

ORDINANCE NO. 17-18()

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 ~~including, but not limited to, gatherings not otherwise expressly authorized as a use under section 5.1.57(a), (b)(1) and (b)(3) through (b)(9), and which may be, but is~~ including, but 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, ~~including, but not limited to, gatherings not otherwise expressly authorized as a use under section 5.1.59(a), (b)(1) and (b)(3) through (b)(9), and~~ which may be, but is including, but 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 including, but not limited to, gatherings not otherwise expressly authorized as a use under section 5.1.25(a), (b)(1) and (b)(3) through (b)(9), and which may be, but is including, but 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 u~~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, ~~and further provided that, for each farm winery licensed after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to commencing the use if either the lot or the abutting lots on which the uses 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:~~
1. Exhibits, museums, and historical segments related to wine or to the farm winery.
 - ~~2. Farm winery events at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).~~
 - ~~32.~~ Guest winemakers and trade accommodations of invited guests at a farm winery owner's private residence at the farm winery.
 - ~~43.~~ Hayrides.
 - ~~54.~~ Kitchen and catering activities related to a use at the farm winery.
 - ~~65.~~ Picnics, either self-provided or available to be purchased at the farm winery.
 - ~~76.~~ Providing finger foods, soups and appetizers for visitors.
 - ~~87.~~ Tours of the farm winery, including the vineyard.
 - ~~9.~~ Weddings and wedding receptions at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).
 - ~~10.~~ Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth, 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 and any uses identified in subsection (h).

- c. ~~*Agritourism uses or wine sales related uses; more than 200 persons at any time; special use permit.*~~ The following uses, at which more than two hundred (200) persons will be allowed to attend at any time this use and any uses identified in subsection (h), are permitted at a farm winery with a special use permit, provided they are related to agritourism or wine sales:

1. ~~Farm winery events.~~
2. ~~Weddings and wedding receptions.~~
3. ~~Other uses not expressly authorized that are agritourism uses or wine sales related uses which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth.~~

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. 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 ~~uses~~ events authorized under section 5.1.25(c)(3) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed ~~uses~~ events; (ii) the maximum number of persons who will attend each ~~use~~ event at any given time; (iii) the frequency and duration of the ~~uses~~ events; (iv) the provision of on-site parking; (v) the location, height and lumens of outdoor lighting for each ~~use~~ event; ~~and~~ (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 ~~uses~~ 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 provision of this chapter, 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 and to all tents, off-street parking areas and portable toilets used in whole or in part to serve any use permitted at a farm winery, provided that the minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.~~

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, off-street parking areas, 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 all of the following used in whole or in part to serve any permitted use at a farm winery: (i) off-street parking areas established on and after January 18, 2017; (ii) tents; and (iii) portable toilets.
3. *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.

- h. ~~For the purposes of determining the actual or allowed attendance at any time under subsections (b) and (c), the actual or allowed attendance for the following uses shall be considered: farm winery events, farm brewery events, and farm distillery events as provided in sections 5.1.25(b)(2) and (c)(1), 5.1.57(b)(2) and (c)(1), and 5.1.59(b)(2) and (c)(1), respectively; weddings and wedding receptions as provided in sections 5.1.25(b)(9) and (c)(2), 5.1.57(b)(9)~~

~~and (e)(2), and 5.1.59(b)(9) and (e)(2); and unclassified usual and customary uses as provided in sections 5.1.25(b)(10) and (e)(3), 5.1.57(b)(10) and (e)(3), and 5.1.59(b)(10) and (e)(3).~~

(§ 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, ~~and further provided that, for each farm brewery licensed after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to commencing the use if either the lot or the abutting lots on which the uses 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:~~
 1. Exhibits, museums, and historical segments related to beer or to the farm brewery.
 2. ~~Farm brewery events at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).~~

- ~~32.~~ Guest brewmasters and trade accommodations of invited guests at a farm brewery owner's private residence at the farm winery.
 - ~~43.~~ Hayrides.
 - ~~54.~~ Kitchen and catering activities related to a use at the farm brewery.
 - ~~65.~~ Picnics, either self-provided or available to be purchased at the farm brewery.
 - ~~76.~~ Providing finger foods, soups, and appetizers for visitors.
 - ~~87.~~ Tours of the farm brewery, including the areas where agricultural products are grown.
 - ~~9.~~ Weddings and wedding receptions at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).
 - ~~10.~~ Other uses not expressly authorized that are agritourism uses or are beer sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm breweries throughout the Commonwealth, 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 and any uses identified in subsection (h).
- c. ~~Agritourism uses or beer sales related uses; more than 200 persons at any time; special use permit.~~ The following uses, at which more than two hundred (200) persons will be allowed to attend at any time this use and any uses identified in subsection (h), are permitted at a farm brewery with a special use permit, provided they are related to agritourism or beer sales:
- ~~1.~~ Farm brewery events.
 - ~~2.~~ Weddings and wedding receptions.
 - ~~3.~~ Other uses not expressly authorized that are agritourism uses or beer sales related uses which are determined by the zoning administrator to be usual and customary uses at farm breweries throughout the Commonwealth.

