

REDC Comments on ZOR January 2023 Text for Planning Commission Review

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| 2.04.01 | Open space - septic. REDC questions allowing sewer facilities in public open space in AR-1 and AR-2 zoning districts. This open space would no longer be usable for agriculture. | Septic facilities should be on the property of the individual homes. |
| 3.0 | Slaughterhouse is a defined use that is not allowed in any zoning district. A better description would be "Animal Processing Facility." | Slaughterhouse ("Animal Processing Facility") should be added to use tables for AR-1, AR-2, and Transition. Minor special exception with use standards could also alleviate concerns, along with state law requirements. |
| 3.03.H | <p>Mobile Vendors Accessory Uses, Table 3.03-1 Permitted Accessory Uses and Structures lists "Mobile Vendor" as an Accessory Use in all Principal Use Categories, pursuant to subsection I (should be H?) The current definition for Mobile Vendor is: Mobile Vendor: An establishment, including any employee or agent of another, who sells or offers to sell, barter, or trade from a mobile vehicle such as a food truck. Dilemma: Farm Wineries and Limited Breweries rely on using a Mobile Food Truck to offer scalable food options because installing a Commercial Kitchen and rezoning use to Restaurant/Commercial is not a reasonable option for a rural farm business.</p> <p><i>Background Craft Beverage dilemma:</i></p> <ol style="list-style-type: none"> 1. Currently, Farm Wineries and Limited Breweries (ARS, ARN) are unable to offer varied food options, other than packaged items (basically cheese and crackers in packages) unless zoned as a Restaurant, which would be a significant hardship. Customers have voiced a need to have equitable food options to enjoy with Loudoun County's world class wines and beers. Visitors also view food as important and necessary when alcohol is being consumed. 2. Installing a commercial kitchen would require a change in zoning and use for Farm Wineries and Limited Breweries to 'Restaurant' / 'Commercial' property. This is not a viable solution for many farm businesses due to the increased expense, as well as incurring a significantly higher property tax class rate (a commercial property tax rate could crush a farm). 3. Allowing guests to bring in their own food is not good for business and is also a health liability risk. Farm Wineries and Limited Breweries are not public parks and rely on guests making onsite and to-go sales as their sole revenue. It may also risk an ABC violation as they can easily assume bringing outside alcohol is allowed as well (which is strictly prohibited by VABC) and any violations create a loss of host's ABC permit. | <p>Suggestion for Mobile Food Truck Issue: Allow a mobile vendor unit to remain on a property on a semi-permanent basis when parcel size is sufficient for intensity of use. The mobile unit must be roadworthy and pass the annual county's health department inspection.</p> <p>May address dilemma: Mobile Food Trucks are not allowed to remain in one location</p> <ol style="list-style-type: none"> 1. Mobile Food Trucks (owned/leased by the Farm Wineries and Limited Breweries) have allowed more desirable food options without rezoning the use of the property or installing a commercial kitchen inside the tasting room. 2. Third party Mobile Food Truck operators are not dependable, they often run out of food, not show up or will be late for the advertised event (ads paid by the host). 3. The current statute does not allow a food truck to remain at one location on a semi-permanent or permanent basis. This impedes the ability of winery and brewery owners to have their own food truck on site. |

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| <p>3.04 3.04.D</p> | <p>3.04 Temporary Uses - Special Events 3.04.D - Special Events</p> <p>Event management regulations need to be consistent throughout the zoning ordinance, primarily for high-intensity uses to ensure compliance with 2019 Comp Plan Policy 3.1. Event permits should be less cumbersome for off-site farm market events.</p> <p>The Maximum number of Non-Exempt special Events does not contemplate agricultural operations that limit events to certain seasons through the year to have events on site that are outside or showcase agricultural operations during unique times of the year (harvest, calving, leaves changing, spring growth etc.).</p> <p>The 14 day spacing between events also limits agricultural operations trying to utilize small windows of good weather or seasons to bring the public to their operations.</p> <p>The language regarding 2000’ minimum distance between events doesn’t make sense if a farm utilizes a single building for events.</p> | <p>REDC commented that for better event management, consider annual permits for multiple off-site farm market events rather than 1 permit for 1 event (similar to private parties management for lodging uses).