

**ACTIONS**  
**Board of Supervisors Meeting of January 18, 2017**

January 25, 2017

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>VIDEO</u>
1. Call to Order. <ul style="list-style-type: none"> <li>Meeting was called to order at 4:00 p.m., by the Chair, Ms. McKeel. All BOS members were present. Also present were Tom Foley, Greg Kamptner, Claudette Borgersen and Travis Morris.</li> </ul>		<a href="#">Link to video</a>
2. Joint Work Session with Planning Commission: <ul style="list-style-type: none"> <li>a. Small Area Plan. <ul style="list-style-type: none"> <li><b>HELD.</b></li> </ul> </li> </ul>		
3. Closed Meeting. <ul style="list-style-type: none"> <li>At 5:29 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711 (A) of the Code of Virginia under subsection (1), to discuss and consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments.</li> </ul>		
4. Certify Closed Meeting. <ul style="list-style-type: none"> <li>At 6:07 p.m., the Board reconvened into open meeting and certified the closed meeting.</li> </ul>		
5. Call back to Order. <ul style="list-style-type: none"> <li>At 6:07 p.m., the Chair called the meeting back to order.</li> </ul>		
Adoption of the Final Agenda. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> the final agenda.</li> </ul>		
6.1 Residential Impact Work Group Revised Charter. <ul style="list-style-type: none"> <li><b>APPROVED</b> Charter (Charge, Membership and Organization) for the Residential Development Impact Work Group as presented.</li> </ul>	(Attachment 1)	
7. <b><u>Public Hearing: ZTA-2016-00003. Farm Winery, Brewery &amp; Distillery Events.</u></b> <ul style="list-style-type: none"> <li>By a vote of 5:1 (Sheffield), <b>ADOPTED</b> ordinance.</li> </ul>	<u>Clerk:</u> Forward copy of signed ordinance to Community Development and County Attorney's office. (Attachment 2)	
<b>Recess.</b> The Board recessed at 8:17 p.m., and reconvened at 8:42 p.m.		
8. From the Board: Committee Reports and Matters Not Listed on the Agenda. <ul style="list-style-type: none"> <li>a. Boards and Commissions: Vacancies and Appointments. <ul style="list-style-type: none"> <li><b>APPOINTED</b> Mr. Louis Lopez to the Residential Development Impact Work Group as the rezoning applicant representative with said term to expire September 30, 2017.</li> <li><b>APPOINTED</b> Mr. Vito Cetta to the Residential Development Impact Work Group as the previous rezoning applicant representative with said term to expire September 30, 2017.</li> <li><b>APPOINTED</b> Mr. Charlie Armstrong to the Residential Development Impact Work Group as the development community representative with said term to expire September 30, 2017.</li> <li><b>APPOINTED</b> Mr. Jason Inofuentes and Ms. Nancy Hunt to the Residential Development Impact Work Group as the Community Advisory Committee representatives with said term to expires September 30, 2017.</li> </ul> </li> </ul>	<u>Clerk:</u> Prepare appointment/ reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.	

<ul style="list-style-type: none"> <li>• <b>APPOINTED</b> Mr. Jeff Werner and Mr. Morgan Butler to the Residential Development Impact Work Group as the environmental community representatives with said terms to expire September 30, 2017.</li> <li>• <b>APPOINTED</b> Supervisor Brad Sheffield and Supervisors Rick Randolph to the Residential Development Impact Work Group as the Board Liaisons with said terms to expire December 31, 2017.</li> </ul> <p><u>Rick Randolph:</u></p> <ul style="list-style-type: none"> <li>• Announced that that Del. Kathy Byron has introduced HB 2108, which would effective scuttle a local government funded broadband authority if passed by the General Assembly and reported on a press announcement that he attended held by the Friends of Municipal Broadband in Roanoke.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>• Announced that Del. Steve Landes has proposed a bill to promote the study of the winery, brewery issue mentioned during the public hearing to circumvent the Fairfax bill and requested that Albemarle County participate in the study group.</li> </ul>		
<p>9. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <p><u>Tom Foley:</u></p> <ul style="list-style-type: none"> <li>• Remarkd this was his last board meeting and that it has been a privilege to serve the Board and the citizens of Albemarle County.</li> </ul>		
<p>10. Adjourn to February 1, 2017, 1:00 p.m., Lane Auditorium.</p> <ul style="list-style-type: none"> <li>• The meeting was adjourned at 9:04 p.m.</li> </ul>		

ckb/tom

Attachment 1 – Revised Residential Development Impact Work Group Charter  
Attachment 2 – Ordinance No. 17-18(1)

