



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

January 8, 2021

## White Paper Proposed Zoning Ordinance Amendment: Agritourism & Related Changes

This White Paper provides an overview of the Proposed Zoning Ordinance Amendment related to Agritourism and Related Changes. Draft text is included as Attachment 1 and a list of outreach meetings is included in as Attachment 2. The text of the proposed amendment is presented in the new zMOD format.

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### Background

The proposal was first presented to the public and Board in February of 2020<sup>1</sup> and has since been revised. The most notable change is that Country Inn has been removed from the Amendment. As part of the 2020 Zoning Ordinance Amendment Work Program that was endorsed by the Board in September 2020, this topic was moved to the Priority 2 list of amendments waiting for future prioritization. No current timeframe for revisiting the topic of Country Inns has been identified.

Additionally, there were discussions regarding whether an agricultural operation was an appropriate use in the R-1 District, as the 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. In February 2020, staff proposed increasing the acreage requirement in the R-1 District from 5 acres to 10 acres to establish an agricultural operation. During our outreach, staff heard concerns about that proposal from various stakeholders and the Board. Staff is no longer proposing this change due to its potential impact on existing agricultural operations and the ability to establish new operations. Staff has also modified the definitions of agricultural operation and agritourism to better reflect the State Code provisions and has revised the proposed use standards for agritourism based on feedback from citizens and agritourism providers. Lastly, the proposed revisions to the R-A District's Purpose and Intent section and to its regulations allowing single-family detached dwellings by-right with agricultural operations is moving forward with the Zoning Ordinance Modernization (zMOD) proposal, ahead of this amendment.

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<sup>1</sup> <https://www.fairfaxcounty.gov/boardofsupervisors/board-supervisors-land-use-policy-committee-meeting-feb-4-2020>



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## Proposed Amendment

### Agricultural Operation

The Zoning Ordinance allows agriculture by-right in the R-A through R-1 Districts. Agriculture, as currently defined in the Zoning Ordinance, requires the property on which agriculture is conducted to be five acres in size and be 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. Staff proposes to amend the definition of agriculture (and rename it “agricultural operation”) to better reflect the State Code definition and establish use standards. The five-acre minimum requirement will be carried forward but will be contained in the use standards rather than in the definition. Other use standards will address the retail sale of agricultural products, farm worker housing, and agritourism activities, which will be discussed in more detail below.

### Agritourism

Agriculture may also include the operation of agritourism uses, as set forth in the Code of Virginia,<sup>2</sup> and a licensed farm winery, limited brewery, or limited distillery. Special exception approval is required under certain circumstances for a licensed farm winery, limited brewery, or limited distillery located on a property containing 20 acres or more. Currently, staff reviews any agritourism use that does not meet the definitions of licensed farm winery, limited brewery, or limited distillery through the use determination request. The use determination process allows the Zoning Administrator and her staff to determine whether the proposed use would have a substantial impact on the health, safety, or general welfare of the community.<sup>3</sup> If there would be such an impact, special exception approval may be required, depending on the type of agritourism use proposed. Staff proposes to establish use standards for agritourism activities that would be permitted in conjunction with an agricultural operation. Given that agricultural operations and agritourism activities are permitted uses in certain residential districts, much of the public’s concern was related to traffic, road safety, noise, and neighborhood character. Therefore, staff has revised the approach for regulating agritourism activities. Previously, staff 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 a maximum number of days for seasonal festivals and special events. Staff is no longer proposing a maximum number of days per calendar year for seasonal festivals

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<sup>2</sup> 3.2-6400. Definitions. <https://law.lis.virginia.gov/vacode/title3.2/chapter64/section3.2-6400/>

<sup>3</sup> 15.2-2288.6. Agricultural operations; local regulation of certain activities. <https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2288.6/>

and 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 necessarily 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.

