

Proposed Agritourism Zoning Ordinance Amendment Overview

UPDATE: The proposal has been revised since the February Overview. Country Inn has been removed from the Amendment, see explanation below on page 5. Additionally, staff has modified the definitions of agricultural operation and agritourism as well as revised the approach to regulating seasonal festivals and special events. See the blue callout boxes below for more information.

Agritourism is listed as a First Tier, Priority 1 item under Agricultural Districts and Uses on the Zoning Ordinance Amendment Work Program. This document presents a discussion of agritourism, as well as the proposed associated changes to the Zoning Ordinance. While Fairfax County is an urbanizing county, there are local farms within the County that are looking for economic opportunities associated with agritourism that would allow them to conserve agricultural land and support their agricultural business.

BACKGROUND

Section 3.2-6400 of the Code of Virginia defines agritourism activity as “any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, horseback riding, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.” The Code addresses local regulation of agritourism activities in Section 15.2-2288.6 and states that no locality is allowed to regulate agritourism activities at an agricultural operation unless there is a substantial impact on the health, safety, or general welfare of the public. However, the Virginia Code does not identify any criteria by which to measure those impacts. Therefore, the Zoning Administrator has had to determine on a case-by-case basis whether such activity has a substantial impact on the health, safety, or general welfare of the public. Setting thresholds in the Zoning Ordinance will provide a predictable and consistent path for future agritourism activities in Fairfax County.

PROPOSED AMENDMENT

Staff has added the proposed Agricultural Operation definition below to better frame the Agritourism discussion; this definition will replace the current Agriculture definition to be consistent with the language in the Virginia Code.

AGRITOURISM

Staff proposes to amend the definition of Agriculture to reflect the State Code definition and establish use limitations to follow the Zoning Ordinance Modernization (zMOD) framework. The proposed definition is as follows.

AGRICULTURAL OPERATION: Any operation that is devoted to the bona fide production and harvesting of agricultural products, including livestock, dairy, aquaculture, poultry, horticultural, floricultural, viticultural, and silvicultural products. An agricultural operation may also include the operation of agritourism uses as accessory uses. A garden center, commercial stockyard/feed lot,

landscape contracting service, or the above-ground application or storage of sewage sludge are not agricultural operations.¹

The proposed use limitations for an agricultural operation are as follows:

- An agricultural operation must be located on at least five acres of land.
- An agricultural operation must specifically qualify under all state and local laws to use any exemptions or special provisions afforded to such use by the Code of Virginia.
- The definition of agricultural operation does not preclude the keeping of livestock on parcels of two acres or more in size, as permitted by Sect. 2-512 or gardening, as permitted as an accessory use in Sect. 10-102.

Staff proposes to add a new definition and establish use limitations for agritourism activities that would be permitted in conjunction with an agricultural operation. The proposed definition is as follows.

AGRITOURISM: Any activity accessory to an agricultural operation that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, historical, cultural, horseback riding, harvest-your-own, or natural activities and attractions, regardless of whether the participant paid to participate in the activity. Agritourism activities may be permitted at a FARM WINERY, LIMITED BREWERY and LIMITED DISTILLERY.

Based on feedback received, staff has revised the approach for regulating agritourism activities. Previously, staff had proposed an unlimited number of visitors and days for certain agritourism uses (harvest your own, educational programs, passive recreation) and proposed to limit attendees and days for seasonal festivals and special events. Staff is no longer proposing a maximum number of days per calendar year for seasonal festivals and special events. Instead staff is proposing to regulate all agritourism uses in the same manner by limiting the number of visitors permitted by right. In staff's opinion, the land use impacts are created by the number of trips and visitors to the site and not the type of agritourism activity the attendees are engaged in. Further, staff received feedback that it would be difficult to track the number of days attributable to seasonal festival and special event activities. Staff therefore proposes to remove the special events and seasonal festival restrictions and replace them with a maximum number of visitors, depending on acreage. Table 1 below depicts the current proposal. A hyperlink to the previous proposal can be found in Footnote 2.

¹ The current definition of agriculture is as follows. **AGRICULTURE:** The use of a farm or other tract of land not less than five (5) acres in size as a business engaged in the production of crops, nursery stock or plant growth of any kind and/or the raising of livestock, aquatic life or other animals to produce products such as food and fiber and the wholesale sale of the foregoing plant and animal products. Agriculture may also include the operation of agritourism uses, as set forth in the Code of Virginia, and a licensed farm winery, limited brewery or limited distillery, but only as those uses are defined in this Ordinance and only in accordance with the provisions of Part 6 of Article 9, when a special exception is required. The term 'agriculture' shall not include the following uses: (a) the maintenance and operation of plant nurseries; (b) the operation or maintenance of a commercial stockyard or feed yard; (c) the retail sales of agricultural products except as an accessory use; or (d) the operation of landscape contracting services. However, the definition of agriculture shall not be deemed to preclude the keeping of livestock on parcels of two (2) acres or more in size as permitted by Sect. 2-512 or gardening, as permitted as an accessory use in Sect. 10-102.