**County Of Albemarle**

**Residential Development Impact Work Group**

Charge Statement, Membership, and Organization

**Background**

Effective July 1, 2016, proffer authority in the Code of Virginia was amended to change the way that the impacts associated with residential rezonings are evaluated and how proffers may be accepted. In order to be in compliance with State law, Albemarle County's Cash Proffer Policy was repealed on June 8, 2016. The amendment also invalidates the use of the Cost Revenue Impact Model (CRIM) to determine impacts of residential development. To explore how to best achieve Albemarle County's land use and growth management goals in this new regulatory environment, a work group representing a cross-section of stakeholders is recommended.

**Charge**

The Residential Development Impact Work Group is formed by the Albemarle County Board of Supervisors to understand recent State Code amendments regarding proffers and to develop and analyze alternative means for determining and addressing the fiscal impact of residential development allowed either by-right or subsequent to a rezoning. The Work Group will also provide a recommendation on how to proceed with addressing fiscal impacts of residential development.

**General Timeframe**

The Residential Development Impact Work Group will present to the Board of Supervisors within 4 to 6 months of appointment to share final recommendations, including next steps.

**Goals**

The goals of this Work Group are to:

1. Understand the recent change in State law regarding proffers and what is now allowable
2. Identify and evaluate alternatives for aligning land use and growth management goals by means of by-right and re-zoned residential development
3. Develop a recommendation for how to best achieve alignment of goals and implementation strategies as indicated in Goal #2 above
4. Develop a recommendation for how best to address fiscal impacts associated with all future residential development

**Membership**

The committee shall consist of approximately seven voting members appointed by the Board of Supervisors. Appointments will be based on Board and staff recommendations, nominations from community and business groups, and individual applications.

**Membership Selection Criteria**

The Work Group will be composed, at a minimum, of the following representatives:

- Chair of Fiscal Impact Advisory Committee
- One rezoning applicant representative (professional planner strongly preferred)
- One previous rezoning applicant involving residential development within last 3 years
- One representative of the development community

- Two representatives of Community Advisory Committees (residents)
- Two representatives of the environmental community

In addition, the Work Group will have liaisons from the Board of Supervisors, the Planning Commission, and County staff as outlined below.

- Two members of the Board of Supervisors
- Two members of the Planning Commission
- County Attorney
- Director of Planning and/or designee
- Director of Economic Development
- The Superintendent of Schools or designee

The Board of Supervisors will appoint members based on their qualifications and interest in serving on the Committee. An individual may be appointed to represent more than one of the above referenced groups. The Board will strive to appoint an overall membership that is diverse in age, abilities, experiences, professions, interests, etc.

Member qualifications include:

- Experience working within a consensus-driven decision-making process, and a commitment to such a process in fulfilling the Committee's responsibilities as outlined in the charge statement;
- Willingness to work within established County procedures and processes;
- Ability to be open-minded; to listen and be respectful of the values, views and opinions of other representatives;
- Ability to share information with, and receive information from the community at large;
- Ability to meet not less than monthly over the next 4 to 6 months; and
- Status as a resident of Albemarle County; preferred but not required

### **Work Group Organization**

The Work Group shall elect a Chair and Vice-Chair. County staff shall serve as technical representatives and will support the group by assembling and compiling all information and reports necessary for the Work Group's work to progress, including meeting notes.

Meetings will be held approximately once a month or more often as agreed to by the Committee. The date and time of Work Group meetings shall be established at the first meeting; additional meetings may be called by the Chair. All meetings will be open work sessions, where the general public is invited to attend, listen, and observe, unless public participation is deemed appropriate by the Chair.