</p> <p>For production or bonafide agricultural farms/uses who wish to host educational events be criteria similar/consistent to BnB regulations for an annual fee and inspection for x-number of annual events for x-number of patrons based on acreage and on-site parking availability. Agricultural operations should not have to be limited to 10 events or subject to a special exception for events on site if they have an educational aspect to the event. The educational events or tours that benefit and promote agriculture in Loudoun benefit the county and other operations and should not count against the farm’s 10 events per year. Events should also be explicitly permitted to be for profit and in line with the states definition for agri-tourism.</p> <p>Farms should be allowed, without the special exception process, to hold events at a higher frequency than 14 days based on scale/parcel size to allow for operations to utilize the unique seasons related to their industry. Suggest adding language to exempt farms from the frequency period but still hold them to the 10 events.</p> <p>2000’ does not make sense for farms that have limited structures to hold events. Suggest adding language to limit the events from neighboring houses if this is the intent with setbacks from the neighboring house if this language is to remain but 2000’ does not make sense and ultimately would encourage an operation to subdivide a large lot not to have to be subject to this language and hold events on each lot separately.</p> <p>Draft text for Event management for high-intensity uses was considered and removed by the former DPZ Director. This text should be reinserted, reviewed and considered by Staff, Planning Commission and BOS.</p> |
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| 4.0 | <p>Agricultural Processing REDC requests new use-specific standards under Ch. 4 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.</p> | <p>Small scale processing of agricultural products grown within Loudoun should be allowed on farms in AR-1 and AR-2. 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</p> <p>Remove requirement for 51% of product to be "derived from the agricultural use on site" and replace with "51% shall be derived from agricultural production from within Loudoun County"</p> <p>(Concern about livestock processing is covered by state law that only allows on farm processing of a certain number of poultry without VDACS inspection and permits as a slaughter facility)</p> |
| 4.02.08 | <p>Seasonal Labor Dormitory Use Specific Standard requires Special Exception to have these in the rural area. This is too expensive for farmers.</p> <p>The current text still requires 200 sq ft. instead of the REDC-recommended OSHA regulations that require a minimum of 100 sq ft. per laborer.</p> <p>1. Farmers face higher employment hurdles than other businesses, esp here in LOCO. Providing small, affordable tiny homes, trailers, yurts, cabins, temporary/movable dwellings can help tremendously. Low cost, low impact houses are appropriate and welcomed by many farm workers. They are less costly for farmers to provide, and provide instant accommodations in an area where living quarters are otherwise COMPLETELY UNATTAINABLE for typical farm workers.</p> <p>2. This is SEASONAL LABOR DORMITORY. Smaller, 100 sq ft living spaces are fine for seasonal situations. They require less cost to heat and cool, they are easy to keep clean, and provide enough room for sleeping, sitting, and changing- all issues important to seasonal farm workers.</p> | <p>REDC recommended that a formula be established that could be implemented with oversight by extension or soil and water to determine appropriate amount of dormitory space per farm to house seasonal labor required to work that specific farm. This should not be part of the Special Exception process in AR1 & AR2.</p> <p>Reconsider and accept REDC recommendation of 100 sq ft min seasonal dormitory size will bolster farmers' ability to recruit and retain seasonal farm labor. This is essential for the future of the small farms that are increasingly defining agriculture in Loudoun's rural west.</p> <p>Loudoun County standards should conform to OSHA regulations requiring a minimum of 100sq ft. versus 200 sq.ft minimum in draft text.</p> <p>Recommendation would be to base the number of allowed seasonal labor dwellings on the number of verifiably payrollled laborers required to farm the acreage, and the availability of adequate sewer, water and electricity to support required housing.</p> <p>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.</p> |