The following activities and similar uses are under consideration to be permitted by right as an agritourism use in conjunction with agriculture:

- Farm tours, including educational programs, workshops, or demonstrations related to agriculture
- Harvest-your-own activities
- Walking, equestrian trails, and other similar passive recreational activities
- Seasonal Festivals
- Special Events such as weddings and corporate events

However, due to the potential substantial impact these activities can have on health, safety, and general welfare, staff is considering a tiered approach with use limitations. Agritourism uses are proposed to be allowed by-right when the use limitations in Table 1 below are met. If an agritourism provider wishes to exceed the limitations in Table 1, it could do so by special exception approval. In creating the tiered approach, staff applied the acreage and number of attendees currently permitted under farm wineries to the Tier 3 agritourism category; however, the County does not propose to distinguish the number of attendees based on the road type, as agricultural operations can be located on a variety of road types and engaging in agritourism activities of varying intensity. Please note that farm wineries, limited distilleries, and limited breweries are separately defined, and no changes are proposed to the existing special exception standards and their ability to host events for those uses, except for possibly removing the road classification requirement to correspond with this proposal. By limiting the total number of visitors in a day, the number of vehicle trips and impact to the adjacent roadways would be limited. In a previous presentation to the Board of Supervisors at the February 4, 2020, Land Use Policy Committee meeting, three tiers were proposed rather than four tiers. Since that meeting, the proposal has been revised to break up the 20+ acre tier to 20 up to 80 acres, and over 80 acres. In addition, staff previously distinguished between certain activities conducted on the agricultural lot and had additional restrictions specifically related to number of permitted seasonal festivals and special events². The revised approach removes those distinctions. Staff is proposing a range of maximum number of attendees for the public and Board to consider but will be recommending a specific maximum number of attendees to the Board when the staff report is published.

Table 1. Current Proposal for Permitted Attendees for Agritourism Uses

Tier	Acreage	Total Attendees per Day [Advertised Range]
Tier 1	5 up to 10	[50 – 150]
Tier 2	10 up to 20	[100 – 200]
Tier 3	20 up to 80	[250 – 350]
Tier 4	80 or more	[300 – 350]; however, more than [300 – 350] attendees are permitted per day for not more than [100 – 120] days

² February 2020 Strawman Overview: <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zoning%20ordinance/proposed%20amendments/agritourism/agritourism-strawman-handout.pdf>

Still under consideration is a proposal to require the approval of an Administrative Permit, similar to a Temporary Special Permit, for Tier 4 activities when exceeding [300-350] attendees in a day. This would allow for staff review of parking arrangements, traffic management, hours of operation, and other activities associated with the high attendance agritourism use. Such a permit could be valid for an extended period, unless circumstances change.

Similar to the current provisions for farm wineries, limited breweries, and limited distilleries, the use of helicopter rides, firework displays, antique/flea markets, go-cart/all-terrain vehicle tracks, and mechanized amusement park rides would be prohibited.

In addition to the foregoing agritourism activities, this amendment would also establish the following provisions related to agritourism:

- Permit food trucks in association with an agritourism use, with limitations on the number and duration.
- On parcels 80 acres or larger, permit expanded retail sales, including modifying the 400-square-foot size limits and location requirements for wayside stands.

RELATED CHANGES

Farm Worker Housing

The Zoning Ordinance currently permits quarters of a tenant farmer and his family as an accessory use in the R-A through R-E Districts on a parcel of 20 acres or more (Par. 18 of Sect. 10-102). This amendment would continue to permit accommodations for farm workers as an accessory use to agriculture, but it would potentially permit more than one structure. This proposed change was developed after discussions with agritourism providers in which they expressed a desire to provide housing for their farm employees on their agricultural property because the high cost of housing has made it difficult to retain employees who are often hired on a seasonal basis.

R-A, Rural Agricultural District

The purpose of the R-A (Rural Agricultural) District is for the raising of livestock and/or farming. Provided that agricultural uses cover not less than 75% of the total land area, a single-family detached dwelling can be accessory to the agricultural use on the property. There are approximately 95 acres of land in the R-A District. Most of these properties are vacant land or have a single-family detached dwelling without an agricultural use. County staff recommends amending this district to permit single family detached dwellings as a by-right use along with agriculture. This would better reflect the R-A District in its current state.

Bed and Breakfast

Staff proposes to permit Bed and Breakfasts by-right instead of a requiring a special permit in the R-A through R-1 Districts on a parcel of 20 acres or more when located in a single family detached dwelling and with additional use limitations pertaining to parking and restriction of events hosted on-site.

R-1, Residential District

There have been previous discussions with the Board regarding whether to permit agriculture in the R-1 District. The R-1 District is established to provide for single family detached dwellings and to allow other selected uses that are compatible with the low-density residential character of the district. Staff had proposed increasing the acreage requirement in the R-1 District from 5 acres to 10 acres to establish an agricultural use. Staff proposed the change to minimize the impacts of agriculture and agritourism uses in the R-1 District. During the outreach, staff heard concerns regarding the proposal to increase the minimum acreage. Staff is continuing to solicit feedback to determine whether the proposal is appropriate.

Country Inn

Staff had previously proposed to include a Country Inn as a new special exception use as part of this amendment. After completing a portion of the outreach, staff has determined that the proposed use needs additional research and evaluation to ensure that it would be compatible with the proposed residential districts where the use would be allowed. Since Country Inns are not directly related to agriculture or agritourism, staff has decided to put this topic on hold. This topic will be added to the Zoning Ordinance Amendment Work Program, but no current timeframes for revisiting this topic have been identified. Any revised proposal will include new public outreach.

SCHEDULE

Staff is currently performing public outreach efforts to gain feedback from the community on this proposal. At this time, there is not a proposed schedule for this Zoning Ordinance Amendment. Once a schedule is established, it will be posted on the Agritourism webpage.

ADDITIONAL INFORMATION

Please visit our webpage dedicated to the Proposed Agritourism Zoning Ordinance Amendment.

<https://www.fairfaxcounty.gov/planning-development/zoning-ordinance/agritourism>

Additionally, for questions or comments about the proposed amendment, please contact Sara Morgan at 703-324-1314 or sara.morgan@fairfaxcounty.gov.