No quorum shall be necessary to conduct business, but no vote will be taken unless a quorum is present. A majority of the voting members of the Committee shall constitute a quorum. Decisions shall be made, if possible, by an indication of general consensus among the Committee members present. Staff (other than appointed members) will not participate as decision makers. When this method does not serve to establish a clear direction, the Chair shall call for a roll-call vote. When an agreement cannot be achieved on an issue, business shall proceed and minority positions will be noted and presented for future Board of Supervisors' consideration.

ORDINANCE NO. 17-18(1)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, BASIC REGULATIONS, AND ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Regulations, Article II, Basic Regulations, and Article III, District Regulations, are hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 5.1.25 Farm wineries
- Sec. 5.1.57 Farm breweries
- Sec. 5.1.59 Farm distilleries
- Sec. 10.2.1 By right
- Sec. 10.2.2 By special use permit
- Sec. 11.3.1 By right
- Sec. 11.3.2 By special use permit

Article I. General Provisions

Sec. 3.1 Definitions.

...

*Farm brewery:* An establishment located on one or more lots in Albemarle County licensed as a limited brewery under Virginia Code § 4.1-208.

*Farm brewery event:* An event that is not a wedding, a wedding reception, or "other events" as that term is defined in section 5.1.57(c)(5), conducted at a farm brewery on one or more days, where the purpose is agritourism or to promote beer sales, and which may be, but is not limited to, beer festivals; receptions where beer is sold or served; beer club meetings and activities; beer tasting educational seminars; beer tasting luncheons, business meetings, and corporate luncheons with a focus on selling beer; gatherings with the purpose of promoting sales to the trade, such as restaurants, distributors, and local chamber of commerce activities; brewmasters' dinners where beer is paired with food; agritourism promotions; and fundraisers and charity events. (Added 11-12-14)

...

*Farm distillery:* An establishment located on one or more lots in Albemarle County to which a limited distiller's license is issued under Virginia Code § 4.1-206.

*Farm distillery event:* An event that is not a wedding, a wedding reception, or "other events" as that term is defined in section 5.1.59(c)(5), conducted at a farm distillery on one or more days, where the purpose is agritourism or to promote the sale of distilled spirits, and which may be, but is not limited to, distilled spirits festivals; receptions where distilled spirits are sold or served; distilled spirits club meetings and activities; distilled spirits tasting educational seminars; distilled spirits tasting luncheons, business meetings, and corporate luncheons with a focus on selling distilled spirits; gatherings with the purpose of promoting sales to the trade, such as restaurants, distributors, and local chamber of commerce activities; distillers' dinners where distilled spirits are paired with food; agritourism promotions; and fundraisers and charity events. (Added 12-9-15)

...

*Farm winery:* An establishment located on one or more lots in Albemarle County licensed as a farm winery under Virginia Code § 4.1-207.

...

*Farm winery event:* An event that is not a wedding, a wedding reception, or "other events" as that term is defined in section 5.1.25(c)(5), conducted at a farm winery on one or more days where the purpose is agritourism or to promote wine sales, and which may be, but is not limited to wine fairs; receptions where wine is sold or served; wine club meetings and activities; wine tasting educational seminars; wine tasting luncheons, business meetings, and corporate luncheons with a focus on selling wines; gatherings with the purpose of promoting sales to the trade, such as restaurants, distributors, and

local chamber of commerce activities; winemakers' dinners where wine is paired with food; agritourism promotions; and fundraisers and charity events. (Added 5-5-10; Amended 11-12-14)

...

(§ 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9), 10-17-01; Ord. 02-18(2), 2-6-02; Ord. 02-18(5), 7-3-02; Ord. 02-18(7), 10-9-02; Ord. 03-18(1), 2-5-03; Ord. 03-18(2), 3-19-03; Ord. 04-18(2), 10-13-04; 05-18(2), 2-2-05; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 07-18(1), 7-11-07; Ord. 07-18(2), 10-3-07; Ord. 08-18(3), 6-11-08; Ord. 08-18(4), 6-11-08; Ord. 08-18(6), 11-12-08; Ord. 08-18(7), 11-12-08; Ord. 09-18(3), 7-1-09; Ord. 09-18(5), 7-1-09; 09-18(8), 8-5-09; Ord. 09-18(9), 10-14-09; Ord. 09-18(10), 12-2-09; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 11-18(5), 6-1-11; Ord. 11-18(6), 6-1-11; Ord. 12-18(3), 6-6-12; Ord. 12-18(4), 7-11-12; Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 13-18(1), 4-3-13; Ord. 13-18(2), 4-3-13; Ord. 13-18(3), 5-8-13; Ord. 13-18(5), 9-11-13; Ord. 13-18(6), 11-13-13, effective 1-1-14; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(2), 3-5-14; Ord. 14-18(4), 11-12-14; Ord. 15-18(1), 2-11-15; Ord. 15-18(2), 4-8-15; Ord. 15-18(4), 6-3-15; Ord. 15-18(5), 7-8-15; Ord. 15-18(10), 12-9-15; Ord. 16-18(1), 3-2-16)

