage for multiple uses?

Section 5.04: Open Space

5.04.08.E.3 Uses in Open Space Agriculture. Description should include equestrian private and livery uses.

5.04.08.B2 and E1. REDC questions allowing sewer facilities in public open space. They should be on the property of the individual homes.

5.04.08.B5. Allowable uses should include “Nursery Production,” not “Nursery, Production” (remove comma “,”).

Section 5.05 Parking

5.05.02.A. Multiple Permitted Uses. For parcels with multiple permitted uses the minimum required parking is calculated cumulatively for each principal use. REDC agrees.

5.05.02.C. Parking Requirements by Use and Policy Area. *Each application for a site plan, zoning permit...shall include location and dimensions of parking and means of ingress and egress.* REDC agrees.

5.05.03-4 Table: Rural Policy Area Parking Ratios

- Text should reflect that accessory dwellings will/could be used as Short Term Residential Rentals (STRR).
- Under Arts, Recreation and Entertainment: How was $\frac{1}{3}$ of permitted capacity plus 1/employee calculated for equestrian event facility?
- Under Agriculture:
 - REDC supports Limited Brewery, winery commercial and farm winery changed to 8/1,000 sq.ft., to be made consistent with amphitheater and outdoor recreation. However, what was the reason for banquet facilities to remain 5/1000 sq.ft.?
 - REDC asks why wineries and limited breweries are not required to have 2 spaces being ADA?
 - Are parking requirements for wineries and breweries calculated based on indoor square feet or outdoor licensed area square feet? If only by indoor square feet, how is parking for licensed area / outdoor activities at breweries and wineries considered for parking (by outdoor square feet)?
 - There should be a parking minimum of 8/1000 sq.ft. of building plus consideration for outdoor patrons. Satellite parking may be allowed for special events as long as transportation to the facility is provided.
 - For standards, REDC requests that parking must be on-site on land contiguous to and owned by the facility and be permitted in fields so as not to require impermeable or permanent gravel parking spaces.

Section 5.08 Performance Standards

5.08.01.C. Performance Standards Purpose, Applicability, Exceptions and Administration states, “*Agricultural Operations. The standards contained in this Chapter do not apply to any lawful agricultural operation.*”

- Include a definition of “Agricultural Operations” in Chapter 11.
- This exception should not apply to the tasting room/tap room or other retail or commercial operations.

- Only the bona fide agricultural operation portion of the business and property should be included in 5.08.01.C. as an exception to noise and lighting standards. Consider change to ***bonafide production agricultural operations*** rather than ***agricultural*** which is too broad a term.

Definition reference:

Agriculture, Bona Fide: Agricultural, horticultural, or animal husbandry uses as defined in this Zoning Ordinance that are located on a parcel that is subject to a farm plan approved by the Loudoun County Soil and Water Conservation District or that is classified by the Office of the County Assessor under the land use tax assessment program as Agriculture.

5.08.04. Noise Performance Standards. Noise control is problematic for anyone to understand. The draft text in 5.08 is clear on how loud the noise can be (55 dBA), and where it is measured. What is NOT clear is

- by whom (other than “Zoning Administrator” for zoning use-related noise/light issues versus other noises in codified ordinance) and
- when (time of incident? Or required to make an appointment?)
- Noise standards need to be better defined for business uses in the rural area including 1) application and consistency of noise standards and outdoor music end time for similar intensity operations and 2) by whom and when are noise issues investigated and measured for complaints received. This should also include better education for the public as well as opportunities for businesses to reduce unwarranted or nuisance complaints.

5.08.05. Light and Glare Performance Standards. Light and Glare standards should be consistent for rural business uses of similar operation and/or intensity. The draft text states

- A. Applicability states regulations apply to “all lighting and sources of glare that are produced from a manufactured lighting device . . . “ without exemptions by district or type of use.
- D. Standards #5. states “all exterior lighting must be extinguished between 11pm and 7am” UNLESS . . .
- #6 permitted hours of operation are specified by a Use Specific Standard in Section 3.05.” Then #8 Standards for Specific Uses states “All exterior lighting must be extinguished from the end of the permitted hours of operation for the specific use” **IF** on a site plan, in Use Specific Standards OR *Between 10pm to 6am if no hours of operation are specified.*

REDC comments that standards should apply consistently and be in line with recommended hours of operation for entertainment and/or educational components of use activities.

CHAPTER 6 - SIGN REGULATIONS

Rural Sign Categories. For multiple locations in Chapter 6 Sign Ordinance why is rural Loudoun only given *one* place type (*rural*) in regards to sign regulations? Consideration should be given to commercial vs residential vs farm sign requirements to be consistent with application of sign regulations by residential versus business in other policy areas.

