



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Articles 3, 9, 18 and 20 Regarding Farm Wineries,
Limited Breweries, and Limited Distilleries

PUBLIC HEARING DATES

Planning Commission

November 16, 2016 at 8:15 p.m.

Board of Supervisors

December 6, 2016 at 4:30 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

October 18, 2016

DP



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

Background

The proposed amendment addresses the operation of a farm winery, limited brewery and/or limited distillery (farm winery/brewery/distillery) located in the Residential-Conservation (R-C) District, as such uses are specifically set forth in the Code of Virginia, and addresses the events and activities permitted at such establishments located in the Rural-Agricultural (R-A), Residential-Preservation (R-P), Residential-Estate (R-E) and Residential District, One Dwelling Unit/Acre (R-1) Districts. This amendment is limited in scope and is in specific response to changes made to the law during the 2016 Session of the General Assembly. Attachment 1 includes the definitions/descriptions of farm winery, limited brewery and limited distillery from the Code of Virginia. Under the 2016 changes to the Code of Virginia and the Acts of Assembly, a new farm winery/brewery/distillery may not be granted a license from the Virginia Alcoholic Beverage Control Board (ABC Board) for operation on any land zoned as a residential conservation district if the application for such license was submitted after July 1, 2016. In Fairfax County, the R-C District is the “residential conservation district” specified in these provisions. Additionally, any existing farm winery/ brewery/distillery already approved in a residential conservation district and any proposed farm winery/brewery/distillery in a residential conservation district with a pending application for licensure by the ABC Board prior to July 1, 2016 (and such license is ultimately approved) shall require special exception approval for any new or expanded building, structure or the uses thereof. This amendment will establish the necessary special exception process in the Zoning Ordinance for these farm winery/brewery/ distillery uses located in the R-C District and for certain events and activities at such establishments located in the R-A, R-P, R-E and R-1 Districts.

Staff notes that the 2016 Zoning Ordinance Amendment Work Program (ZOAWP) includes an item to address “agricultural districts and uses” as a Priority 1 item. This proposed amendment is one component of that ZOAWP item; however, staff envisions that a subsequent amendment will provide for a more comprehensive assessment of current and future farming/agriculture/ agritourism uses in the county, including the regulations related to activities and events that can be permitted in association with a farm to determine what, if any, additional regulations are needed to ensure compatibility with surrounding areas, the continued viability of agriculture and agritourism uses in the county, the protection of the health, safety and welfare of the public and other land use considerations. Such subsequent assessment will also consider uses such as pick-your-own farms, farm markets/wayside stands, seasonal public activities/events, public/community gardens, farming of a more industrial/business nature, urban agriculture, agriculture as a re-use of a building or property and other agriculture-related activities.

Farm Wineries/Breweries/Distilleries in Fairfax County

As of July 1, 2016, the date on which the changes to the Code of Virginia became effective, there were two licensed farm wineries operating in Fairfax County. Both of the current farm winery operations are located on land zoned R-C. Additionally, prior to July 1, 2016, application was

made by the prospective operators of three additional farm wineries and two limited brewery operations to be located on land that is also zoned R-C. Staff notes that each of the two existing farm winery operators are also the applicants for one new farm winery and one new limited brewery each, to be located on the existing farm winery sites or on an adjacent property. The other additional farm winery application is not affiliated with either of the currently operating farm wineries in the county. If these additional farm wineries and limited breweries are ultimately granted a license by the ABC Board, then they would be licensed to operate a farm winery in the R-C District, but any new or expanded buildings or structures associated with the use would require special exception approval. At the time of preparation of this amendment, the ABC Board had not taken action on any of the pending farm winery or limited brewery applications, so it is unknown if such licenses will be granted. Nevertheless, the proposed special exception for farm wineries/breweries/distilleries in the R-C District will effectively only ever impact these two existing or five potential operations countywide.

Code of Virginia

The Code of Virginia contains myriad references to agriculture, farming, wineries, breweries, distilleries and agritourism. Under the provisions of Title 15.2, Counties, Cities and Towns, Chapter 22 identifies the state laws regarding Planning, Subdivision of Land and Zoning. Section 15.2-2288.6(A) provides that no locality shall regulate the carrying out of an agritourism activity, unless there is a substantial impact on the health, safety, or general welfare of the public and any local restriction shall be reasonable and shall take into account the economic impact of the restriction. Agritourism activity is defined in Section 3.2-6400 of the Code of Virginia 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 or other natural activities and attractions.

Additionally, Sections 15.2-2288.3, 15.2-2288.3:1 and 15.2-2288.3:2 provide that local restriction upon activities and events at licensed farm wineries/breweries/distilleries to market and sell their products shall be reasonable and take into account the economic impact of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such farm wineries/breweries/distilleries throughout the Commonwealth. As specified in the Code of Virginia, usual and customary activities and events shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. These provisions further specify that no locality shall regulate any of the following activities of a licensed farm winery/brewery/distillery:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of licensed alcoholic beverages;
2. The on-premises sale, tasting, or consumption of licensed alcoholic beverages during regular business hours within the normal course of business of the licensed facility;
3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

4. The sale and shipment of licensed alcoholic beverages to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage, warehousing, and wholesaling of licensed alcoholic beverages in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of alcohol-related items that are incidental to the sale of licensed alcoholic beverages.

As such, it is outside the regulatory authority of the Zoning Ordinance to place limits on the activities addressed in the numbered paragraphs above, henceforth referred to as the normal operating characteristics of the farm winery/brewery/distillery. The Code of Virginia further prevents a locality from treating private personal gatherings held by the owner of the licensed farm winery/brewery/distillery who resides at the facility or on adjacent property differently from private personal gatherings by other citizens. Copies of the relevant provisions of the Code of Virginia are enclosed as Attachment 2.

Notwithstanding the above-referenced provisions of the Code of Virginia that restrict a locality's ability to regulate agricultural and agritourism uses, regardless of whether such activities are occurring in an agricultural district or classification, during the 2016 Session of the Virginia General Assembly, three separate bills were introduced and ultimately adopted that address the ABC Board licensing requirements for farm wineries/breweries/distilleries operating on a farm in the Commonwealth, set forth in Title 4.1, Alcoholic Beverage Control Act. The relevant 2016 bills are:

1. Farm Winery, which includes the manufacture of hard cider (ref. 2016 H879)
2. Limited Brewery operating on a farm (ref. 2016 S578)
3. Limited Distillery operating on a farm (ref 2016 S579)

Copies of the approved legislation are provided as Attachment 3. The relevant changes include that farm wineries/breweries/distilleries may be issued a license when such establishment is located on a farm on land zoned agricultural and that "land zoned agricultural" means "(1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for a farm winery use." The changes further specify that "land zoned agricultural" shall not include land zoned "residential conservation" and, as noted above, that any new building or structure or the expansion of an existing building, structure or the use thereof for any licensed or pending operation shall require approval of a special exception from the locality.