**State law reference** – Va. Code § 15.2-2286(A)(4).

## **Article II. Basic Regulations**

### **Sec. 5.1.25 Farm wineries**

Each farm winery shall be subject to the following:

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

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

3. *By special use permit.* Farm winery events, weddings, wedding receptions, and other events at which more than two hundred (200) persons will be in attendance at the farm winery at any time are permitted by special use permit at a farm winery, provided that they are related to agritourism or wine sales.
  4. *Determining attendance at the farm winery at any time.* The attendance at the farm winery at any time under subsections (c)(2) and (c)(3) shall be the aggregate of the actual or allowed attendance at any time for any farm winery event, farm brewery event, farm distillery event, wedding, wedding reception, and other events. Attendance shall not include any owner or employee of the farm winery or any employee or owner of a vendor providing goods or services to the farm winery event, wedding, wedding reception, or other event pursuant to subsections (c)(2) and (c)(3). Attendance shall not include any individual engaging or participating in activities under subsections (a) and (b).
  5. *Other events.* For the purposes of this subsection, the term “other events” means events that are agritourism events or are wine sales related events, which are determined by the zoning administrator to be usual and customary at farm wineries throughout the Commonwealth, which do not create a substantial impact on the public health, safety, or welfare, and which are not expressly authorized under subsection (c) as farm winery events, weddings, or wedding receptions.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more events authorized under section 5.1.25(c)(3) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed events; (ii) the maximum number of persons who will attend each event at any given time; (iii) the frequency and duration of the events; (iv) the provision of on-site parking; (v) the location, height and lumens of outdoor lighting for each event; (vi) the location of any stage, structure or other place where music will be performed; and (vii) a traffic management plan, which demonstrates how traffic entering and exiting the farm winery for an event will be managed to ensure safe and convenient access to and from the site, and includes planned routes of vehicular access to the farm winery, on-site circulation, the use of shuttles or other transportation services, and traffic control personnel.
  2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the events; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each farm winery licensed on and after November 12, 2014 shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm winery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm winery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.
  2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
  3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).

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

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

### **Sec. 5.1.57 Farm breweries**

Each farm brewery shall be subject to the following:

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

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

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

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

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

#### **Sec. 5.1.59 Farm distilleries.**

Each farm distillery shall be subject to the following:

- a. *Operational uses permitted by right.* The following operational uses, events and activities (hereinafter, collectively, "uses") are permitted at a farm distillery:
  1. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer.
  2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a

distillery and the Alcoholic Beverage Control Board pursuant to the provisions of Virginia Code § 4.1-119(D).