Due to the potential substantial impacts these activities can have on health, safety, and general welfare, the amendment proposes a tiered approach to regulating agritourism activities. As shown in **Table 1**, four tiers are proposed with each tier having an associated acreage range and a total number of attendees permitted by right per day. The proposed numbers of attendees were selected based on the current limits on events at farm wineries, limited breweries, and limited distilleries. Those uses require 20 acres of land and can host up to 300 attendees<sup>4</sup> without further regulation. Therefore, as outlined in **Table 1**, Tier 3, a maximum of 300 attendees per day requires a minimum of 20 acres. The ratio of 300 attendees to 20 acres was then applied to Tiers 1 and 2. That ratio was not applied to Tier 4, however. While there would be more land area to accommodate more attendees, a marked increase over that allowed in Tier 3 (300 attendees) could have a significant impact on the roadways. Therefore, staff proposes a limit of 350 attendees per day for Tier 4. For each Tier, staff has included a range to be advertised for the Board's consideration.

**Table 1. Permitted Attendees for All Agritourism Uses**

<b>Tier</b>	<b>Total Attendees per Day</b>	<b>Advertised Range</b>
Tier 1: 5 to less than 10 acres	75	50 to 150
Tier 2: 10 to less than 20 acres	150	100 to 200
Tier 3: 20 to less than 80 acres	300	250 to 350
Tier 4: 80 acres or more	350	300 to 400

<sup>4</sup> The proposed zMOD Public Hearing Draft carries forward the standard for the hosting of public or private events or activities at a farm winery, limited brewery, or limited distillery:

(a) At any one time, up to 200 guests are allowed, or, if the primary access is from a principal arterial, up to 300 guests are allowed, with no limit on the number or duration of events.

(b) The number of guests may exceed the limit established in subsection (a) above during a maximum of 12 events or activities per calendar year. Each event must not exceed two days in duration.

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zmod/proposed-ordinance-annotated.pdf#page=1> (page 264-265)

If an agritourism provider in Tiers 1 through 3 wants to exceed the total number of attendees permitted per day, special exception approval by the Board is required. For Tier 4 agritourism providers, an administrative permit would be required to exceed the total number of attendees per day. The administrative permit would allow more than 350 attendees for up to 150 days per calendar year if the general standards for administrative permits and the standards when [agritourism is] permitted by administrative permit are met. Those standards would require the applicant to provide adequate on-site parking and measures to prevent traffic from stacking on the public -right-of-way, which should mitigate impacts associated with these larger scale activities. The proposed administrative permit process would require the agritourism provider to submit a transportation management and parking plan to be reviewed by Zoning staff. The administrative permit would be valid for a period of two years with an associated permit fee of \$205 and may be renewed on a five-year basis at a fee of \$50 with approval of the Zoning Administrator. The agritourism provider would have the option to pursue special exception approval if they want to have more than 350 attendees for more than 150 days.

Please note that farm wineries, limited distilleries, and limited breweries are separately defined, and no changes are proposed to the existing standards and their ability to host events for those uses.

## **Related Changes**

### Farm Worker Housing

Currently, the Zoning Ordinance permits “quarters of a tenant farmer and his family” as an accessory use in the R-A, R-E, R-C, and R-E Districts on a parcel of 20 acres or more. The zMOD Public Hearing draft authorized by the Board consolidates this use with “servant quarters” through the creation of a new use called “caretaker quarters.” While the zMOD provisions for caretaker quarters allow for accommodations for farm workers as an accessory use to an agricultural operation, a special permit is required. Staff does not believe that a special permit is necessary for farm worker housing given the proposed minimum lot size requirement of 20 acres and the required association with an agricultural operation. Therefore, the proposed amendment creates a separate definition for “farm worker housing” and proposes use standards to permit farm worker housing on a lot of 20 acres or more when accessory to an agricultural operation. It must be located within a single structure which may be detached from the principal dwelling on the lot and may contain either a single unit or multiple living units, provided the use remains accessory to the agricultural operation. The maximum size of the farm worker housing may not exceed 1200 square feet per living unit; however, staff proposes to advertise a range of 700 to 1200 square feet per living unit for consideration. In addition, before establishment of any farm worker housing, a restrictive covenant must be recorded in the land records limiting the use of the structure(s) to farm worker housing only.