The new requirements, although they were codified in the provisions related to the limits on the Alcoholic Beverage Control licensing authority, effectively preclude the establishment of a new winery/brewery/distillery on a farm in the R-C District and require the approval of a special exception by the locality for an expansion of a building, structures and/or the uses thereof for the two existing farm wineries and for any establishment for which there was a pending application for a winery/brewery/distillery in the R-C District as of July 1, 2016. The proposed changes to the Zoning Ordinance are necessary in order to comply with the ABC Board licensing provisions enacted by the General Assembly that mandate a special exception process for farm wineries/breweries/distilleries in the R-C District.

Current Zoning Ordinance Provisions

The Zoning Ordinance currently allows agriculture as a permitted use in the Rural Agricultural (R-A), Residential-Preservation (R-P), Residential-Conservation (R-C), Residential Estate (R-E) and Residential District, One Dwelling Unit/Acre (R-1) Districts. Agriculture is defined in Article 20 of the Zoning Ordinance as:

AGRICULTURE: The use of a tract of land not less than five (5) acres in size for (a) the tilling of the soil; (b) the growing of crops, nursery stock, or plant growth of any kind, including forestry; (c) pasturage; (d) horticulture; (e) dairying; (f) floriculture; or (g) the raising of poultry and livestock; and (h) the wholesale sales of any of the foregoing products.

The term 'agriculture' shall not include the following uses: (a) the maintenance and operation of plant nurseries; (b) the feeding of garbage to animals; (c) the raising of fur-bearing animals as a principal use; (d) the operation or maintenance of a commercial stockyard or feed yard; (e) the retail sales of agricultural products except in accordance with the provisions of Sect. 10-102; or (f) the operation of landscape contracting services. However, the definition of agriculture shall not be deemed to preclude: (a) the keeping of livestock on parcels of two (2) acres or more in size as permitted by Sect. 2-512; or (b) gardening, as permitted as an accessory use in Sect. 10-102.

The Zoning Ordinance does not currently provide for farm wineries/breweries/distilleries as specific uses and, as such, does not currently require a special exception for any of these uses which are part of an agricultural operation in any district. Additionally, the Zoning Ordinance does not specifically define agritourism activities and events that would be allowed as accessory and in association with an agricultural use or with a farm winery/brewery/distillery. Staff notes that, while there are no provisions specifically addressing accessory uses associated with farm wineries/ breweries/distilleries, the current Zoning Ordinance does define accessory uses. By definition, an accessory use is a use or building that *(1) is clearly subordinate to, customarily found in association with, and serves the principal use; and (2) is subordinate in purpose, area or extent to the principal use served; and (3) contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal use served; and (4) is located on the same lot as the principal use, except that any building that is customarily incidental to any agricultural use shall be deemed to be an accessory use, whether or not it is situated on the same lot with the principal building.* Through this general definition of an accessory use and the associated regulations in Article 10 regarding specific accessory uses and their limitations, the Zoning Administrator can make case-by-case determinations as to the “accessory” nature of a proposed use or building.

In light of the applicable provisions of the Code of Virginia and the Zoning Ordinance, it is current practice to permit agriculture by-right on lots of five or more acres in the R-A, R-P, R-C, R-E and R-1 Districts and to allow agritourism uses, such as farm wineries and seasonal activities/events/festivals, as accessory uses to the principal use of agriculture in those districts.

Proposed Amendment

The proposed amendment does not seek to establish limitations on the normal operating characteristics of any existing (as of July 1, 2016) farm winery/brewery/distillery in the R-C District, as such characteristics, including tasting, sales and production, are set forth in the Code of Virginia and are specifically excluded from local regulation. However, to the extent that the 2016 amendments to the law require special exception approval for new or expanded buildings, structures and the uses thereof, the land use impacts of a new or expanded facility, as a whole, will be subject to evaluation. As such, the amendment will:

- Modify the definition of agriculture and create new definitions for a farm winery, limited brewery, and limited distillery to specifically identify such uses in relation to the ABC Board regulations and establish certain limits on events and activities associated with such uses
- Preclude the establishment of any future farm winery/brewery/distillery in the R-C District, unless such establishment had a pending ABC Board license as of July 1, 2016 and such license is ultimately approved
- Create a new special exception for any new or expanded buildings, structures or the use thereof for the existing and pending farm winery/brewery/distillery operations in the R-C District, which have an approved or pending ABC license application prior to July 1, 2016, and for certain events and activities at a farm winery/brewery/distillery in the R-A, R-P, R-E and R-1 Districts, with an appropriate application fee for the special exception

Proposed Definitions

With regard to the proposed definitions of farm winery, limited brewery, and limited distillery, staff is recommending that the Zoning Ordinance include a general description of each of these uses and the inclusion of a reference to the Code of Virginia provisions for further description. Staff notes that the Code of Virginia makes multiple references to the term “farm” however, such term is not defined by the Zoning Ordinance. Staff is proposing to include within the definition of each of these uses, a reference to the term “farm” and a qualifier that, for the purposes of establishing any future farm winery/brewery/distillery, such “farm” must consist of an area of contiguous land containing not less than twenty acres under common ownership when such land is principally used for agriculture. At the time of publication of the staff report, staff was aware of one pending ABC Board license application for the operation of a farm winery/brewery/distillery in a zoning district other than R-C. That proposal is for a limited distillery on a parcel of approximately 12.7 acres zoned R-1 and located in the Mount Vernon District. The amendment includes a provision that would allow a farm winery/brewery/distillery on a lot of five acres or more (other than in the R-C District) when the lot is primarily used for agriculture and the property was subject to a pending application for an ABC Board licenses as of the date of adoption of this amendment. This provision would accommodate the known limited distillery application and any other farm winery/brewery/distillery (other than in the R-C District) that meets the current five acre minimum lot size, but would not meet the proposed twenty acre minimum lot size, subject to the approval of the pending ABC Board license. Subsequent to adoption of this amendment, any

new ABC Board license application for a farm winery/brewery/distillery in any district would require a minimum lot size of twenty acres. *(NOTE: Staff notes that, within the scope of the advertisement, the Board can consider any minimum acreage requirement from the current five acre required for an agricultural use up to fifty acres.)*

Staff recommends a twenty acre minimum lot size in consideration of the potential impacts of such uses on adjacent and nearby properties. Additionally, staff notes that in order to participate in the County's local Agricultural and Forestal (A&F) District Program, there is a minimum lot size of twenty acres, which requirement cannot be waived. And lastly, as noted previously, the amendment proposes a "grandfathering" allowance for a lot less than twenty acres for a proposed farm winery/brewery/distillery operation with a pending ABC Board license application as of the date of adoption of this amendment, provided such lot meets the minimum acreage requirement for an agricultural use. The amendment does not propose an increase in the minimum required lot area of five acres to establish an agricultural use, but rather, proposes a minimum lot area of twenty acres if an agricultural lot is intended to be used for a farm winery/ brewery/distillery.