6.01. Application of Sign Regulations. REDC suggests the purpose of signage is twofold: 1) to direct the public to a road, a community, a business etc., while 2) complementing the character of the locality.

6.03.B. Prohibited Signs. REDC agrees that billboards have no place in Rural Loudoun.

6.04. Freestanding Signs. Sign specifications of square feet and height may be too restrictive for rural operations such as farms.

6.05.D. Attached Signs. REDC is not in favor of regulating murals on buildings in rural areas. Painted signage on barns is a common practice in many areas.

Wayside Stand Signs. Why are wayside stands given more sign options than farms? (freestanding and attached)? Farms should be allowed similar flexibility.

Sign application fees. There should be different fee requirements for commercial, residential and rural uses for farming.

CHAPTER 7 - PROCEDURES

(new in 4/18/22 draft text, not previously reviewed)

Sections still missing 7.01, 7.10, 7.11 and 7.12. REDC reserves comment until completed.

Section 7.03.B.4.a. Applications must include an approved site plan or “plot plan.” Use-Specific Standards indicate requirements for site plan or sketch plan. Therefore, what is the definition of “plot plan,” when is it required, and should terms be made consistent between Zoning Ordinance chapters?

CHAPTER 9 - NON-CONFORMITIES

(new in 4/18/22 draft text, not previously reviewed)

9.A. Applicability. Existing rural businesses are concerned about becoming a non-conforming use after approval of the new Zoning Ordinance.

- Can rules be clarified for REDC / BOS to explain how Chapter 9 may impact rural businesses?
- Is there action that a rural business can take to mitigate becoming a non-conformity? For example, can there be a lower cost special exception for grandfathered rural businesses to apply for investment and or expansion of their businesses?

9.B.2. Discontinuation of Nonconforming Use. Many rural structures may not be considered historical. Such structures may have been vacant for more than two years but may be restorable for a new (adaptive) use. Should there be a longer allowable period of abandonment?

CHAPTER 11- DEFINITIONS AND RULES OF INTERPRETATION

(not previously reviewed)

11.01.B.4. Interpretation of Terms. What is the definition of a “working day” especially as applied to rural uses?

11.03. Definitions

- Definitions are required to clarify uses and use-specific standards: “Farm,” “agricultural operations,” “tasting room/tap room,” “agriculture products,” “agricultural production” and “agricultural manufacturing.”
 - These terms are used in the draft text without clear definitions. Code of Virginia requires limited breweries (and farm wineries) to be *“located on a farm in the Commonwealth on land zoning agricultural.”*
- Would an equestrian indoor riding arena/ring be considered an accessory building or an agricultural structure? The typical arena size is 100 x 200 for a private or livery type use and may be larger for an event center. The allowable square footage needs adjusting for these uses if these structures will be considered accessory buildings.
- BnB Inn or Country Inn definition includes “one or more structures.” REDC comments there should be a limit to the number of structures so that neither use becomes an assembly of “tiny houses.”
- Direct Market Business. This is confusing with Wayside Stands. What is the distinction between them?
- What is the definition of “historic” especially as applied to rural structure and adaptive reuse?” The term is used in 9.C.5. Historic Structure Eligibility and throughout the Zoning Ordinance without definition. REDC will support the definition developed by the Heritage Commission for “historic,” and “cultural landscape.”

