

**ADOPTION OF AN AMENDMENT TO CHAPTER 112.1
(ZONING) OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, June 22, 2021, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112.1 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA:**

Amend Chapter 112 (Zoning Ordinance), as follows:

Article 9 - Definitions and Ordinance Interpretation

9103. Uses

2. Agricultural and Related Uses

Amend the definitions of agricultural operation and add new definitions for wayside stand, farm worker housing and agritourism.

A. Agricultural and Related Uses

Agricultural Operation

Any operation that is devoted to the bona fide production, harvesting, and sale of crops and other agricultural products, including livestock, dairy, aquaculture, poultry, horticultural, floricultural, viticultural, and silvicultural products. An agricultural operation may include agritourism uses, farm worker housing, and wayside stand as an accessory use.

The definition of agricultural operation does not preclude the keeping of livestock on parcels of two acres or more in size, as permitted by subsection 4102.7.K(6), or gardening and composting, as permitted as an accessory use.

An agricultural operation does not include a garden center, commercial stockyard/feed lot, landscape contracting services, on-site processing of agricultural products, riding or boarding stable, or the above-ground application or storage of sewage sludge.

Farm Worker Housing

A dwelling unit accessory to an agricultural operation in which a farm worker(s) resides. A farm worker is a seasonal or full-time employee of the agricultural operation.

Wayside Stand

A structure designed and used for the display and retail sale of agricultural products as defined in Va. Code Sect. 3.2-6400 and foods products permitted by subdivisions A 3, 4, and 5 of Sect. 3.2-5130.

Agritourism

Any activity accessory to an agricultural operation that allows members of the general public to

view or enjoy rural activities for recreational, entertainment, or educational purposes, regardless of whether the participant paid to participate in the activity. These activities may be permitted at a property with a farm winery, limited brewery, or limited distillery subject to the limits on attendees in subsection 4102.2.C, which limits apply collectively to public or private events and activities and agritourism uses on that property. Agritourism activities include but are not limited to the following:

1. Farm tours, including educational or entertainment programs, workshops, or demonstrations;
2. Harvest-your-own activities;
3. Seasonal festivals and attractions, including crop mazes or hayrides;
4. Events including, but not limited to, corporate picnics, family reunions, farm-to-table dinners, weddings, and similar uses;
5. Hiking, horseback riding, and other natural activities;
6. Historical and cultural activities; and
7. Other activities as determined by the Zoning Administrator.

Delete the wayside stand definition from the Accessory Uses category.

Amend Table 4101.1 by adding new use of agritourism with associated permissions; add "P" to the bed and breakfast use in the R-A – R-1 Districts when associated with an agritourism use on 20 acres or more; remove the wayside stand permissions as they have been relocated to agricultural operation; and update changes to the referenced use-specific standards as a result of renumbering and relettering.

Article 4 - Use Regulations

4101. Use Tables

3. Use Table for Residential, Commercial, and Industrial Districts

TABLE 4101.1.: Use Table for Residential, Commercial, and Industrial Districts																													
P = permitted; SE = special exception; SP = special permit; <i>blank cell</i> = not allowed																													
A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit																													
Use	Residential Districts														Commercial Districts								Industrial Districts						Use-Specific Standards NOTE: General Standards also apply
	R-A	R-C	R-E	R-1	R-2	R-3	R-4	R-5	R-8	R-12	R-16	R-20	R-30	R-MHP	C-1	C-2	C-3	C-4	C-5	C-6	C-7	C-8	I-1	I-2	I-3	I-4	I-5	I-6	
AGRICULTURAL AND RELATED USES																													
Agricultural and Related Use: activities related to the growing or raising of plants or animals for food or other comparable activities, including agritourism and other similar use types. This category also includes riding or boarding stables.																													
Agricultural Operation	P	P	P	P																								4102.2.A	
Agritourism	A AP SE	A AP SE	A AP SE	A AP SE																								4102.1.I 4102.2.B	
Farm Winery, Limited Brewery, or Limited Distillery	P SE	P SE	P SE	P SE																								4102.2.C	
Stable, Riding or Boarding	SE SP	SE SP	SE SP	SE SP																								4102.2.D	
COMMERCIAL USES																													
Food and Lodging: establishments primarily engaged in the preparation and serving of food or beverages for on or off premises consumption, or providing lodging units or rooms for transient stays of 30 days or less																													
Bed and Breakfast	P	P SE	P SE	P SE	SE																							4102.5.D	
TEMPORARY USES																													
Food Truck	AP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP SE SP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	4102.1.I 4102.8.E	