Also included in the definition of farm winery, limited brewery, and limited distillery is the threshold for the size and duration of public or private events and activities that can occur at such establishments as a permitted use. Events and activities over this threshold would require special exception approval. Staff notes that the definition includes a statement that persons visiting the operation for purposes of tasting, promotion or purchasing of agricultural products available on site are not included in the maximum number of persons attending a public or private event or activity. These functions are part of the primary operating characteristics of the farm winery/ brewery/distillery and are not deemed to be an event or activity. Based on information obtained from the operators of the two existing wineries in the County and a review of the event facilities offered by other wineries in Virginia, it appears events and activities not directly related to the tasting, marketing and sale of the licensed alcoholic beverages, such as weddings and corporate events, typically accommodate seating space for 200 attendees, plus additional area for dancing. Because the provisions adopted by the General Assembly require Fairfax County to establish a special exception for an expansion of buildings, structures or the **uses thereof**, it is necessary to establish a threshold limit on the current operations at the two existing wineries in order to make a determination as to what constitutes an expansion of the use of existing buildings and structures. Staff is proposing a 300 person limit for public or private events and activities, and permits up to twelve events per year for a duration of not more than two days for more than 300 attendees as part of the farm winery/brewery/distillery use. Any event or activity that would provide for more than 300 people, more than twelve times per year for a duration of more than two days would require approval of a special exception. Staff believes this accommodates the current operating characteristics of the existing wineries, which were developed by-right as agriculture and agritourism uses, and establishes an appropriate threshold for determining what would constitute an expansion of the use. *(NOTE: the amendment is advertised to allow the Board to consider any number of attendees from 150 to 500, the number of events per year from 12 to 24 and the duration from 2 to 8 days, with staff recommending 300 people, 12 event/year for a duration of not more than 2 days.)*

The proposed definitions also include a provision that allows for more than one farm winery/ brewery/distillery to be located on a farm, defined as consisting of an agriculturally-used property

of at least twenty acres. Staff believes these uses can successfully co-locate on a parcel of this size to accommodate more than one ABC-licensed label of alcoholic beverages and/or to allow for different types of alcoholic beverages to be produced and sold on-site.

Proposed Special Exception Provisions

Staff is proposing to create a new Category 6 Special Exception Use, for an “Expansion of an existing or development of a new farm winery, limited brewery, and limited distillery in the R-C District and for certain events and activities associated with such uses when located in the R-A, R-P, R-E and R-1 Districts” and to establish the appropriate limitations for such expansions in a new Sect. 9-630.

With regard to such uses in the R-C District, staff is proposing the following limitations:

- Special exception approval shall not be required for the existing buildings and structures or the uses thereof (as of July 1, 2016) at the two existing farm wineries.
- Special exception approval shall be required for and subject to:
 - Any new building or structure or the uses thereof and for the addition to or structural alteration of any existing building or structure
 - Public or private events not specifically allowed under the definitions, with prohibitions on helicopter rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant and/or any other similar use determined by the Zoning Administrator to have a substantial impact on the health, safety and welfare of the public.
 - Minimum building and loading/unloading area setbacks of 50 feet from lot lines and 100 feet from principal structures on adjacent properties.
 - The Board must make a finding that the proposal is in harmony with the policies in the comprehensive plan and provides for mitigation of potential impacts of any such expansion
 - Submission of a copy of the issued or pending license from the ABC Board and certified plans prepared by a structural engineer.

With regard to such uses in the R-A, R-P, R-E or R-1 Districts, staff is proposing the following limitations:

- Public or private events in excess of that which is specifically allowed under the definitions, with prohibitions on helicopter rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant and/or any other similar uses determined by the Zoning Administrator to have a substantial impact on the health, safety and welfare of the public. .
- The Board must make a finding that the proposal is in harmony with the policies in the comprehensive plan and provides for mitigation of potential impacts of any such expansion

Staff recognizes the valuable contributions that farm winery/brewery/distillery uses can have on the agritourism economy of the county. It is also recognized that there can be land use impacts associated with these agricultural/production/tourism uses when located in low density rural areas.

Staff believes a balance of these interests is critical. In order to determine what constitutes an expansion of the two existing winery operations, it is necessary to establish a benchmark of buildings, structures and uses thereof. Since agricultural related buildings do not require a building permit, site plan or other approvals, staff has worked with the property owners to catalogue the buildings, structures and uses thereof for the two existing farm winery properties. Staff will create a property record of the existing conditions at the two operating wineries to be used for making a determination as to what constitutes an expansion of buildings, structures and the uses thereof.

With regard to the public or private activities and events currently conducted at the two existing wineries that are not considered part of the tastings, sales and production characteristics of the wine-making facility, information provided by the operators and on the respective websites indicate that activities and events include the hosting of weddings and other celebrations, live music events, hosting of corporate and other business events/training, hosting of activities including sports/games (bocce), art (paint night), history and fitness activities (yoga/meditation), and seasonal activities and events, among others. In terms of the scale of events, the winery operators have indicated that the largest of these events could potentially have up to 350 attendees. As noted, in order to accommodate the current events and activities occurring at the two existing farm wineries, staff is proposing that any event or activity for up to 300 people and only one event or activity per month for more than 300 people one time per month for a duration of not more than two days would be permitted without special exception approval in the R-C District and by-right in the R-A, R-E, R-P and R-1 Districts. Additionally, regardless of the zoning district in which the farm winery/brewery/distillery is located, any increase in the number of events or activities for more than 300 attendees or the duration of such activities will require approval of a special exception, except that special exception approval shall not be required for the continuation of uses in the R-C District in existence on July 1, 2016. *(NOTE: as noted previously, the amendment is advertised to allow the Board to adopt any maximum number of permitted event/activity attendees between 150 and 500, with staff recommending a 300 person maximum. The amendment advertisement also includes flexibility for the Board to consider in the frequency and duration of the events/activities.)*

Application Fees

Pursuant to authority granted by Code of Virginia Section 15.2-2286(A)(6) the amendment proposes an application fee of \$8,180 for a Category 6 Special Exception to permit the expansion of an existing farm winery when the new construction includes more than 400 square feet of gross floor area and/or more than 2,500 square feet of disturbed area and also for the establishment of a new farm winery/brewery/distillery in the R-C District, limited to those operations with a pending ABC Board license as of July 1, 2016 (when such license is ultimately approved.) For any such construction in the R-C District that includes not more than 400 square feet of gross floor area and/or not more than 2,500 square feet of disturbed area, staff is recommending one half of that fee, or \$4,090. For all farm winery/brewery/distillery uses in the R-A, R-C, R-P, R-E and R-1 Districts, when the applicant requests modifications to limitations on the events and activities set forth in the definitions, staff is also proposing an application fee of \$4,090. And, lastly, for any agricultural structure that does not permit access by the public, guests and/or any attendees at a public or private event or activity, staff is proposing an application fee of \$1,000.