3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
  4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
  5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of the alcoholic beverages.
- b. *Agritourism uses or sales related uses permitted by right.* The following uses are permitted by right at a farm distillery, provided they are related to agritourism or the sale of alcoholic beverages other than wine or beer:
1. Exhibits, museums, and historical segments related to alcoholic beverages other than wine or beer or to the farm distillery.
  2. Guest distillers and trade accommodations of invited guests at a farm distillery owner's private residence at the farm distillery.
  3. Hayrides.
  4. Kitchen and catering activities related to a use at the farm distillery.
  5. Picnics, either self-provided or available to be purchased, at the farm distillery.
  6. Providing finger foods, soups, and appetizers for visitors.
  7. Tours of the farm distillery, including the areas where agricultural products are grown.
  8. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be similar in kind to other uses permitted by right in this subsection, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this use.
- c. *Farm distillery events, weddings, wedding receptions, and other events permitted by right and by special use permit.* Farm distillery events, weddings, wedding receptions, and other events are permitted by right or by special use permit at a farm distillery, provided that they are related to agritourism or the sale of distilled spirits, as follows:
1. *Eligibility.* Any farm distillery use established in the county before January 18, 2017 is eligible to hold the events authorized in subsections (c)(2) and (c)(3). Any farm distillery use established in the county on and after January 18, 2017 or which had not submitted an application to the United States Bureau of Alcohol, Tobacco, and Firearms for licensure in the county before January 18, 2017, is eligible to hold the events authorized by subsections (c)(2) and (c)(3) if it has: (i) on-site distillation and bottling processes; (ii) an on-site tasting room with regular hours in which it is open to the public; and (iii) a minimum of five (5) acres of fruits, grains, or other agricultural products planted on-site, or on any abutting lot under the same ownership, at least one growing season each calendar year and used or to be used in the production of the establishment's beverages, provided that the five (5) acre threshold shall not apply during periods of widespread crop damage due to pest damage, disease, frost damage, or storm damage, and further provided that none of these eligibility requirements shall apply where the sole events under this subsection (c) are holding up to four (4) educational programs related to agriculture per calendar year at which not more than two hundred (200) persons are in attendance at any time. Notwithstanding any other provision of this chapter, the eligibility requirements of this subsection (c)(1)(i) and (iii) may not be waived, modified, or varied by special exception. A special exception to subsection (c)(1)(ii) may be granted to permit

tasting room hours by appointment instead of regular hours in which the tasting room is open to the public.

2. *By right.* Farm distillery events, weddings, wedding receptions, and other events are permitted by right at a farm distillery provided that not more than two hundred (200) persons are in attendance at the farm distillery at any time and the events are related to agritourism or the sale of distilled spirits, subject to the following:
    - (a) *Zoning clearance.* For each farm distillery licensed on and after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to holding any events if either the lot or the abutting lots on which the events allowed in this subsection occur is less than twenty-one (21) acres in size or the event will generate more than fifty (50) visitor vehicle trips per day; and
    - (b) *Notice.* The farm distillery shall provide written notice that an application for a zoning clearance for one or more events allowed by this subsection has been submitted to the owner of each abutting lot under different ownership than the lot on which the proposed event would be located. The notice shall identify the proposed type, size, and frequency of events, and provide the name and telephone number of a contact person who will be on-site at the farm distillery during each event. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance.
  3. *By special use permit.* Farm distillery events, weddings, wedding receptions, and other events at which more than two hundred (200) persons will be in attendance at the farm distillery at any time are permitted by special use permit at a farm distillery, provided that they are related to agritourism or the sale of distilled spirits.
  4. *Determining attendance at the farm distillery at any time.* The attendance at the farm distillery at any time under subsections (c)(2) and (c)(3) shall be the aggregate of the actual or allowed attendance at any time for any farm winery event, farm brewery event, farm distillery event, wedding, wedding reception, and other events. Attendance shall not include any owner or employee of the farm winery or any employee or owner of a vendor providing goods or services to the farm winery event, wedding, wedding reception, or other event pursuant to subsections (c)(2) and (c)(3). Attendance shall not include any individual engaging or participating in activities under subsections (a) and (b).
  5. *Other events.* For the purposes of this subsection, the term “other events” means events that are agritourism events or are distilled spirits sales related events, which are determined by the zoning administrator to be usual and customary at farm distilleries, which do not create a substantial impact on the public health, safety, or welfare, and which are not expressly authorized under subsection (c) as farm distillery events, weddings, or wedding receptions.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more events authorized under section 5.1.59(c)(3) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed events; (ii) the maximum number of persons who will attend each event at any given time; (iii) the frequency and duration of the events; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each event; (vi) the location of any stage, structure or other place where music will be performed; and (vii) a traffic management plan, which demonstrates how traffic entering and exiting the farm distillery for an event will be managed to ensure safe and convenient access to and from the site, and includes planned routes of vehicular access to the farm distillery, on-site circulation, the use of shuttles or other transportation services, and traffic control personnel.
  2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the events; (ii) how access, on-site parking, outdoor

lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.