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| 4.02.11 | <p>Tenant Dwellings The number of tenant dwellings per farm is currently limited to a maximum of 4 per 85 acres and more. Most Loco fruit and vegetable operators are working 10 or less acres and typically employ more than 5 people to do that. (Small acreage farming like we have here in Loudoun is manual labor dependent.) Legally housing these necessary workers is crucial to the success of small farmers. Increasing at least the temporary, seasonal housing numbers allowed on a farm of any size would enable that success.</p> | <p>Staff did not address this issue. REDC Extension Agents can also assist this recommendation based the number of allowed seasonal labor dwellings per farm on the number of verifiable payrolled laborers required to farm the acreage and the availability of adequate sewer, water and electricity to support the needed housing.</p> <p>Staff should work closely with REDC contacts with expertise to revise Seasonal Labor Dormitory and Tenant Dwelling calculations to reflect the actual needs of real Loudoun County farmers. Loudoun process.</p> |
| 4.04.14 | <p>Farm markets are typically located on or near a farm as its definition requires the majority of its sales come from products made/grown on a farm. Farms are often (mostly) located off dirt/gravel roads, yet site specific standards prohibit a farm market location off a gravel road.</p> <p>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.</p> <p>Farm Market (Off-site) Currently prohibited in Urban and Suburban Use Table. REDC recommends this be a by-right use to encourage establishment of off-site farm markets to create demand for Loudoun-grown products</p> | <p>Staff did not address this issue. REDC recommended clearer definitions of "farm market", "wayside stand", and "farm market off-site" for consistency and specific standards to be applied sensibly according to location of the entity.</p> <p>Recommendations include Staff's clarification of the following: >Are farm markets considered retail stores in Urban and Suburban? >Use standards should be the same as for farm market in rural. > Use name should remain Farm Market to reduce confusion in ZO</p> |
| 4.05.01 | <p>Amphitheater. REDC's original input in July 2022 indicated this use allowed by Special Exception in the Rural Policy Area, and 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.</p> | <p>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).</p> |
| 4.05.17 | <p>Rural Retreat. LPAT references should be included in use-specific standards for rural retreats</p> | <p>LPAT is most difficult to build out in the rural area where most development is by-right but if fully implemented, the trails and open space will be an economic enhancer for the entire region. Including LPAT in the development standards for rural retreats is a natural tool.</p> |
| 4.06.09 | <p>Sawmills. REDC commented that with regard to Rural Use Specific Standards: Nurseries, ag processing, sawmills (with three levels), and slaughterhouses all require a special exception.</p> | <p>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.</p> |

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| 4.08.03 | <p>Agriculture Support Uses. Equine Event Facility and Stable livery should both be under Agriculture / animal husbandry rather than Ag. Support Uses.</p> <p>There are too many restrictions for this agricultural activity under Agricultural support, especially in relation to more intense uses that have less restrictions.</p> | <p>Recommendations for further Staff review:</p> <ul style="list-style-type: none"> > 25 acres is excessive for an equine livery. 10 acres should be a minimum. Pasture stocking rates will dictate how many animals can be housed and many existing operations are on 15 acres doing best practices. >Traffic and noise impacts of liveries are much less than for other rural uses allowed on less land. >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. >Size of structure. Stable Livery and Stable Event uses as well as many Stable Private uses require indoor riding arenas to be viable businesses or to simply keep animals in work. Indoor training facilities allow for daily training and instruction. Common size is 100' x 200' which is a larger footprint than allowed for all combined structures on less than 25 acres and within 4,000 sq.ft. for all parcels 25-50 acres, leaving little area left for other necessary structures. REDC and LCEA members can assist Staff understand the requirements. The best solution is to move equestrian uses out of Ag support and to specify that all related buildings are agriculture buildings without SF limitations. >without these changes, most existing equestrian facilities will need to be grandfathered in and future businesses will need to meet unrealistic zoning requirements. |
| 4.08.05 | <p>Brewery, Limited. Hours of operation. For Limited Breweries and Farm Wineries, REDC commented 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. .</p> <p>Reference: Following text applies to both</p> <p>§ 15.2-2288.3. (Eff. Jan. 1, 2022) Licensed farm wineries,</p> <p>§ 15.2-2288.3:1. (Eff. Jan. 1, 2022) Limited brewery license.</p> <p><i>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.</i></p> | <p>Entertainment and/or educational component activities regulations (including 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</p> |