4102. Use Standards

2. Agricultural and Related Uses

Agricultural and Related Uses

Amend the standards for agricultural operation to add the minimum acreage required to establish the use; add provisions related to wayside stands and increase the size limitation for wayside stands located on 80 acres or more; and establish standards for farm worker housing.

A. Agricultural Operation

Standards when permitted by right:

- (1) A minimum of seven acres must be dedicated to the production of an agricultural product, as defined in Va. Code Sect. 3.2-6400, unless a larger acreage is required by this Ordinance for a use related to an agricultural operation.
- (2) The retail sale of agricultural products is permitted from a wayside stand in accordance with the following standards:
 - (a) A wayside stand is permitted only on a lot(s) containing an agricultural operation;
 - (b) When located in conjunction with an agricultural operation that is less than 20 acres, a wayside stand may be 400 square feet or less;
 - (c) When located in conjunction with an agricultural operation that is 20 acres to less than 80 acres, a wayside stand may be 600 square feet or less;
 - (d) When located with an agricultural operation that is 80 acres or more, a wayside stand may be 1,600 square feet or less;
 - (e) A wayside stand may be used for the sale of agricultural products or agricultural- or silvicultural-related items incidental to the agricultural operation, and foods products permitted by subdivisions A 3, 4, and 5 of Sect. 3.2-5130 of the Code of Virginia or related state laws and regulations, as well as limited sales of agricultural- or silvicultural-related items produced off-site. Plants that are balled, burlapped, and bedded are not considered as having been grown on the same property;
 - (f) A wayside stand is not subject to the location requirements set forth in subsection 4102.2.A but must be located a minimum distance of 25 feet from any lot line; and
 - (g) A wayside stand must be located to allow adequate off-street parking spaces and safe ingress and egress to the adjacent street.
- (3) Barns and other structures for the housing of animals are allowed, subject to the setbacks in subsection 4102.7.J(6).
- (4) When accessory to an agricultural operation, farm worker housing is permitted on a lot(s) comprising that agricultural operation of 20 acres or more subject to the following:
 - (a) Farm worker housing may be located in a structure detached from the principal single-family dwelling on the lot(s) where the agricultural operation is located and must

comply with the applicable zoning district bulk regulations for single-family detached dwellings;

- (b) The structure may contain a single-family dwelling unit or up to five dwelling units but may not exceed 2,000 square feet in size;
 - (c) Occupancy of the structure, whether as a single-family dwelling unit or up to five dwelling units, may not exceed a total of ten occupants; and
 - (d) Before occupancy of the structure, the property owner must record a notice in the land records that the structure is for farm worker housing only. The statement must include a description of the property and must be indexed in the Grantor Index in the name of the property owner.
- (5) Agritourism, and a farm winery, limited brewery, or limited distillery, are permitted in accordance with the standards in subsections 4102.2.B. and C.

Establish use standards for new agritourism use, and reletter standards for farm winery, limited brewery, or limited distillery (4102.2.B) and stable, riding or boarding (4102.2.C), accordingly.

