

WORKING DRAFT

Article 16 Agritourism Ordinance Rewrite

Farm Wineries, Farm Breweries, Limited Distilleries, Agritourism Events, and Activities at
Agricultural Operations

Prepared as a user-friendly policy and drafting framework

Important legal note: This working draft is structured to reduce conflict with Virginia law by preserving protected agricultural, agritourism, farm-winery, limited-brewery, and limited-distillery activities unless a substantial impact on public health, safety, or general welfare is established.

ARTICLE 16

§ 16-21. FARM WINERIES, FARM BREWERIES, LIMITED DISTILLERIES, AGRITOURISM EVENTS, AND ACTIVITIES AT AGRICULTURAL OPERATIONS

16-21-1. Purpose and intent.

The purpose of this section is to support and preserve bona fide agricultural operations by allowing agritourism and related activities that complement agricultural production while protecting the public health, safety, and general welfare.

The uses, events, activities, and structures authorized by this section shall be conducted in conjunction with, and in support of, a bona fide agricultural operation on the property. The agricultural operation shall remain an active and integral component of the use of the property.

This section shall be administered consistently with applicable Virginia law. Nothing in this section shall be interpreted to require a zoning permit, or Special Use Permit for an activity that a locality is prohibited from regulating under state law, unless the activity has a substantial impact on the health, safety, or general welfare of the public and any restriction is reasonable.

16-21-2. Definitions and measurement standards.

Article 22 definitions below are reproduced verbatim from the approved definitions document. Original wording, capitalization, punctuation, and revision notes have been retained.

Agricultural operation: "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

Agricultural products: Any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

Agriculture: The practice of growing, cultivating, and harvesting plants and raising or keeping animals for food, fiber, fuel, or other useful products. Agriculture includes activities customarily associated with such practices, including preparing the soil, planting, tending and harvesting crops, and caring for livestock and poultry, as well as agricultural operations and customary accessory uses.

Agritourism Events: Planned public, private, or social events and activities conducted at an agricultural operation, farm winery, farm brewery, or limited distillery that are not conducted in the ordinary daily course of the operation and that involve fifty (50) or more attendees. Agritourism events include, but are not limited to, agricultural festivals; educational programs, workshops, farm tours, demonstrations, and exhibitions; weddings and receptions; fundraisers and charitable events; and other similar events or activities associated with agriculture, silviculture, agricultural products, or products produced or sold by an agricultural operation, farm winery, farm brewery, or limited distillery. Agritourism events and activities shall be permitted only in conjunction with an approved agricultural operation, farm winery, farm brewery, or limited distillery, and shall not be established, operated, or continued in the absence of such operation or use.

Attendee: A person present for an event or activity, excluding employees, vendors, contractors, performers, and emergency personnel while acting in their official or work capacity.

Bona fide production of crops, animals, or fowl: As used in the definition of “agricultural operation,” agricultural production must constitute a bona fide, ongoing agricultural activity that exists without regard to whether agritourism events or activities are conducted on the lot. Bona fide agricultural production shall be demonstrated based on one or more of the following criteria, as applicable to the type and scale of the agricultural production: (i) whether the lot is subject to use value assessment because it is real estate devoted agriculture, horticulture, or silviculture; (ii) the acreage in agricultural production; (iii) the proportion of the lot’s acreage in agricultural production; (iv) the crops, animals, or fowl being produced; (v) the acreage of the lot and of the site; (vi) the owner’s federal tax forms including Form 1040F (Farm Expense and Income), Form 4385 (Farm Rental Income and Expenses), Form 1040E (Cash Rent for Agricultural Land), Form 1040C (Business Profit and Loss), or Form 1120 (Corporate Partnership); (vii) receipts showing gross sales over the most recent three-year period or evidence of the value of agricultural products that would have been sold but for a natural disaster; (viii) the proportion of the owner’s total income derived from agricultural production on the site; (ix) evidence of participation in a federal farm subsidy program; (x) evidence of operating under a conservation farm management plan prepared by a professional; (xi) the proportion of capital investment in the site devoted to the production of agricultural products, operating, and labor expenses; (xii) Greene County-level United States Department of Agriculture Census of Agriculture data; and (xiii) any other relevant factors.

Farm brewery: An establishment located on one or more lots in Greene County licensed as a limited brewery under the Code of Virginia

Farm sales: The sale of agricultural products, value-added products and accessory merchandise on a farm, either outdoors or within a temporary or permanent structure, where the vendor selling the products and merchandise is engaged in production agriculture on the farm on which the farm sales use is located.