Staff believes that the proposed \$8,180 fee is consistent with the fee structure for other special permit or special exception uses that would require a similar depth of review, such as the current \$8,180 fee for riding and boarding stables, shape factor modifications and yard reductions for lots other than single family. The recommendation for a lower application fee, \$4,090, for a small addition or new building/structure, limited land disturbance and for the modification of the limits associated with events/activities recognizes that agricultural operations may require some additional buildings, of a smaller scale, that are needed to conduct the farming operations and do not necessarily increase the operating capacity of the farm winery/brewery/distillery. Additionally, staff believes that even if the additional floor area is to accommodate additional visitors, the 400 square foot size limit would have a lesser impact on the overall operation of the facility. Regarding the modifications on the limits on events/activities, such review will not include new buildings or structures, so staff supports the proposed lower application fee for these types of requests, as well.

For structures that are purely agricultural in nature, such as a farm equipment building, tractor shed, barn for animals and similar structure that provide for absolutely no access by the public, whether patrons of the winery/brewery/distillery, guests of the operators and/or attendees at a public or private event or activity, staff is proposing an application fee of \$1,000. Staff notes that, prior to the amendment to the State Code regarding farm wineries/breweries/distilleries in the R-C District, there would be no requirement for a special exception for these structures and, in fact, there would be no requirement for site plan, building permit or any of the trade permits for the agriculture structure as such uses and buildings are exempt from the requirements of the Building Code. Such uses should involve less staff time for review and processing because they would not generate additional visitors to the farm winery/brewery/distillery and therefore should not result in a significant impact on the nearby properties. As such, staff believes a lower fee is appropriate. *(Note: the amendment has been advertised to allow the Board to consider any fee for structures/disturbances/modifications for events and activities between \$1,000 and \$16,375, to include the establishment for additional pricing levels for different sized structures and/or land disturbances.)*

Conclusion

The proposed amendment specifically addresses changes made to the Code of Virginia regarding the operation of farm wineries/breweries/distilleries in the R-C District and establishes limitations on the operation of such uses in other districts that allow agriculture as a permitted use. Staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption, to include staff's recommendation that any proposed operation with a pending application for licensure by the ABC Board for the operation of a farm winery/brewery/ distillery in the R-A, R-P, R-E and R-1 Districts shall be subject to the current five acre minimum lot size requirement, provided such application is ultimately approved.

Attachments:

Attachment 1 – Code of Virginia Section Re: Farm Winery/Brewery/Distillery

Attachment 2 – Code of Virginia Sections Re: to Agriculture, ABC Board, Agritourism

Attachment 3 – 2016 General Assembly Bills Re: Farm Winery/Brewery/Distillery

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of October 18, 2016 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, as other amendments may be adopted prior to action on this amendment. In the case of such an event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 **Amend Article 3, Residential District Regulations, by amending Part C, R-C Residential**
 2 **Conservation District, as follows:**

3
 4 - **Amend Sect. 3-C02, Permitted Uses, by amending Par. 2, as follows:**

- 5
 6 2. Agriculture, as defined in Article 20, but not to include a limited brewery, limited
 7 distillery, or a farm winery that was not licensed by the state and operational prior to
 8 July 1, 2016; provided, however, that the expansion of existing structures, buildings
 9 and/or uses and construction of new buildings or structures associated with any state-
 10 licensed farm winery in operation before July 1, 2016 shall be subject to the
 11 provisions of Part 6 of Article 9. The development, including construction of new
 12 buildings or structures, of any new farm winery, limited brewery, or limited distillery
 13 pursuant to a state license that was pending before July 1, 2016, which license must
 14 be issued before a special exception may be approved, shall also be subject to the
 15 provisions of Part 6 of Article 9.

16
 17
 18 **Amend Article 9, Special Exceptions, as follows:**

19
 20 - **Amend Part 6, Category 6 Miscellaneous Provisions Requiring Board of Supervisors'**
 21 **Approval, as follows:**

22
 23 - **Amend Sect. 9-601, Category 6 Special Exception Uses, by adding a new Par. 27, as**
 24 **follows:**

25
 26 Category 6 special exceptions consist of those miscellaneous provisions set forth in
 27 various Articles of this Ordinance, which require special approval or authorization from
 28 the Board.

- 29
 30 27. Expansion of an existing or development of a new farm winery, limited brewery, and
 31 limited distillery in the R-C District and for certain events and activities associated
 32 with such uses when located in the R-A, R-P, R-E and R-1 Districts.
 33

- 1 - Establish a new Sect. 9-630, Provisions for the Expansion of an Existing or
 2 Development of a New Farm Winery, Brewery or Distillery in the R-C District and
 3 for Certain Events and Activities Associated with Such Uses When Located in the
 4 R-A, R-P, R-E and R-1 Districts, as follows:
 5

6 **9-630 Provisions for Expansion of an Existing or Development of a New Farm**
 7 **Winery, Limited Brewery, or Limited Distillery in the R-C District and for**
 8 **Certain Events and Activities Associated with Such Uses When Located in**
 9 **the R-A, R-P, R-E and R-1 Districts**
 10

- 11 1. In the R-C District, the Board may approve a special exception to allow for
 12 the expansion or development of a farm winery, limited brewery, or limited
 13 distillery. For the purposes of this provision, a farm winery, limited brewery,
 14 or limited distillery located in the R-C District shall only include (1) any
 15 establishment that was issued a valid license for such use from the Virginia
 16 Alcoholic Beverage Control Board prior to July 1, 2016, and (2) any such
 17 establishment for which a license application was filed with the Virginia
 18 Alcoholic Beverage Control Board prior to July 1, 2016 and was subsequently
 19 approved prior to approval of a special exception. An expansion or
 20 development shall include new or expanded buildings, structures and uses that
 21 may be approved by special exception in accordance with the following:
 22
- 23 A. Special exception approval shall not be required for the continuation, after
 24 July 1, 2016, of then existing uses of buildings and structures, provided
 25 that such use or activity does not cease for any reason for a continuous
 26 period of two (2) years or more.
 27
- 28 B. Special exception approval shall be required for the expansion after July 1,
 29 2016, of any existing buildings or structures or the uses thereof, as
 30 determined by the Zoning Administrator and as provided for in Par. 2 of
 31 Sect. 15-101 or the structural alteration of any existing building or
 32 structure that results in the expansion of such building or structure or the
 33 uses thereof. Special exception approval shall also be required for any
 34 new building or structure.
 35
- 36 C. For public or private events and activities which exceed the number of
 37 attendees, frequency or duration as set forth under the definition of a farm
 38 winery, limited brewery, or limited distillery, if not otherwise permitted
 39 under Par. 1A, above, the Board may impose conditions on such events
 40 and activities, including, but not limited to: the type and number of
 41 allowable activities; the area of the site devoted to such activities; the
 42 adequacy of water and sanitation services to accommodate the anticipated
 43 number of attendees; the days and hours of such activities; the use of
 44 lighting or amplified sound systems; and the amount of parking available
 45 to accommodate the activity. Any such events and activities shall be
 46 subject to compliance with the noise standards set forth in Chapter 108.1