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 ~~uses~~ events authorized under section 5.1.57(c)(3) shall include the following:

1. *Information.* Information pertaining to the following: (i) the proposed ~~uses~~ events; (ii) the maximum number of persons who will attend each ~~use~~ event at any given time; (iii) the

- frequency and duration of the ~~uses events~~; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each ~~use event~~; ~~and~~ (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 ~~uses 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 provision of this chapter, the minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures and to all tents, off-street parking areas, and portable toilets used in whole or in part to serve any use permitted at a farm brewery, provided that the minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.~~
- 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, off-street parking areas, 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 all of the following used in whole or in part to serve

any permitted use at a farm brewery: (i) off-street parking areas established on and after January 18, 2017; (ii) tents; and (iii) portable toilets.

3. 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.

~~h. For the purposes of determining the actual or allowed attendance at any time under subsections (b) and (c), the actual or allowed attendance for the following uses shall be considered: farm winery events, farm brewery events, and farm distillery events as provided in sections 5.1.25(b)(2) and (c)(1), 5.1.57(b)(2) and (c)(1), and 5.1.59(b)(2) and (c)(1), respectively; weddings and wedding receptions as provided in sections 5.1.25(b)(9) and (c)(2), 5.1.57(b)(9) and (c)(2), and 5.1.59(b)(9) and (c)(2); and unclassified usual and customary uses as provided in sections 5.1.25(b)(10) and (c)(3), 5.1.57(b)(10) and (c)(3), and 5.1.59(b)(10) and (c)(3).~~

(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, and further provided that, for each farm distillery licensed after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to commencing the use if either the lot or the abutting lots on which the uses 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:

1. Exhibits, museums, and historical segments related to alcoholic beverages other than wine or beer or to the farm distillery.
 - ~~2. Farm distillery events at which not more than two hundred (200) persons at any time for this use and any uses identified in subsection (h).~~
 - ~~32.~~ Guest distillers and trade accommodations of invited guests at a farm distillery owner's private residence at the farm distillery.
 - ~~43.~~ Hayrides.
 - ~~54.~~ Kitchen and catering activities related to a use at the farm distillery.
 - ~~65.~~ Picnics, either self-provided or available to be purchased, at the farm distillery.
 - ~~76.~~ Providing finger foods, soups, and appetizers for visitors.
 - ~~87.~~ Tours of the farm distillery, including the areas where agricultural products are grown.
 - ~~9. Weddings and wedding receptions at which not more than two hundred (200) persons at any time for this use and any uses identified in subsection (h).~~
 - ~~10. Other uses not expressly authorized that are agritourism uses or are sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm distilleries throughout the Commonwealth, 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 event and any events identified in subsection (h).~~
- c. ~~Agritourism uses or sales related uses; more than 200 persons at any time; special use permit.~~ The following uses, at which more than two hundred (200) persons will be allowed to attend at any time this use and any uses identified in subsection (h), are permitted at a farm distillery with a special use permit, provided they are related to agritourism or the sale of alcoholic beverages other than wine or beer:
- ~~1. Farm distillery events.~~
 - ~~2. Weddings and wedding receptions.~~
 - ~~3. Other uses not expressly authorized that are agritourism uses or related to the sale of alcoholic beverages other than wine or beer which are determined by the zoning administrator to be usual and customary uses at farm distilleries throughout the Commonwealth.~~

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 ~~uses~~ events authorized under section 5.1.59(c)(3) shall include the following:

1. *Information.* Information pertaining to the following: (i) the proposed ~~uses~~ events; (ii) the maximum number of persons who will attend each ~~use event~~ at any given time; (iii) the frequency and duration of the ~~uses~~ events; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each ~~use event~~; ~~and~~ (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 ~~uses~~ 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 provision of this chapter, the minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures and to all tents, off-street parking areas, and portable toilets used in whole or in part to serve any use permitted at a farm distillery, provided that the minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.~~

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, off-street parking areas, 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 all of the following used in whole or in part to serve any permitted use at a farm distillery: (i) off-street parking areas established after January 18, 2017; (ii) tents; and (iii) portable toilets.
 3. *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.
- h. ~~For the purposes of determining the actual or allowed attendance at any time under subsections (b) and (c), the actual or allowed attendance for the following uses shall be considered: farm winery events, farm brewery events, and farm distillery events as provided in sections 5.1.25(b)(2) and (c)(1), 5.1.57(b)(2) and (c)(1), and 5.1.59(b)(2) and (c)(1), respectively; weddings and wedding receptions as provided in sections 5.1.25(b)(9) and (c)(2), 5.1.57(b)(9) and (c)(2), and 5.1.59(b)(9) and (c)(2); and unclassified usual and customary uses as provided in sections 5.1.25(b)(10) and (c)(3), 5.1.57(b)(10) and (c)(3), and 5.1.59(b)(10) and (c)(3).~~

(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) and (b)(a), (b), and (c)(2).

...

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

...

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

...

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

...

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

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Dill	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____
Mr. Sheffield	_____	_____