Farm stand: The sale of local agricultural products and value-added products, either outdoors or within a temporary or permanent structure, where the vendor selling the products is engaged in production agriculture in Greene County, but not on the lot on which the farm stand is located.

Farm tour: An event organized by an agricultural operations or by a third party, to which the public is invited to visit agricultural operations, and which may include educational programs, workshops, or demonstrations related to agriculture or silviculture.

Farm winery: An establishment located on one or more lots in Greene County licensed as a farm winery under the Code of Virginia.

Farmers' market: The sale of agricultural products, value-added products, and accessory merchandise either outdoors or within a temporary or permanent structure by two (2) or more vendors in the conservation (C-1) and agricultural (A-1) district or by one or more vendors in any other zoning district where the use is allowed, where each vendor selling the products and merchandise is engaged in production agriculture, regardless of whether it is on or not on the lot on which the farmers' market is located.

Limited Distillery is a distillery licensed under the Code of Virginia.

Outdoor amplified music: Music or other entertainment sound projected outdoors through electronically amplified speakers or sound equipment. This term does not include ordinary speech amplification or music used solely during an outdoor wedding ceremony or procession, provided the sound ends when the ceremony or procession concludes.

Production agriculture or production silviculture: 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.

Restaurant: An establishment whose primary purpose is the regular preparation and sale of meals to the general public for on-site consumption through regularly scheduled dining hours, a standing or permanent menu, or food service operating independently of an agricultural or agritourism activity. Event-related catering, light food service, and food trucks permitted by this section are not restaurants when they comply with the limitations of this section.

Substantial impact: A significant and demonstrable adverse impact on the health, safety, or general welfare of the public resulting from an agritourism event or activity at a farm winery, farm brewery, limited distillery, or agricultural operation. A substantial impact shall be established by objective, documented, and site-specific evidence demonstrating a direct relationship between the event or activity and the identified impact.

Relevant impacts may include traffic and access, emergency access, noise, dust, outdoor lighting, trash, sanitation, stormwater runoff, soil compaction, effects on adjoining properties or existing agricultural or silvicultural activities, and other conditions related to public health, safety, or general welfare. The cumulative effects of multiple events or activities may be considered when supported by the required evidence.

A substantial impact shall not be established solely by generalized concerns, speculation, unsupported anticipated impacts, or the number of complaints received. Complaints may be considered when supported by evidence of the identified impact.

Any restriction imposed shall be reasonable and related to the identified impact and shall take into account the agricultural nature of the activity and the economic impact of the restriction, consistent with applicable provisions of the Code of Virginia.

Usual and customary use, event or activity: A use, event, or activity at a farm winery, farm brewery, or agricultural operation that is both ordinary and commonly practiced or engaged in at farm wineries, farm breweries, or agricultural operations, as applicable, within the Commonwealth, as determined by objective evidence. (Revised 6/23/15)

16-21-3. Eligibility and continued agricultural use.

1. To qualify under this section, the property shall contain and maintain an agricultural operation that meets the applicable definition of bona fide agricultural production under the Code of Virginia and this ordinance.
2. Upon application for a zoning permit or Special Use Permit, and upon reasonable request thereafter, the owner or operator shall provide documentation reasonably necessary for the Zoning Administrator to verify eligibility and continued compliance. Documentation may include evidence of agricultural production, acreage devoted to agricultural use, crop or livestock records, licenses, site plans, or other records appropriate to the operation.
3. The Zoning Administrator shall not require documentation that is unrelated to verifying compliance with this section and shall administer this subsection consistently with state-law limitations on local regulation of agricultural operations.

16-21-4. Approval framework.

The following approval framework is intended to identify low-impact activities and activities that warrant site-specific review. State-law protections in Section 16-21-1 remain controlling.

Zoning Permit / By Right	Special Use Permit Review
Parcel contains at least ten (10) acres.	Parcel contains less than ten (10) acres
No more than thirty (30) regulated events per calendar year.	More than thirty (30) regulated events per calendar year
No more than one hundred fifty (150) attendees present simultaneously.	More than one hundred fifty (150) attendees present simultaneously

Structures used for events or public sales have a building footprint of no more than four thousand (4,000) square feet and are no more than two (2) stories above grade.	A structure used for events or public sales exceeds four thousand (4,000) square feet in building footprint or exceeds two (2) stories above grade.
Outdoor wedding-ceremony or procession sound as expressly exempted by this section.	Outdoor amplified music

State-law safeguard. No threshold in this section shall be applied as an automatic Special Use Permit requirement to an activity protected by Virginia law unless the County identifies a substantial impact on the health, safety, or general welfare of the public and the restriction is reasonable and considers the agricultural nature and economic impact of the activity.