### Food Trucks

The proposed amendment permits food trucks in association with an agritourism use, limited brewery, limited distillery, or a farm winery. Permitting food trucks in association with these uses allows for a dining option to be associated with activities such as seasonal festivals and events where attendees could be onsite for an extended period. To reduce the potential impacts food trucks may have on neighboring residential properties, use standards have been proposed, in addition to the standards applicable to all food trucks. Food trucks may operate for a maximum of six hours in any one day at any one location, including set-up and break-down; however, staff proposes to advertise a range of 4 to 8 hours for consideration. Additionally, food trucks must be located 100 feet from all property lines.

### Wayside Stands

Currently, wayside stands are allowed as an accessory use on properties of two acres or more in the R-A through R-4 districts. Structures are limited to 400 square feet and are permitted only during the crop-growing season. Wayside stands are permitted in conjunction with the sale of agricultural products grown on the same property. Staff recommends allowing the sale of products grown or raised on the farm to the surrounding community. This promotes locally sourced produce and healthy living, while supporting our local farmers. Wayside stands are temporary structures that have no space within the structure for customers. Staff has heard from local farmers that having a permanent structure that allows space for customers would be beneficial for their agricultural operation as it improves efficiency by not requiring deconstruction at the end of the growing season. Therefore, the definition of wayside stand has been revised to allow for both temporary and permanent structures.

Additionally, the Zoning Ordinance currently limits all wayside stands to 400 square feet in size. Recognizing that larger properties can adequately support a larger wayside stand, the proposed amendment increases the size of wayside stands to up to 1,600 square feet in size on parcels of 80 acres or larger.

Lastly, the proposed amendment expands the types of products that may be sold. Currently, products sold must be produced onsite. However, the proposed amendment would also permit the limited sale of local agricultural or value-added agricultural products produced off-site in all wayside stands. This expansion of permitted products provides local agricultural businesses, who may not have the means to engage in their own retail sales operations, the ability to sell their products in a local retail setting. Similar to the proposal for farm worker housing, wayside stands will be accessory to an agricultural operation. As such the definition and standards will be relocated to reflect such change.

### Bed and Breakfast

Currently, a bed and breakfast is permitted in a single-family detached dwelling on any sized lot in the R-C, R-E, and R-1 districts with approval of a special exception from the Board. There are currently no bed and breakfasts with special exception approval operating within Fairfax County. Based on a review of agricultural operations around the state, bed and breakfast operations are commonly provided as an agritourism use. Therefore, to promote agricultural tourism in the County, the proposed amendment permits bed and breakfasts by-right in the R-A, R-C, R-E, and R-1 Districts on a parcel of 20 acres or more when associated with an agricultural operation. The standards currently applicable to bed and breakfasts, which limit the use to a single-family detached dwelling with five or fewer guest rooms, will be carried forward. When located on a minimum of 20 acres and subject to the proposed standards, staff believes impacts on surrounding properties will be mitigated.

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### **Outreach**

Staff established an Agritourism Workgroup comprised of local farmers, property owners, and stakeholders in July 2019. The workgroup has met four times to discuss the topic, express what agritourism activities they currently participate in and would like to establish in the future, and provide feedback on staff's proposal. Additionally, staff presented the proposal at 14 public meetings both in person and virtually.

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### **Next Steps**

After review by the Planning Commission Land Use Process Review Committee, staff anticipates presenting this proposal at an upcoming Board of Supervisors' Land Use Policy Committee. Questions and comments can be directed to Sara Morgan, Senior Planner at [sara.morgan@fairfaxcounty.gov](mailto:sara.morgan@fairfaxcounty.gov) or 703-324-1314. Please visit our webpage dedicated to this proposed amendment for more information and to see a list of upcoming meetings.

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

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### **Attachments**

1. Draft Text
2. Public Outreach Meetings