B. Agritourism

Standards applicable to all agritourism uses:

- (1) Parking must be located on the same lot(s) as the agricultural operation and is not permitted within any public right-of-way. Regardless of subsection 6100.2.C.—to encourage minimal land disturbance and to discourage land cover changes, such as removal of trees or other vegetation—parking spaces are not required to be designated or located on a paved surface. For the purpose of subsection 4102.2.B, a paved surface includes asphalt, poured or precast concrete, brick, stone, or similar impervious surface, but it does not include gravel or grass pavers.
- (2) In the R-C District, paved surfaces outside a building are permitted in accordance with any applicable stormwater quality and quantity requirements, and the following standards:
 - (a) When in association with Tier 1 or Tier 2, paved surfaces outside of a building are limited to a total of 2,500 square feet of the lot(s) comprising the agricultural operation.
 - (b) When in association with Tier 3 or Tier 4, paved surfaces outside of a building are limited to a total of 5,000 square feet of the lot(s) comprising the agricultural operation.
- (3) The total number of attendees per day is limited per the table below. The Board may approve a special exception for Tiers 1, 2, and 3 to exceed the number of attendees and may approve a special exception for Tier 4 to exceed the number of days allowed by administrative permit.

Tier: Acreage of lot(s) comprising the Agricultural Operation [1]	Total Attendees per Day
Tier 1: 7 to less than 10 acres	75
Tier 2: 10 to less than 20 acres	150
Tier 3: 20 to less than 80 acres	300
Tier 4: 80 acres or more	350
<p>Note:</p> <p>[1] At least 7 acres within each Tier must be dedicated to agricultural production and meet the definition of agricultural operation.</p>	

(4) Agritourism uses, events, or activities must not include any of the following:

- (a) Helicopter rides;
- (b) Fireworks displays;
- (c) Antique/flea markets;
- (d) Go-cart/all-terrain vehicle tracks;
- (e) Mechanized amusement park rides;
- (f) Hot air balloons;
- (g) Spa services;
- (h) The operation of a commercial restaurant requiring approval by the Health Department;
or
- (i) Any other similar use determined by the Zoning Administrator to have a substantial impact on the health, safety, and welfare of the public.

Standards when permitted by administrative permit:

- (5) Tier 4 agritourism activities that exceed 350 total attendees per day may be permitted by administrative permit, subject to the following requirements:**
- (a) More than 350 attendees are permitted per day for no more than 150 days per year;
 - (b) An administrative permit is valid for a period of two years and may be renewed on a five-year basis with approval of the Zoning Administrator. Any subsequent expansion or change of permit holder of the Tier 4 agritourism administrative permit may require submission of a new permit application as determined by the Zoning Administrator;
 - (c) A description of sanitary arrangements and facilities to be used by the public and employees must be submitted with the application; and
 - (d) A transportation management and parking plan must be submitted with the application. The plan must demonstrate that adequate parking is provided on-site, detail how

attendees will enter and exit the property, and include measures that will be taken to prevent traffic stacking on the public right-of-way.

Standards when permitted by special exception:

- (6)** The Board may approve a special exception to modify one or more of the standards as identified in the subsections below:
 - (a)** Subsection B(2) to exceed the land area permitted for paved surfaces in the R-C District.
 - (b)** Subsection B(3) to allow for Tiers 1, 2, and 3 to exceed the total number of attendees per day and for Tier 4 activities to exceed the number of days per year permitted by an administrative permit.
- (7)** A description of the sanitary arrangements and facilities to be used by the public and employees must be submitted with the application.
- (8)** A transportation management and parking plan must be submitted with the application. The plan must demonstrate that adequate parking is provided on-site, detail how attendees will enter and exit the property, and include measures that will be taken to prevent traffic stacking on the public right-of-way.
- (9)** An application to exceed the paved surfaces limitation in subsection B(2) requires the applicant to demonstrate that adequate measures will be taken to address water quantity impacts and prevent water quality degradation, such as meeting water quality requirements on-site through runoff reduction practices to the maximum extent practicable.

Remove lodging from the type of events or activities prohibited at a Farm Winery, Limited Brewery, or Limited Distillery from 4102.2.C.(4)(c) and renumber.