ATTACHMENT A

REDC Round 3 ZOR Public Input 7/11/2022 VOTING SUMMARY

REDC Members Present for vote: 20 out of 23				
Total questions approved on Consent:	36	Yes 85%	No 15%	
Total questions approved by roll call vote	8			
VOTE				
QUESTIONS	Consent	%Yes	%No	%Ab.
Q.1.A: Introduction content	X			
Q.1.B. Include Historic Narrative	X			
Q.1.C. Include Rural Ecosystem	X			
Q.2. Include LPAT Plan references	X			
Q.3. Seasonal Labor Dormitory and Tenant Dwellings	X			
Q.4. Farm Markets & Wayside stands	X			
Q.5. Farm Markets Off-Site locations	X			
Q.6.A. Amphitheater Hours of Operation		75%	20%	5%
Q.6.B Amphitheater size/intensity levels		90%	10%	0%
Q.7. Special Exception: Nurseries, Ag Processing, Sawmills, Slaughterhouse	X			
Q.8. Ag/Horticulture should not require 5 acres	X			
Q.9.A. Equine under Agriculture vs. Ag Support	X			
Q.9.B. Equine Livery min. 10-15 acres	X			
Q.9.C. Equestrian Event hours of operation	X			
Q.9.D. Stable Livery/Stable Event size of structure	X			
Q.10. Ag Education or Research Center inconsistent w/ Event Facilities	X			
Q.11. Wayside Stands percentage of products sold	X			
Q.12. Farm Educational events allowed with similar levels at B&B Private Parties	X			
Q.13. Event hours for Limited Breweries & Farm Wineries consistency review		60%	35%	5%
Q.14. Site visit for establishments with large volume of visitors or patrons.		55%	45%	0%
Q.15.A. Ratio of ag acres in on-site ag per acre of Limited Brewery		55%	35%	10%
Q.15.B. Should have farm plan for best practices	X			
Q.16. Apply 3-4 "levels" or "tiers" for Limited Brewery & Farm Winery operations		60%	20%	20%
Q.17. Establish new Ag Processing use-specific standards	X			
Q.18. Overlay District guidelines are needed	X			
Q.19.A. Evaluate intensity of scale for multiple business uses on a parcel		20%	75%	5%
Q.19.B Site plan/site visit for applications with multiple uses		75%	15%	10%

Q.20. Sewer facilities should not be allowed in public open space	X			
Q.21. Parking on-site on contiguous land, and permitted in fields	X			
Q.22. 5.08.01.C Exception for Ag Operation should include "bona fide production"	X			
Q.23. Definition of "Agricultural Operation" should be added to Ch. 11	X			
Q.24. Noise standards should be consistent for similar intensity operations	X			
Q.25. Light & Glare standards should be consistent for similar intensity operations	X			
Q.26.A Apply different Sign Regulations for Rural Res vs. Rural Business	X			
Q.26.B. Purpose of signs: direct location while complementing character	X			
Q.26.C Billboards have no place in Rural Loudoun	X			
Q.26.D. Do not regulate murals on buildings in rural areas	X			
Q.26.E. Farm signs allowed similar flexibility as wayside stands	X			
Q.26.F. Apply different Sign application fees for Rural Res vs. Rural Business	X			
Q.27. Clarify rules for non-conformities impacting rural businesses	X			
Q.28. Additional definitions needed in Chapter 11	X			
Q.29. Add definition of "working day" as applied to rural	X			
Q.30. Limit # of structures for B&B or Country Inn		90%	10%	0%
Q.31. Add definition of "Historic" as applied to structures and adaptive reuse.	X	95%	5%	0%

ATTACHMENT B

FULL REDC STRAW POLL SURVEY RESULTS

22 out of 23 members, by 7/8/2022

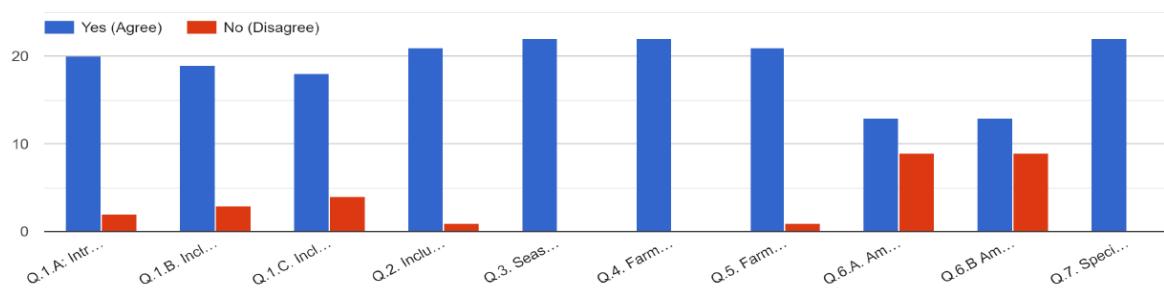
7/10/2022

REDC Zoning Ordinance Rewrite Round 3 Public Input Straw Poll Survey

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QUESTIONS:	[Q.1.A: Introduction content]	[Q.1.B. Include Historic Narrative]	[Q.1.C. Include Rural Eco-System]	[Q.2. Include LPAT Plan references]	[Q.3. Seasonal Labor Dormitory and Tenant Dwellings]	[Q.4. Farm Markets & Wayside stands]	[Q.5. Farm Markets Off-Site locations]	[Q.6.A. Amphitheater Hours of Operation]	[Q.6.B Amphitheater size/intensity levels]	[Q.7. Special Exception: Nurseries, Ag Processing, Sawmills, Slaughterhouse]
Total Yes (Agree)	20	19	18	21	22	22	21	13	13	22
% Yes (Agree)	91%	86%	82%	95%	100%	100%	95%	59%	59%	100%