1 of The Code and the outdoor lighting standards set forth in Article 14 of
2 this Ordinance. No such public or private event or activities shall include
3 any of the following: helicopter rides, fireworks displays, antique/flea
4 markets, go-cart/all-terrain vehicle tracks, mechanized amusement park
5 rides, hot air balloons, lodging, spa services, the operation of a
6 commercial restaurant requiring approval by the Health Department and/or
7 any other similar use determined by the Board to have a substantial impact
8 on the health, safety and welfare of the public. Musical accompaniment or
9 entertainment that is accessory to farm winery, limited brewery, and/or
10 limited distillery sales and tastings as part of the regular course of business
11 shall not be deemed to be a public or private event or activity.

12
13 D. An expansion may be approved only when it is determined by the Board
14 that the resulting use, buildings and/or structures will be in harmony with
15 the policies set forth in the adopted comprehensive plan and where the
16 resultant operation will not have a deleterious effect on the existing or
17 planned development of adjacent properties or on area roadways. The
18 applicant shall demonstrate to the Board's satisfaction that any potential
19 impacts of an expansion of buildings or uses, including, without
20 limitation, the hosting of public or private events not specifically allowed
21 under the definition of farm winery, limited brewery, or limited distillery
22 shall be adequately mitigated.

23
24 E. Any expansion of an existing building or structure, the construction of a
25 new building or structure or the establishment or expansion of any area for
26 the loading/unloading of trucks shall be located at least fifty (50) feet to
27 any lot line and one hundred (100) feet to any principal structure on
28 adjacent properties, unless modified by the Board. All loading/unloading
29 areas shall be screened from view of any adjacent dwelling.

30
31 F. Any application for a special exception shall include a copy of the farm
32 winery, limited brewery, or limited distillery license issued or pending
33 issuance by the Virginia Alcoholic Beverage Control Board.

34
35 G. For any new or expanded buildings or structures which would allow for
36 access by the public, the owner or applicant shall submit plans certified by
37 a structural engineer and such structural engineer shall also certify to the
38 structural integrity of the building, once such construction is complete.
39 Such certified plans shall be made available for review upon request.

40
41 H. The operation and construction of a farm winery, limited brewery or
42 limited distillery shall be further subject to all other applicable federal,
43 state or local statutes, ordinances, rules or regulations, which may include,
44 without limitation, the Chesapeake Bay Preservation Act, the Stormwater
45 Management Act, and the Americans With Disabilities Act.
46

1 2. In the R-A, R-P, R-E and R-1 Districts the Board may approve a special
2 exception to allow for the hosting of certain events and activities beyond that
3 which is specified in the definitions of a farm winery, limited brewery, or
4 limited distillery in accordance with the following:
5

6 A. For public or private events and activities which exceed the number of
7 attendees, frequency or duration as set forth under the definition of a farm
8 winery, limited brewery, or limited distillery, the Board may impose
9 conditions on such events and activities, including, but not limited to: the
10 type and number of allowable activities; the area of the site devoted to
11 such activities; the adequacy of water and sanitation services to
12 accommodate the anticipated number of attendees; the days and hours of
13 such activities; the use of lighting or amplified sound systems; and the
14 amount of parking available to accommodate the activity. Any such
15 events and activities shall be subject to compliance with the noise
16 standards set forth in Chapter 108.1 of The Code and the outdoor lighting
17 standards set forth in Article 14 of this Ordinance. No such public or
18 private event or activities shall include any of the following: helicopter
19 rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle
20 tracks, mechanized amusement park rides, hot air balloons, lodging, spa
21 services, the operation of a commercial restaurant requiring approval by
22 the Health Department and/or any other similar use determined by the
23 Board to have a substantial impact on the health, safety and welfare of the
24 public.
25

26 B. A special exception may be approved only when it is determined by the
27 Board that the proposed events and activities will be in harmony with the
28 policies set forth in the adopted comprehensive plan and where the
29 resultant operation will not have a deleterious effect on the existing or
30 planned development of adjacent properties or on area roadways. The
31 applicant shall demonstrate to the Board's satisfaction that any potential
32 impacts of the hosting of public or private events not specifically allowed
33 under the definition of farm winery, limited brewery, or limited distillery
34 shall be adequately mitigated. Any application for a special exception
35 shall include a copy of the farm winery, limited brewery, or limited
36 distillery license issued or pending issuance by the Virginia Alcoholic
37 Beverage Control Board.
38

39 C. Any application for a special exception shall include a copy of the farm
40 winery, limited brewery, or limited distillery license issued or pending
41 issuance by the Virginia Alcoholic Beverage Control Board.
42

43 D. The operation and construction of a farm winery, limited brewery, or
44 limited distillery shall be further subject to all other applicable federal,
45 state or local statutes, ordinances, rules or regulations, which may include

1 without limitation, the Chesapeake Bay Preservation Act, the Stormwater
 2 Management Act, and the Americans With Disabilities Act.
 3

4 **Amend Article 18, Administration, Amendments, Violations and Penalties, by amending**
 5 **Part 1, Administration, Section 18-106, Application and Zoning Compliance Letter Fees, to**
 6 **add Farm Wineries, Limited Breweries and Limited Distilleries to the Category 6 special**
 7 **exception application fee, as follows:**
 8

9 Category 6 special exception

10
 11 Reduction of yard requirements for the
 12 reconsideration of certain single family
 13 detached dwellings that are destroyed by casualty \$0
 14

15 Modification of minimum yard requirements
 16 for certain existing structures and uses; modification
 17 of grade for single family detached dwellings \$910
 18

19 Expansion of an existing or establishment of a new farm
 20 winery, limited brewery, or limited distillery in an R-C
 21 District for any agricultural building or structure that does
 22 not permit access by any member of the public, whether a
 23 customer, guest, or attendee at a public or private event or
 24 activity \$1000
 25