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| | <p>Brewery, Limited and Farm Wineries size of Operation. REDC comments 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.</p> <p>Brewery, Limited. 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?</p> | <p>To be consistent with other Rural Economy Businesses that have zoning intensity scale intensity regulations, Brewery Limited, and Farm Wineries should have similar intensity scale regulations.</p> <p>This would permit smaller operations to be permitted with little impacts, while larger operations would be in line with similar higher intensity operations.</p> <p>REDC commented that 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. This would also allow businesses to more accurately develop and apply a business case to the appropriate size of operation, for the long-term viability of the rural economy use.</p> |
| 4.08.08 | <p>Wayside stands. What percent of products can be sold that are not made on-site? Defining this percentage either by gross product sales or allotted floor space will be necessary for operators to know how to comply with the zoning rules.</p> | <p>REDC recommends that a 25% of gross sales be the maximum allowable non-site produced product sold at a wayside stand. The off site percentage should not apply to other Loudoun Grown product sales. This insures the spirit of the Wayside Stand definition and allows/encourages farmer operators to support other Loudoun growers by selling their product.</p> |
| 7.0 | <p>Open Space. REDC commented that the Purpose bullets should include: "Ensure the availability of open space for active and passive recreation."</p> | <p>LPAT is most difficult to build out in the rural area where most development is by-right but if fully implemented, the trails and open space will be an economic enhancer for the entire region. Including LPAT in the development standards for open space is a natural tool.</p> |
| 7.03.03.A.1.b 7.04.03.B.2 | <p>Passive recreation (also include equestrian trails). Public Open Space.</p> <ul style="list-style-type: none"> ○ Bonus credit shared use path should include LPAT trail system. ○ 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? ○ 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. | <p>Equestrians are often left out of planning and or implementation of park facilities, often leaving park areas delineated equestrian as unfunded and unrealized assets.</p> |
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| 13.AA | <p>DEFINITIONS are required to clarify uses and use-specific standards: "Farm," "agricultural operations," "tasting room/tap room," "agriculture products," "agricultural production" and "agricultural manufacturing."</p> <p>-- 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."</p> | <p>-- 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.</p> <p>-- Zoning should determine a similar ratio of the number of acres in on-site agriculture per acre of brewery to be utilized for agriculture production/manufacturing. Breweries will then be positioned to transition to growing products that can be directly used in the production of beer as VA Tech continues to determine agriculture products that can economically and sustainably grow in this region.</p> <p>-- 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.</p> |
| 13.A | <p>Current definition of "Agriculture" states, "<i>A use and category characterized by general active and ongoing agricultural activities, including agronomy, aquaculture, biotechnical agriculture (including education parks for biotechnical agriculture, or a demonstration farm), forestry, fisheries, honey production, silviculture, and similar uses.</i>"</p> | <p>Agriculture definition should delete reference to "biotechnical agriculture" as there is no associated definition.</p> <p>Forestry and Silviculture, while similar to agriculture are generally seen to be their own separate uses.</p> <p>"Similar uses" should be further defined to avoid confusion on intent, applicability and approvals.</p> |
| 13.AM | <p>For ease of use of the Zoning Ordinance, a definition for "Agricultural Manufacturing" should be included in Chapter 13.</p> | <p>Agricultural Manufacturing definitions should be consistent with the Code of Virginia Code of VA 23VAC10-500-520. Manufacturing.</p> <p>B. The Code of Virginia does not define the term "manufacturer" for purposes of the local business license tax. The courts, however, have developed a liberally applied test involving three essential elements in determining when a person is a manufacturer: 1. The original material; 2. A process whereby the original material is changed; and 3. A resulting product which, by reason of being subjected to processing, is different from the original material.</p> <p>C. "Manufacturer" means one engaged in activity that transforms materials into an article or product of substantially different character. (See the Virginia Supreme Court's discussion in County of Chesterfield v. BBC Brown Boveri, 238 Va. 64 (1989) of the term "manufacturer" for purposes of the BPOL law.)</p> |