Total No (Disagree)	2	3	4	1	0	0	1	9	9	0
% No (Disagree)	9%	14%	18%	5%	0%	0%	5%	41%	41%	0%



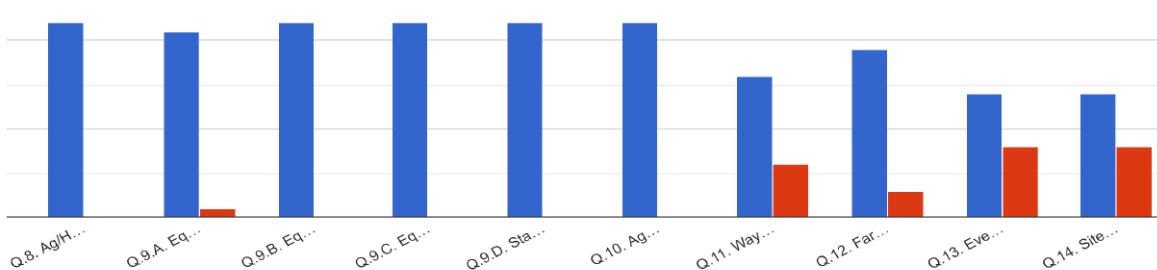
7/10/2022

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QUESTIONS:	[Q.8. Ag/Horticulture should not require 5 acres]	[Q.9.A. Equine under Agriculture vs. Ag Support]	[Q.9.B. Equine Livery min. 10-15 acres]	[Q.9.C. Equestrian Event hours of operation]	[Q.9.D. Stable Livery/Stable Event size of structure]	[Q.10. Ag Education or Research Center inconsistent w/ Event Facilities]	[Q.11. Wayside Stands percentage of products sold]	[Q.12. Farm Educational events allowed with similar levels at B&B Private Parties]	[Q.13. Event hours for Limited Breweries & Farm Wineries consistency review]	[Q.14. Site visit for establishments with large volume of visitors or patrons.]
Total Yes (Agree)	22	21	22	22	22	22	16	19	14	14
% Yes (Agree)	100%	95%	100%	100%	100%	100%	73%	86%	64%	64%

Total No (Disagree)	0	1	0	0	0	0	6	3	8	8
% No (Disagree)	0%	5%	0%	0%	0%	0%	27%	14%	36%	36%



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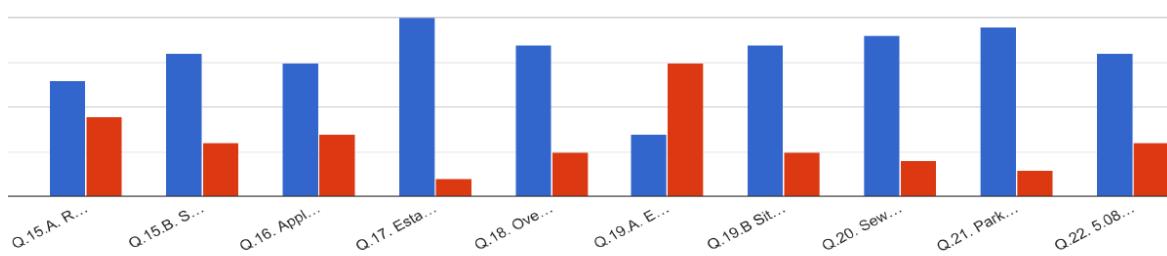
QUESTIONS:	[Q.15.A. Ratio of ag acres in on-site ag per acre of Limited Brewery]	[Q.15.B. Should have farm plan for best practices]	[Q.16. Apply 3-4 "levels" or "tiers" for Limited Brewery & Farm Winery operations]	[Q.17. Establish new Ag Processing use-specific standards]	[Q.18. Overlay District guidelines are needed]	[Q.19.A. Evaluate intensity of scale for multiple business uses on a parcel]	[Q.19.B Site plan/site visit for applications with multiple uses]	[Q.20. Sewer facilities should not be allowed in public open space]	[Q.21. Parking on-site on contiguous land, and permitted in fields]	[Q.22. 5.08.01.C Exception for Ag Operation should include "bona fide production"]
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Total Yes (Agree) 13
% Yes (Agree) 59%