26 Expansion of an existing or establishment of a new farm
 27 winery, limited brewery, or limited distillery in an R-C
 28 District with no construction of buildings or structures
 29 over 400 square feet in gross floor area or no land disturbance
 30 over 2,500 square feet; or modification of the number of attendees,
 31 frequency and/or duration of events or activities at a farm winery,
 32 limited brewery or limited distillery in the R-A, R-P, R-C
 33 R-E and R-1 District \$4090
 34

35 Modification of shape factor limitations; waiver of
 36 minimum lot width requirements in a residential
 37 district; expansion of an existing or establishment of a
 38 new farm winery, limited brewery, or limited distillery
 39 in an R-C District with construction of buildings or
 40 structures over 400 square feet in gross floor area or
 41 land disturbance over 2,500 square feet \$8180
 42

43 All other uses \$16375
 44

45 *(Note: the amendment is advertised to allow the Board to consider any application fee from*
 46 *\$1,000 to \$16,375, with staff recommending \$1,000 for agricultural buildings that do not allow*

1 *access by the public, \$4,090 for smaller buildings/uses and events/activities and \$8,180 for*
 2 *larger buildings/uses, to include the ability to establish additional fee tiers for different size*
 3 *structures and/or land disturbances.)*

4
5
6 **Amend Article 20, Ordinance Structure, Interpretations and Definitions, by amending Part**
 7 **3, Definitions, to modify the definition of AGRICULTURE and to add FARM WINERY,**
 8 **LIMITED BREWERY, and LIMITED DISTILLERY in alphabetical order, as follows:**

9
10 **20-300 DEFINITIONS**

11 The following definitions shall be used in the interpretation and administration of this
 12 Ordinance. The definitions of various terms as presented herein do not necessarily represent
 13 the same definitions as may be found for the same terms in other Chapters of The Code.

14
15 AGRICULTURE: The use of a farm or other tract of land not less than five (5) acres in size
 16 as a business engaged in the production of crops, nursery stock or plant growth of any kind
 17 and/or the raising of livestock, aquatic life or other animals to produce products such as food
 18 and fiber and the wholesale sale of the foregoing plant and animal products. Agriculture may
 19 also include the operation of agritourism uses, as set forth in the Code of Virginia, and a
 20 licensed farm winery, limited brewery or limited distillery, but only as those uses are defined
 21 in this Ordinance and only in accordance with the provisions of Part 6 of Article 9, when a
 22 special exception is required. for (a) the tilling of the soil; (b) the growing of crops, nursery
 23 stock, or plant growth of any kind, including forestry; (c) pasturage; (d) horticulture; (e)
 24 dairying; (f) floriculture; or (g) the raising of poultry and livestock; and (h) the wholesale
 25 sales of any of the foregoing products.

26 The term 'agriculture' shall not include the following uses: (a) the maintenance and
 27 operation of plant nurseries; (b) the feeding of garbage to animals; (c) the raising of fur-
 28 bearing animals as a principal use; (d) the operation or maintenance of a commercial
 29 stockyard or feed yard; (e c) the retail sales of agricultural products except in accordance
 30 with the provisions of Sect. 10-102 as an accessory use; or (f d) the operation of landscape
 31 contracting services. However, the definition of agriculture shall not be deemed to preclude:
 32 (a) the keeping of livestock on parcels of two (2) acres or more in size as permitted by Sect.
 33 2-512; or (b) gardening, as permitted as an accessory use in Sect. 10-102.

34
35 FARM WINERY: An establishment located on a farm with a producing vineyard, orchard or
 36 similar growing area and with facilities for fermenting and bottling wine and/or cider on the
 37 premises, and as specifically regulated and licensed by the provisions of the Virginia
 38 Alcoholic Beverage Control Board (ABC Board). For the purpose of this definition, a farm
 39 shall be deemed to be an area of contiguous land containing not less than twenty (20)
 40 (advertised at 5-50) acres under common ownership wherein such land is used for
 41 AGRICULTURE or any lot not less than five (5) acres in size for which an ABC Board
 42 license was pending for the operation of a farm winery before [effective date of this
 43 amendment] where such license is ultimately approved and such land is used for
 44 AGRICULTURE. Nothing herein shall preclude the establishment of more than one farm
 45 winery, limited brewery and/or limited distillery on a farm, as defined herein.

1 Any such establishment in operation prior to July 1, 2016, may continue its then existing
 2 or more restricted uses; however, the construction or expansion after July 1, 2016, of any
 3 new or existing farm winery building or structure in the R-C District shall be subject to the
 4 provisions of Part 6 of Article 9. Where permitted and to the extent authorized by this
 5 Ordinance, any new farm winery building or structure constructed after July 1, 2016, or the
 6 expansion of any farm winery building or structure after July 1, 2016, may be used for
 7 alcohol production, sales and tastings and, in addition, for the hosting of public or private
 8 events or activities for up to 300 (*advertised at 150-500*) guests, invitees or participants;
 9 however, events or activities for more than 300 (*advertised at 150-500*) guests, invitees or
 10 participants shall be limited to twelve (12) per calendar year (*advertised for 12-24*) and shall
 11 not exceed two (2) (*advertised at 2-8*) days in duration, unless a special exception is
 12 approved by the Board. Persons visiting the farm winery for purposes related to tasting,
 13 promotion or purchasing of agricultural products available on site shall not be included in the
 14 maximum number of persons attending such public or private events or activities.

15
 16
 17 LIMITED BREWERY: An establishment located on a farm wherein agricultural products,
 18 including barley, hops, other grains and/or fruit used by such limited brewery in the
 19 manufacture of beer are grown, processed and containerized on the premises, and as
 20 specifically regulated and licensed by the provisions of the Virginia Alcoholic Beverage
 21 Control Board (ABC Board). For the purpose of this definition, a farm shall be deemed to be
 22 an area of contiguous land containing not less than twenty (20) (*advertised at 5-50*) acres
 23 under common ownership wherein such land is used for AGRICULTURE or any lot of five
 24 (5) acres or more for which an ABC Board license was pending for the operation of a limited
 25 brewery before [*effective date of this amendment*] where such license is ultimately approved
 26 and such land is used for AGRICULTURE. Nothing herein shall preclude the establishment
 27 of more than one farm winery, limited brewery and/or limited distillery on a farm, as defined
 28 herein.