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| 13.AO | The only location where " Agricultural Operations " is referenced is in Chapter 7.05 (Light, Noise and Vibration, Purpose and Applicability), without providing a definition or specific citing or reference to Code of VA. | For ease of use of the Zoning Ordinance, the definition should be included in Chapter 13. Code of VA § 3.2-300. Definitions. "Agricultural operation" means any operation devoted to the bona fide production of crops, 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. "Agricultural operation" also includes any operation devoted to the housing of livestock as defined in § 3.2-6500. |
| 13.AP | 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 remain defined such that processing by itself does not define a farm. |
| 13.AP | The terms " Agricultural products " and " Agricultural production " should be defined and included in Chapter 13. | For ease of use of the Zoning Ordinance, definitions for "Agricultural products" and "Agricultural production" should be included in Chapter 13. Code of VA § 15.2-4302. Definitions. "Agricultural products" means crops, livestock and livestock products, including but not limited to: field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs. "Agricultural production" means the production for commercial purposes of crops, livestock and livestock products, and includes the processing or retail sales by the producer of crops, livestock or livestock products which are produced on the parcel or in the district. |
| 13.B | Bed & Breakfast Inn and Country Inn definitions still include the the allowance of "one or more structures." | REDC recommends there be a limit to the number of structures so that neither use becomes an assembly of "tiny houses." |

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| <p>13.F</p> | <p>Definition of "Farm"</p> <p>Staff’s Original definition of "FARM" was, <i>"An agricultural use of one or more parcels of land, whether abutting or not, having a minimum of 5 acres and operated under the same ownership or stewardship, used for the production, cultivation, growing, harvesting or processing of agricultural or horticultural products or for animal husbandry purposes. Also reference "Agriculture, Bona Fide."</i></p> <p>REDC Recommended: The definition of “farm” should be amended such that processing by itself does not define a farm. This was done, however the Jan. 2023 edits removed actual "farm" activities.</p> <p>Current Proposed Definition of "Farm" states, <i>"One or more adjacent or contiguous parcels of land, having a minimum of 5 acres and operated under the same ownership or stewardship, used for agriculture or animal husbandry uses."</i></p> <p>-- ISSUE: Replacing the ag-specific activities with "Agriculture" would broaden the definition beyond the initial true intent of "farming" not just "ag use." Return to the original identification of farming-related activities.</p> | <p>the Code of Virginia includes for the definition of farm the actual farming activities, not just a broad statement of "agriculture." The Loudoun definition should be made consistent. The definition of "FARM" should also be consistent with the Code of Virginia.</p> <p>Code of VA § 46.2-698. C. As used in this section, the term "farm" means one or more areas of land used for the production, cultivation, growing, or harvesting of agricultural products, but does not include a tree farm that is not also a nursery or Christmas tree farm, unless it is part of what otherwise is a farm. As used in this section, the term "agricultural products" means any nursery plants; Christmas trees; horticultural, viticultural, and other cultivated plants and crops; aquaculture; dairy; livestock; poultry; bee; or other farm products.</p> <p>"A farm is defined as the parcel or parcels used by an owner or lessee for the agricultural cultivation, growing, and harvesting of crops and/or animal husbandry."</p> |
| <p>13.T</p> | <p>Add definition of Tasting room / Tap room.</p> <p>As an accessory use to agricultural uses, these definitions should be included in the Definitions</p> | <p>Suggested language: TASTING ROOM - "Any place or premise licensed by Virginia Alcohol Beverage Control and operated by an alcohol beverage manufacturer where in alcoholic drinks are provided to customers to sample onsite. Such facilities may or may not include an option for customers to purchase containers of alcohol for off-site consumption."</p> |