16 73% 15 68% 20 91% 17 77% 7 32% 17 77% 18 82% 19 86% 16 73%

Total No (Disagree) 9
% No (Disagree) 41%

6 27% 7 32% 2 9% 5 23% 15 68% 5 23% 4 18% 3 14% 6 27%



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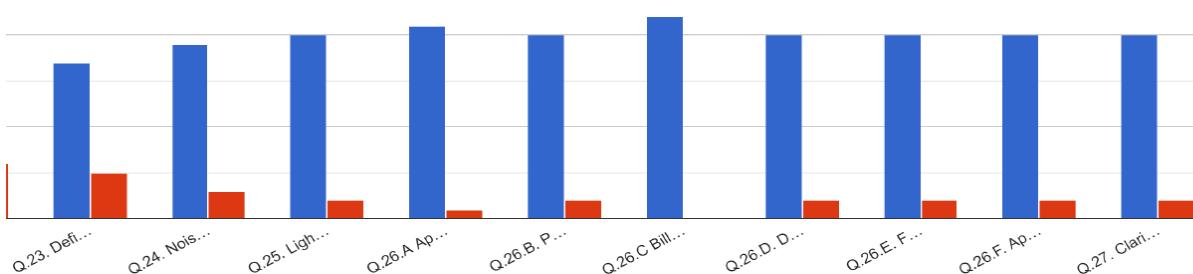
QUESTIONS:	[Q.23. Definition of "Agricultural Operation" should be added to Ch. 11]	[Q.24. Noise standards should be consistent for similar intensity operations]	[Q.25. Light & Glare standards should be consistent for similar intensity operations]	[Q.26.A Apply different Sign Regulations for Rural Res vs. Rural Business]	[Q.26.B. Purpose of signs: direct location while complementing character]	[Q.26.C Billboards have no place in Rural Loudoun]	[Q.26.D. Do not regulate murals on buildings in rural areas]	[Q.26.E. Farm signs allowed similar flexibility as wayside stands]	[Q.26.F. Apply different Sign application fees for Rural Res vs. Rural Business]	[Q.27. Clarify rules for non-conformities impacting rural businesses]
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Total Yes (Agree) 17
% Yes (Agree) 77%

19 86% 20 91% 21 95% 20 91% 22 100% 20 91% 20 91% 20 91% 20 91%

Total No (Disagree) 5
% No (Disagree) 23%

3 14% 2 9% 1 5% 2 9% 0 0% 2 9% 2 9% 2 9% 2 9%



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	[Q.28. Additional definitions needed in Chapter 11]	[Q.29. Add definition of "working day" as applied to rural]	[Q.30. Limit # of structures for B&B or Country Inn]	[Q.31. Add definition of "Historic" as applied to structures and adaptive reuse.]	
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Total Yes (Agree) 18
% Yes (Agree) 82%

16
73%

15
68%

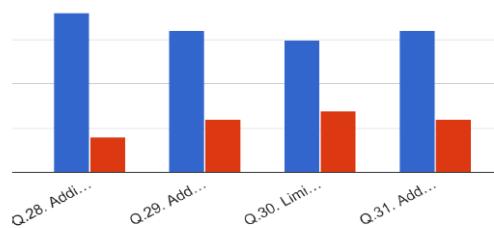
16
73%

Total No (Disagree) 4
% No (Disagree) 18%

6
27%

7
32%

6
27%



ATTACHMENT C

Code of Virginia References

§ 4.1-206.1. (Effective July 1, 2022) Manufacturer licenses.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority. Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility. Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises or off-premises consumption at these business places.

§ 15.2-2288.3. (Effective January 1, 2022) Licensed farm wineries; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories.

Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public.

No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 6 of § 4.1-206.1:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;
2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;
3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;
4. The sale and shipment of wine to the Virginia Alcoholic Beverage Control Authority, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law;
5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law; or
6. The sale of wine-related items that are incidental to the sale of wine.

§ 15.2-2288.3:1. (Effective January 1, 2022) Limited brewery license; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories.

Local restriction upon such activities and public events of breweries licensed pursuant to subdivision 4 of § 4.1-206.1 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public.

No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 4 of § [4.1-206.1](#):

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;
2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;
3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Board of Directors of the Alcoholic Beverage Control Authority;
4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law;
5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law; or
6. The sale of beer-related items that are incidental to the sale of beer.

C. Any locality may exempt any brewery licensed in accordance with subdivision 4 of § 4.1-206.1 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

2014, c. [365](#); 2015, cc. [38](#), [730](#); 2020, cc. [1113](#), [1114](#).

Code of VA § 3.2-300. Definitions

"Agricultural operation" means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.

"Production agriculture and silviculture" means the bona fide production or harvesting of agricultural or silvicultural products but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.