C. Farm Winery, Limited Brewery, or Limited Distillery

Standards applicable to farm wineries, limited breweries, and limited distilleries in the R-C District:

- (4)** A farm winery, limited brewery, or limited distillery may be used for alcohol production, sales, and tastings. In addition, the hosting of public or private events or activities is allowed in accordance with the following standards:
 - (c)** Events or activities must not include any of the following:
 - 1.** Helicopter rides;
 - 2.** Fireworks displays;
 - 3.** Antique/flea markets;
 - 4.** Go-cart/all-terrain vehicle tracks;
 - 5.** Mechanized amusement park rides;
 - 6.** Hot air balloons;
 - 7.** Spa services;

8. The operation of a commercial restaurant requiring approval by the Health Department; or
9. Any other similar use determined by the Zoning Administrator to have a substantial impact on the health, safety, and welfare of the public.

Standards applicable to farm wineries, limited breweries, and limited distilleries in the R-A, R-E, and R-1 Districts:

(6) A farm winery, limited brewery, or limited distillery may be used for alcohol production, sales, and tastings. The hosting of public events or activities is allowed, as follows:

(d) Events or activities must not include any of the following:

1. Helicopter rides;
2. Fireworks displays;
3. Antique/flea markets;
4. Go-cart/all-terrain vehicle tracks;
5. Mechanized amusement park rides;
6. Hot air balloons;
7. Spa services;
8. The operation of a commercial restaurant requiring approval by the Health Department; or
9. Any other similar use determined by the Zoning Administrator to have a substantial impact on the health, safety, and welfare of the public.

Amend the bed and breakfast provisions to establish by right standards and standards that apply to all bed and breakfasts, and address subsequent renumbering within the bed and breakfast subsection.

5. Commercial Uses

Food and Lodging

D. Bed and Breakfast

Standards applicable to all bed and breakfasts:

- (1) A bed and breakfast must be located within a single-family detached dwelling unit. Any alterations or improvements to the single-family dwelling must not alter the exterior appearance from that of a dwelling.
- (2) A bed and breakfast may not include a restaurant as an accessory use. However, breakfast and other light fare may be provided for guests.

- (3) All off-street parking and loading spaces must be located outside of a minimum side or rear setback when the setback abuts property zoned to a residential district or a residential area of a planned district.

Standards when permitted by right:

- (4) A bed and breakfast is permitted only in conjunction with an agricultural operation located on 20 acres or more.
- (5) Events are allowed only when permitted under the agritourism provisions in subsection 4102.2.B.

Standards when permitted by special exception:

- (6) Accessory rental of the facility to individuals who are not staying overnight or events, such as wedding receptions, parties, or other similar activities is not allowed unless specifically approved by the Board. In approving such accessory rental, the Board may impose conditions, including limitations on the number, size, days, and hours of events.
- (7) A maximum of three off-street parking spaces may be located within the minimum front setback, except the Board may authorize additional parking spaces within the front setback if the proposed additional parking spaces will not adversely affect the character of the surrounding residential area.
- (8) All off-street parking and loading spaces must be screened to minimize adverse impacts on adjacent residential properties.

Delete Par. P. Wayside Stand, from the Accessory Uses Category as they are being revised and relocated to the agricultural operation use standards.

Amend the food truck provisions to allow food trucks in association with an agritourism use or a farm winery, limited brewery, or limited distillery, and establish time limits and location requirements.

8. Temporary Uses

E. Food Truck

- (1) Food trucks may be permitted on property owned by the County, Park Authority, or Fairfax County Public Schools or in conjunction with the approval of an administrative permit for a special event and are not subject to the standards in subsections (2) through (7) below. The use must comply with all applicable regulations, including the Health Department and the Department of Cable and Consumer Services requirements.