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

(Ord. 15-18(10), 12-9-15)

### **Article III. District Regulations**

#### **Section 10 Rural Areas**

##### **Sec. 10.2.1 By right**

The following uses shall be permitted by right in the RA district, subject to the applicable requirements of this chapter:

...

17. Farm winery uses, events, and activities authorized by section 5.1.25(a), (b), and (c)(2).

...

29. Farm brewery uses, events, and activities authorized by section 5.1.57(a), (b), and (c)(2).

...

31. Farm distillery uses, events, and activities authorized by section 5.1.59(a), (b), and (c)(2).

(§ 20-10.2.1, 12-10-80; 12-16-81; 7-6-83; 11-1-89; 11-8-89; 11-11-92; 5-12-93; Ord. 95-20(5), 11-15-95; Ord. 98-A(1), § 18-10.2.1, 8-5-98; Ord. 02-18(6), 10-9-02; Ord 04-18(2), 10-13-04; Ord. 06-18(2), 12-13-06; Ord. 08-18(7), 11-12-08; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(3), 6-6-12; Ord. 13-18(5), 9-11-13; Ord. 14-18(4), 11-12-14; Ord. 15-18(10), 12-9-15)

**Sec. 10.2.2 By special use permit**

The following uses shall be permitted by special use permit in the RA district, subject to the applicable requirements of this chapter:

...

53. Farm winery uses, events, and activities authorized by section 5.1.25(c)(3).

...

55. Farm brewery uses, events, and activities authorized by section 5.1.57(c)(3).

...

57. Farm distillery uses, events, and activities authorized by section 5.1.59(c)(3).

(§ 20-10.2.2, 12-10-80; 3-18-81; 2-10-82; 4-28-82; 7-6-83; 3-5-86; 1-1-87; 12-2-87; 11-8-89; 6-10-92; 11-11-92; Ord. 95-20(1), 3-15-95; Ord. 95-20(3), 10-11-95; Ord. 95-20(5), 11-15-95; Ord. 98-A(1), § 18-10.2.2, 8-5-98; Ord. 99-18(4), 6-16-99; Ord. 00-18(6), 10-18-00; Ord. 01-18(2), 3-21-01; Ord. 02-18(6), 10-9-02; Ord. 04-18(1), 5-5-04 effective 7-1-04; Ord.04-18(2), 10-13-04; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 08-18(7), 11-12-08; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11; Ord. 14-18(4), 11-12-14; Ord. 15-18(10), 12-9-15)

**Section 11**

**Monticello Historic District, MHD**

**Sec. 11.3.1 By right**

The following uses shall be permitted by right in the MHD:

...

19. Farm winery uses, events, and activities authorized by section 5.1.25(a), (b), and (c)(2).

...

28. Farm brewery uses, events, and activities authorized by section 5.1.57(a), (b), and (c)(2).

...

30. Farm distillery uses, events, and activities authorized by section 5.1.59(a), (b), and (c)(2).

(Ord. 05-18(5), 6-8-05; Ord. 08-18(2), 5-7-08; Ord. 10-18(4), 5-5-10; Ord. 11-18(4), 4-6-11; Ord. 14-18(4), 11-12-14; Ord. 15-18(10), 12-9-15)

**Sec. 11.3.2 By special use permit**

The following uses shall be permitted by special use permit in the MHD:

...

8. Farm winery uses, events, and activities authorized by section 5.1.25(c)(3), provided, however, that no special use permit shall be required for any use that is otherwise permitted pursuant to section 11.3.1.

9. Farm brewery uses, events, and activities authorized by section 5.1.57(c)(3), provided, however, that no special use permit shall be required for any use that is otherwise permitted pursuant to section 11.3.1.

...

11. Farm distillery uses, events, and activities authorized by section 5.1.59(c)(3), provided, however, that no special use permit shall be required for any use that is otherwise permitted pursuant to section 11.3.1.

(Ord. 05-18(5), 6-8-05; Ord. 10-18(4), 5-5-10; Ord. 11-18(4), 4-6-11; Ord. 14-18(4), 11-12-14; Ord. 15-18(10), 12-9-15)