16-21-6. Food service, catering, and food trucks.

- 1) Customary and incidental kitchen and catering activities may support agritourism activities, tastings, and scheduled events. Permitted food service may include finger foods, soups, appetizers, small snacks, prepackaged items, catered meals, farm-to-table dinners, beverage pairings, weddings, receptions, festivals, and similar activities.
- 2) Food preparation and service shall remain accessory to the agricultural operation and shall not constitute a restaurant. Food service shall not operate as a stand-alone principal use, provide regular daily meal service to the general public, or operate from a permanent menu with regularly scheduled public dining hours independent of agricultural or agritourism activities.
- 3) Picnics may be self-provided or may include prepackaged goods sold on-site in connection with the agricultural or agritourism use.
- 4) Up to two (2) food trucks per day may operate in conjunction with agritourism activities, tastings, or scheduled events and shall comply with Article 16-20. Food trucks shall not establish a permanent or regularly scheduled restaurant use on the property.
- 5) All food preparation, processing, and sales shall comply with applicable state health, food-safety, and alcoholic-beverage laws and regulations.

16-21-7. Sound and outdoor amplified music.

- 1) Except for outdoor amplified music, sound generated by activities protected under state law shall not be regulated more restrictively than the County's general noise ordinance.
- 2) Outdoor amplified music may be authorized only in accordance with this section and any conditions of an approved Special Use Permit. In reviewing outdoor amplified music, the County shall consider effects on adjoining property owners and nearby residents.
- 3) Outdoor amplified music shall be limited to the hours of 10:00 a.m. through 10:00 p.m., unless a more restrictive condition is imposed through an approved Special Use Permit based on site-specific impacts.
- 4) Speaking and music used solely during an outdoor wedding ceremony or procession are permitted with a zoning permit and are exempt from the Special Use Permit

requirement for outdoor amplified music. The exemption does not apply to receptions, celebrations, or entertainment occurring before or after the ceremony or procession.

16-21-8. General performance standards.

A. Setbacks.

Structures, tents, portable toilets, event areas, and other facilities serving a use under this section shall comply with the applicable zoning district setbacks. Any reduction shall be processed only through an authorized variance or other procedure allowed by law. The approved sketch plan or site plan shall identify the facilities subject to the setback and show the measured distance from each facility to the applicable property line.

- 1) Maximum mounting height: twenty-five (25) feet, measured from grade to the top of the fixture.
- 2) Fixtures shall be full cut-off or directionally shielded, mounted and aimed to prevent disability glare and unnecessary spillover.
- 3) Spillover light shall not exceed one-half (0.5) footcandle at the property line.
- 4) Search lights, lasers, and strobe lights are prohibited.
- 5) Lighting shall be reduced by at least fifty percent (50%) within one (1) hour after the close of business or an event, except lighting necessary for safety and security.
- 6) Canopy lighting shall be recessed, full cut-off, and equipped with flat lenses; canopy sides and fascia shall not be illuminated.

C. Restrooms.

Restroom facilities shall be provided in accordance with Virginia Department of Health requirements and any other applicable state or building-code requirements. Temporary restroom facilities may be approved for use for temporary events but shall not be used to satisfy restroom requirements for a permanent or ongoing use.

D. Signage and emergency identification.

- 1) Signs shall comply with Article 14.
- 2) Address and directional signs shall be prominently displayed to assist emergency services in locating event areas and structures.

E. Parking and emergency access.

- 1) Provide one (1) parking space per employee and one (1) space per two hundred (200) square feet of event space and tasting-room space, unless a parking study approved by the Zoning Administrator demonstrates a different demand.
- 2) Parking areas shall be paved or provided with an all-weather, dust-free surface, except approved overflow parking areas may use stabilized grass or another approved surface.
- 3) Parking is prohibited on public streets. No parking area shall be located within one hundred (100) feet of an off-site residence, measured from the nearest edge of the parking area to the nearest exterior wall of the residence, unless otherwise approved through a Special Use Permit based on site-specific conditions.

- 4) Travelways used for emergency access shall provide at least twenty (20) feet of unobstructed width, unless a different standard is approved by the applicable fire or emergency-services authority.
- 5) Overflow parking shall be identified on the approved plan and managed to provide safe access, emergency circulation, and erosion control.

16-21-9. Event and sales space; life-safety measures.