Standards when permitted by administrative permit:

- (2) A food truck may not be operated without a food truck location permit and an annual food truck operation permit (see subsection (4) below).
- (3) Food trucks are permitted as an accessory use in the following locations:
 - (a) In a planned district, but only in commercial areas;
 - (b) In any industrial or commercial district;

- (c) On any construction site with an active building permit and ongoing construction activity;
 - (d) In conjunction with any approved nonresidential use in a residential district or a residential area of a planned district, limited to 12 times per calendar year per approved location. This time limitation may be exceeded with special exception approval in accordance with subsection 8100.3, special permit approval in accordance with subsection 8100.4, or as specifically permitted with an approved final development plan or executed proffers; and
 - (e) In conjunction with an agritourism use or a farm winery, limited brewery, or limited distillery.
- (4)** Food trucks may be operated from an approved location, subject to the following procedures:
- (a) The owner of property on which a food truck may be located must file a food truck location permit application with the Zoning Administrator on forms furnished by the County.
 - (b) Each year, the owner and/or operator of any food truck doing business in the County must file a food truck operation application with the Zoning Administrator on forms furnished by the County. The permit application must be accompanied by the written consent of the private property owner or authorized agent authorizing the food truck to be located on their approved food truck location and by a copy of the property owner's food truck location permit. If a food truck operates on more than one site, only one food truck operation application is required to be obtained from the Zoning Administrator for such food truck, provided that the property owner on any additional sites has obtained a food truck location permit for that site, the food truck operator has written consent from the property owner or authorized agent to operate on that site, and the food truck is operating in conformance with that approval. The operation of any food truck is subject to all Health Department and Department of Cable and Consumer Services permits/licenses.
 - (c) Upon the finding that the application complies with the standards set forth in subsection (5) below, the Zoning Administrator will approve the permit application, setting forth conditions that protect the public health, safety and welfare and adequately protect adjoining properties from any adverse impacts of the food truck, which may include, but are not limited to, hours of operation, location, parking, vehicular access, and safety requirements.
- (5)** All food trucks must be located and operated in compliance with the following standards:
- (a) Food trucks must be located on private property with the written consent of the property owner or authorized agent holding an approved food truck location permit.
 - (b) Food trucks may only be permitted in conjunction with a principal use consisting of a minimum of 25,000 square feet of gross floor area or on a construction site with an active building permit and on-going construction activity. This standard does not apply to food trucks operated in conjunction with approved nonresidential uses in residential districts in accordance with subsection (3)(d) above or to food trucks in conjunction with uses listed in subsection (3)(e) above.
 - (c) Food trucks may only operate for a maximum of four hours in any one day at any one location, including set-up and break-down, except as specified in subsection (i) below.

- (d) A maximum of three food trucks are permitted at any one location at the same time, provided that additional food trucks may be permitted in conjunction with administrative permits or other special events regulated by any proffered condition, development condition, special exception, or special permit.
- (e) Food trucks may not be located in any fire lane, travel lane, entrance/exit, or any required parking space.
- (f) Food trucks must be located on a level, paved, or gravel surface with safe pedestrian access.
- (g) The vicinity around the food truck must be kept clean and free of debris.
- (h) Trash receptacles must be provided.
- (i) In addition to the standards above, food trucks in conjunction with an agritourism activity or a farm winery, limited brewery, or limited distillery must be located and operated in compliance with the following standards:
 - (i) Food trucks located on less than 20 acres may operate for a maximum of four hours in any one day at any one location, including set-up and break-down;
 - (ii) Food trucks located on 20 acres or more may operate for a maximum of eight hours in any one day at any one location, including set-up and break-down; and
 - (iii) Food trucks must be located 100 feet from all property lines.
- (6) Any food truck location permit or food truck operation permit is revocable by the Zoning Administrator because of the failure of the property owner or the food truck operator to comply with any of the provisions of this subsection 4102.8.E.
- (7) All other sale of goods or services from any vehicle other than a food truck are subject to all the regulations for the zoning district in which the sale is conducted, but this regulation does not prohibit any vending from vehicles on public streets that is not otherwise prohibited by law.
- (8) Each food truck must be in substantial conformance with any proffered condition, development plan, special exception, or special permit for the site on which it operates. If any proffered condition, development plan, special exception or special permit approval specifically precludes food trucks or otherwise regulates food trucks, including the location, hours of operation, or number of food trucks, the zoning approval will govern that aspect of the food truck location or operation in lieu of the standards in this Section 4102.8.E. Unless otherwise specified in any zoning approval, all provisions of this Section 4102.8.E apply.