29 Where permitted and to the extent authorized by this Ordinance, any new or expanded
 30 limited brewery building or structure constructed after July 1, 2016, may be used for alcohol
 31 production, sales and tastings. In addition to such production, sales and tastings, any limited
 32 brewery building or structure may be used for the hosting of public or private events or
 33 activities for up to 300 (*advertised at 150-500*) guests, invitees or participants; however,
 34 events or activities for more than 300 (*advertised at 150-500*) guests, invitees or participants
 35 shall be limited to twelve (12) per calendar year (*advertised for 12-24*) and shall not exceed
 36 two (2) (*advertised at 2-8*) days in duration, unless a special exception is approved by the
 37 Board. Persons visiting the limited brewery for purposes related to tasting, promotion or
 38 purchasing of agricultural products available on site shall not be included in the maximum
 39 number of persons attending such public or private events or activities.

40
 41
 42 LIMITED DISTILLERY: An establishment located on a farm wherein agricultural products
 43 used in the manufacture of alcoholic beverages other than wine, cider and beer are grown,
 44 processed and containerized on the premises, and as specifically regulated and licensed by
 45 the provisions of the Virginia Alcoholic Beverage Control Board (ABC Board). For the
 46 purpose of this definition, a farm shall be deemed to be an area of contiguous land containing

1 not less than twenty (20) acres under common ownership wherein such land is used for
2 AGRICULTURE or any lot of five acres or more for which an ABC Board license was
3 pending for the operation of a limited distillery before [effective date of this amendment]
4 where such license is ultimately approved and such land is used for AGRICULTURE.
5 Nothing herein shall preclude the establishment of more than one farm winery, limited
6 brewery and/or limited distillery on a farm, as defined herein.

7 Where permitted and to the extent authorized by this Ordinance, any new or expanded
8 limited distillery building or structure constructed after July 1, 2016, may be used for alcohol
9 production, sales and tastings. In addition to such production, sales and tastings, any limited
10 distillery building or structure may be used for the hosting of public or private events or
11 activities for up to 300 (advertised at 150-500) guests, invitees or participants; however,
12 events or activities for more than 300 (advertised at 150-500) guests, invitees or participants
13 shall be limited to twelve (12) per calendar year (advertised for 12-24) and shall not exceed
14 two (2) (advertised at 2-8) days in duration, unless a special exception is approved by the
15 Board. Persons visiting the limited distillery for purposes related to tasting, promotion or
16 purchasing of agricultural products available on site shall not be included in the maximum
17 number of persons attending such public or private events or activities.

ATTACHMENT 1

VIRGINIA CODE

Title 4.1 – Alcoholic Beverage Control Act, Chapter 2 – Administration of Licenses

Section 4.1-206 – Alcoholic beverage licenses

Section 4.1-207 – Wine licenses

Section 4.1-208 – Beer licenses

Section 4.1-213 – Manufacture and sale of cider

Code of Virginia
Title 4.1. Alcoholic Beverage Control Act
Chapter 2. Administration of Licenses

§ 4.1-206. Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station

or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to

the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than

two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 526, 528; 1981, cc. 410, 412; 1982, c. 66; 1984, c. 200; 1987, c. 365; 1988, c. 893; 1989, c. 42; 1990, c. 707; 1991, c. 628; 1992, cc. 215, 350; 1993, c. 866; 1996, cc. 584, 596; 1998, c. 489; 1999, c. 325; 2005, c. 911; 2006, cc. 737, 826; 2007, c. 101; 2008, c. 198; 2013, c. 476; 2014, c. 510; 2015, cc. 348, 393, 412, 502, 503, 695; 2016, c. 644.

Code of Virginia
Title 4.1. Alcoholic Beverage Control Act
Chapter 2. Administration of Licenses

§ 4.1-207. Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.

2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for off-premises consumption.

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption at these business places.

6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 324, 526, 528, § 4-25.1; 1981, cc. 410, 412; 1982, c. 66; 1984, cc. 200, 559; 1985, c. 457; 1986, c. 190; 1987, c. 365; 1988, c. 893; 1989, c. 42; 1990, cc. 300, 390, 707, 810; 1991, c. 628; 1992, cc. 215, 350; 1993, c. 866; 1998, cc. 77, 208; 2000, cc. 786, 1037, 1052; 2003, cc. 564, 629, 1029, 1030; 2006, c. 845; 2007, cc. 558, 870, 932; 2008, c. 194; 2013, cc. 107, 117, 596; 2015, cc. 54, 288, 412.

Code of Virginia
Title 4.1. Alcoholic Beverage Control Act
Chapter 2. Administration of Licenses

§ 4.1-208. Beer licenses.

A. The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board

may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this

subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar

disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 526, 528; 1981, cc. 410, 412; 1982, c. 66; 1984, c.

§ 4.1-213. Manufacture and sale of cider.

- A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.
- B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.
- C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other alcoholic beverages.
- D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations.
- E. No additional license fees shall be charged for the privilege of handling cider.
- F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both, in the Commonwealth.
- G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and to ensure that the markup required to be paid will be collected.
- H. For the purposes of this section:

"Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or during fermentation.

"Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar content of apples or pears (i) containing not more than 10 percent of

alcohol by volume without chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization.

I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any person be denied the privilege of manufacturing and selling sweet cider.

Code 1950, § 4-27; 1978, c. 174; 1980, c. 324; 1992, c. 349; 1993, c. 866; 2011, cc. 265, 288; 2014, c. 787; 2015, c. 412.

ATTACHMENT 2

VIRGINIA CODE

Title 3.2 – Agriculture, Animal Care, and Food, Chapter 64 – Agritourism Activity Liability

Section 3.2-6400, Definitions

Section 3.2-6401, Liability limited; liability actions prohibited

Section 3.2-6402, Notice required

Title 15.2 – Counties, Cities and Towns, Chapter 22 Planning, Subdivision of Land and Zoning

Section 15.2-2288 – Localities may not require a special use permit for certain agricultural activities

Section 15.2-2288.3 – Licensed farm wineries; local regulation of certain activities

Section 15.2-2288.3.1 – Limited brewery license; local regulation of certain activities

Section 15.2-2288.3.2 – Limited distiller's license; local regulation of certain activities

Section 15.2-2288.6 – Agricultural operations, local regulation of certain activities

Code of Virginia
Title 3.2. Agriculture, Animal Care, and Food
Chapter 64. Agritourism Activity Liability

§ 3.2-6400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural products" means any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

"Agritourism activity" means 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, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

"Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

"Farm or ranch" means one or more areas of land used for the production, cultivation, growing, harvesting or processing of agricultural products.

"Inherent risks of agritourism activity" mean those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

"Participant" means any person, other than an agritourism professional, who engages in an agritourism activity.

2006, c. 710, § 3.1-796.137; 2008, c. 860.

Code of Virginia
Title 3.2. Agriculture, Animal Care, and Food
Chapter 64. Agritourism Activity Liability

§ 3.2-6401. Liability limited; liability actions prohibited.