- 1) Event, sales, or agritourism space includes conference rooms, banquet halls, ceremonial rooms, restrooms serving the space, interior connecting hallways, closets and storage serving the use, and catering kitchens.
- 2) Event or sales space does not include agricultural production areas, storage for farm or maintenance equipment, offices devoted to farm operations, or storage directly related to agricultural production.
- 3) Structures shall contain clearly marked and accessible portable fire extinguishers as required by applicable codes.
- 4) When required by the Office of Emergency Services based on occupancy or event characteristics, the operator shall provide an automated external defibrillator and coordinate compatibility and emergency planning with the Office of Emergency Services.

16-21-10. Records, inspections, and enforcement.

- 1) The owner or operator shall maintain records sufficient to demonstrate compliance with event-frequency, attendance, food-service, food-truck, and amplified-music requirements for at least three (3) years.
- 2) For each regulated event, records shall include the event date, event type, maximum simultaneous attendance, event hours, catering or food trucks provided, and whether outdoor amplified music occurred.
- 3) Records shall be provided to the Zoning Administrator upon reasonable request. A request may be made in connection with a permit review, a documented complaint, an inspection, or another reasonable compliance inquiry.
- 4) The Zoning Administrator may inspect the property at reasonable times and in accordance with applicable law to verify compliance with this article and any approved zoning permit or Special Use Permit.
- 5) Failure to maintain or provide required records, operation outside approved limits, or failure to comply with permit conditions constitutes a violation of this ordinance and may result in notices of violation, civil or criminal enforcement, permit revocation when authorized by law, or other remedies available to the County.
- 6) The County shall administer enforcement consistently and shall base any determination that an activity has a substantial impact on documented, site-specific facts related to public health, safety, or general welfare.

16-21-11. Prohibited uses.

- 1) Restaurants, as defined in this section, except for food service expressly permitted by Section 16-21-6.

- 2) Helicopter rides.
- 3) A commercial event venue, entertainment venue, or food-service venue operating on a parcel without a bona fide agricultural operation, farm winery, farm brewery, or limited distillery.

16-21-12. Special Use Permit review.

When a Special Use Permit is authorized and required under this section and Virginia law, the application shall include sufficient information to evaluate and mitigate site-specific impacts.

- 1) The proposed uses, event types, event frequency, event duration, and maximum simultaneous attendance.
- 2) A sketch plan showing all structures, event areas, access points, parking areas, overflow parking, travelways, outdoor lighting, signs, setbacks, stages, speakers, and other areas where music or entertainment will occur.
- 3) Information regarding traffic generation, entrance safety, parking demand, emergency access, water supply, sanitation, fire protection, noise, lighting, and effects on adjoining properties.
- 4) Coordination with the Office of Emergency Services regarding dry hydrants or other water supplies, an event-capacity and medical-management plan, facility familiarization, and first-aid training when reasonably related to the proposed use.
- 5) Proposed measures to avoid or mitigate substantial impacts on the health, safety, or general welfare of the public.

Structure-size guidance. The Board may consider acreage, building footprint, height, occupancy, emergency access, visual scale, and agricultural character when evaluating a structure through a Special Use Permit. Any acreage-to-footprint ranges adopted by the County should be treated as guidance rather than an automatic entitlement and should avoid overlapping ranges or an unlimited upper category.

§ 16-22. FARM STANDS, FARM SALES, AND FARMERS' MARKETS

16-22-1. Zoning permit and application.

- 1) A farm stand, farm sales use, or farmers' market shall obtain a zoning permit when a permit is authorized by state law and required by this ordinance.
- 2) The application shall include documentation of any required entrance approval and a sketch plan showing structures, access, parking, lighting, signs, setbacks, emergency access, and measures to mitigate adverse impacts on adjoining property.

16-22-2. Structure size.

- 1) Structures containing no more than four thousand (4,000) square feet of gross floor area are permitted, subject to all other applicable codes and approvals. Structures exceeding four thousand (4,000) square feet of gross floor area require approval of a Special Use Permit.

16-22-3. Parking and access.

- 1) Provide at least one (1) parking space per four hundred (400) square feet of retail area.
- 2) Parking areas shall be paved or provided with an all-weather, dust-free surface, except approved overflow areas may use stabilized grass or another approved surface.
- 3) Parking is prohibited on public streets and shall comply with the applicable residential-separation standard.
- 4) Emergency travelways shall provide at least twenty (20) feet of unobstructed width unless otherwise approved by the applicable emergency-services authority.
- 5) Overflow parking shall be shown on the approved plan and managed for safe access, emergency circulation, and erosion control.
- 6) No parking space shall be located closer than ten (10) feet to a public-street right-of-way.