Standards when permitted by special exception or special permit:

- (9) The Board or BZA, as applicable, in conjunction with the approval for a nonresidential use in a residential district or a residential area of a planned district, may allow food trucks in excess of twelve times per calendar year.

Amend Table 6100.1 to add parking requirements for agritourism.

Article 6 – Parking and Loading

6100. Off-Street Parking

4. Minimum Required Off-Street Vehicle Parking Spaces

A. Table of Required Parking Spaces

TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces	
Use	Minimum Parking Requirement
AGRICULTURAL AND RELATED USES	
Agricultural and Related Uses	
Agricultural Operation	No minimum requirement
Agritourism	When by right: No minimum requirement When by administrative permit: subject to the Zoning Administrator's determination that a parking plan demonstrates adequate parking is provided on-site When by SE: Based on a review of each proposal to include such factors as the number of spaces required to accommodate employees and visitor parking.
Farm Winery, Limited Brewery, or Limited Distillery	When by right: No minimum requirement When by SE: Based on a review of each proposal to include such factors as the number of spaces required to accommodate employees and visitor parking.
Stable, Riding or Boarding	As determined by the Director, based on a review of each proposal to include such factors as the number of spaces to accommodate employees, horse trailers, students, customers, and guests anticipated to be on-site at any one time, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand.

Amend Table 8102.1 to add the administrative permit and renewal fee for agritourism Tier 4 and special exception fee for agritourism.

Article 8 - Administration, Procedures, and Enforcement

8102. Fee Schedule

1. Fee Schedule

TABLE 8102.1: FEE SCHEDULE

This table includes standard fees related to approvals under the Zoning Ordinance. Additional fees may apply related to review or approval by other County departments or governmental or quasi-governmental agencies, or in accordance with Appendix Q of the County Code.

APPLICATION TYPE		FEE
ADMINISTRATIVE PERMITS		
General Fee Unless Otherwise Listed		\$205
Accessory Uses		
Accessory Living Unit	Permit	\$200
	Renewal Fee	\$70
Agritourism Tier 4	Permit	\$205
	Renewal Fee	\$50
Family Health Care Structure		\$100
Home-Based Business		\$100
Limited Riding or Boarding Stable		\$50
Short-Term Lodging	Two Year Permit	\$200

SPECIAL EXCEPTIONS			
Standard fees for special exception approvals are listed below.			
General Fee Unless Otherwise Listed		\$16,375	
Principal Uses			
Agritourism		\$4,090	
Farm Winery, Limited Brewery, or Limited Distillery	R-C District: Development of a new use or expansion of an existing use for any agricultural building or structure:	That does not permit access by any member of the public, whether a customer, guest, or attendee at a public or private event or activity	\$1,000
		With no construction of buildings or structures over 40 SF in GFA or no land disturbance over 2,500 SF	\$4,090
		R-C District: Establishment of a new use or expansion of an existing use with construction of buildings or structures over 400 SF in GFA or land disturbance over 2,500 SF	\$8,180
		R-A, R-C, R-E, And R-1 District: Modification of the number of attendees, frequency and/or duration of events or activities	\$4,090
Stable, Riding or Boarding		\$8,180	

This amendment shall become effective on July 1, 2021 at 12:01 a.m.

GIVEN under my hand this 22nd day of June 2021.

 Jill G. Cooper
 Clerk for the Board of Supervisors