A. Except as provided in subsection B, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in § 3.2-6402 is posted as required and, except as provided in subsection B, no participant or participant's representative is authorized to maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities; provided that in any action for damages against an agritourism professional for agritourism activity, the agritourism professional shall plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

B. Nothing in subsection A shall prevent or limit the liability of an agritourism professional if the agritourism professional does any one or more of the following:

1. Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant;
2. Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the activity, or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant; or
3. Intentionally injures the participant.

C. Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

2006, c. 710, § 3.1-796.138; 2008, c. 860.

Code of Virginia
Title 3.2. Agriculture, Animal Care, and Food
Chapter 64. Agritourism Activity Liability

§ 3.2-6402. Notice required.

A. Every agritourism professional shall post and maintain signs that contain the notice specified in subsection B. The sign shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The notice shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the notice specified in subsection B.

B. The signs and contracts described in subsection A shall contain the following notice: "WARNING" or "ATTENTION" followed by "Under Virginia law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

C. Failure to comply with the requirements concerning signs and notices provided in this section shall prevent an agritourism professional from invoking the privileges of immunity provided by this chapter.

2006, c. 710, § 3.1-796.139; 2008, c. 860; 2016, c. 166.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2288. Localities may not require a special use permit for certain agricultural activities.

A zoning ordinance shall not require that a special exception or special use permit be obtained for any production agriculture or silviculture activity in an area that is zoned as an agricultural district or classification. For the purposes of this section, production agriculture and silviculture is the bona fide production or harvesting of agricultural products as defined in § 3.2-6400, including silviculture products, but shall not include the processing of agricultural or silviculture products, the above ground application or storage of sewage sludge, or the storage or disposal of nonagricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm, subject to the provisions of the Virginia Waste Management Act. However, localities may adopt setback requirements, minimum area requirements and other requirements that apply to land used for agriculture or silviculture activity within the locality that is zoned as an agricultural district or classification. Nothing herein shall require agencies of the Commonwealth or its contractors to obtain a special exception or a special use permit under this section.

Code 1950, § 15-968.5; 1962, c. 407, § 15.1-491; 1964, c. 564; 1966, c. 455; 1968, cc. 543, 595; 1973, c. 286; 1974, c. 547; 1975, cc. 99, 575, 579, 582, 641; 1976, cc. 71, 409, 470, 683; 1977, c. 177; 1978, c. 543; 1979, c. 182; 1982, c. 44; 1983, c. 392; 1984, c. 238; 1987, c. 8; 1988, cc. 481, 856; 1989, cc. 359, 384; 1990, cc. 672, 868; 1992, c. 380; 1993, c. 672; 1994, c. 802; 1995, cc. 351, 475, 584, 603; 1996, c. 451; 1997, c. 587; 2012, c. 455; 2014, c. 435.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

This section has more than one version with varying effective dates. To view a complete list of the versions of this section see Table of Contents.

§ 15.2-2288.3. (Effective until July 1, 2018) Licensed farm wineries; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;
2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and 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, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of wine-related items that are incidental to the sale of wine.

2006, c. 794; 2007, cc. 611, 657; 2009, cc. 416, 546.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

This section has more than one version with varying effective dates. To view a complete list of the versions of this section see Table of Contents.

§ 15.2-2288.3:1. (Effective until July 1, 2018) Limited brewery license; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer industry while maintaining appropriate land-use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and public events of breweries licensed pursuant to subdivision 2 of § 4.1-208 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 2 of § 4.1-208:

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;
2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;
3. The direct sale and shipment of beer in accordance with Title 4.1 and 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, regulations of the Alcoholic Beverage Control Board, and federal law;

5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

6. The sale of beer-related items that are incidental to the sale of beer.

C. Any locality may exempt any brewery licensed in accordance with subdivision 2 of § 4.1-208 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2288.3:2. Limited distiller's license; local regulation of certain activities.

A. Local restriction upon activities of distilleries licensed pursuant to subdivision 2 of § 4.1-206 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed distillery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed distilleries. Usual and customary activities and events at such licensed distilleries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public.

B. No locality shall regulate any of the following activities of a distillery licensed under subdivision 2 of § 4.1-206:

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 subsection D of § 4.1-119;
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, 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, regulations of the Alcoholic Beverage Control Board, and federal law; or
5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of such alcoholic beverages.

C. Any locality may exempt any distillery licensed in accordance with subdivision 2 of § 4.1-206 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2288.6. Agricultural operations; local regulation of certain activities.

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400;
2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;
3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or
4. Other activities or events that are usual and customary at Virginia agricultural operations.

Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

D. The provisions of this section shall not affect any entity licensed in accordance with Chapter 2 (§ 4.1-200 et seq.) of Title 4.1. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ 3.2-300 et seq.) of Title 3.2, to alter the provisions of § 15.2-2288.3, or to restrict the authority of any locality under Title 58.1.

ATTACHMENT 3

Virginia Acts of Assembly – 2016 Session

House Bill H879

Senate Bill S578

Senate Bill S579

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 710

An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-208 of the Code of Virginia, relating to alcoholic beverage control; farm wineries and limited brewery licenses; land zoned agricultural.

[H 879]

Approved April 6, 2016

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-208 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. (Effective until July 1, 2018) Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available

upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (±) (a) located on a farm in the Commonwealth *on land zoned agricultural* with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) (b) located in the Commonwealth *on land zoned agricultural* with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery" includes or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this sentence clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. *For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.*

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-100. (Effective July 1, 2018) Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for

products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (i) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for

fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery" includes or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this sentence clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal

descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association

and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-208: Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided *that* (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. *For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall

authorize the licensee to sell beer in closed containers for off-premises consumption.

2. That any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic Beverage Control Board (the Board) for a license as a farm winery or limited brewery in accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use, and (iii) subsequently is issued a license as a farm winery or limited brewery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 671

An Act to amend and reenact § 4.1-208 of the Code of Virginia, relating to alcoholic beverage control; limited brewery licenses.

[S 578]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-208 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's

license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

2. That any limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited brewery use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited brewery located on

land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited brewery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited brewery on or after July 1, 2016.

3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic Beverage Control Board (the Board) for a license as a limited brewery in accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited brewery use, and (iii) subsequently is issued a license as a limited brewery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited brewery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited brewery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited brewery on or after July 1, 2016.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 644

An Act to amend and reenact § 4.1-206 of the Code of Virginia, relating to alcoholic beverage control; limited distiller's licenses.

[S 579]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-206 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-206. Alcoholic beverage licenses.

The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. *For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No

tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

2. That any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016,

may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic Beverage Control Board (the Board) for a license as a limited distillery in accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use, and (iii) subsequently is issued a license as a limited distillery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.