

5-1300

Definitions

FARM WINERY: An agricultural use licensed as a farm winery pursuant to Virginia Code § 4.1-207, and to include the growing and harvesting of grapes, manufacture of wine and the accessory uses authorized pursuant to Section 6-102.1 of the Zoning Ordinance.

CFFC Position:

CFFC proposes a change to the wording of the definition in order to clarify that *the manufacturing of wine* in accordance with the limitations outlined in section 4.1-219 for Class A or Class B licenses is a *requirement* inherent in the farm winery license. CFFC interprets the other rights granted to the holder of a Farm Winery License, namely to acquire and sell wine, to store wine, and to sell wine at retail including for on premises consumption as **ADDITIONAL** rights granted contingent upon meeting the first requirement to manufacture wine.

Proposed Wording:

FARM WINERY: An agricultural use licensed as either a Class A or Class B farm winery directly engaged in the manufacturing of wine pursuant to Virginia Code § 4.1-207, and that may include the the accessory uses authorized pursuant to Section 6-102.1 of the Zoning Ordinance.

WINE TASTING AND CONSUMPTION: Sampling, by the general public, of wines and purchase of wine by the glass or bottle to drink on-site.

FARM WINERY EVENT: Activities held at a FARM WINERY for the purpose of marketing wine, to include wine receptions, wine education seminars, wine luncheons or dinners, wine fairs and festivals, as well as fundraisers and charity events, private weddings or other private business or private social gatherings where the FARM WINERY is allowing its facilities to be utilized. WINE TASTING AND CONSUMPTION shall be classified as a single FARM WINERY EVENT each day it occurs or continues beyond 8 p.m. FARM WINERY EVENTS shall by definition also include any activity:

where food is served pursuant to Section 6-102.1(C)(ii); or

where the FARM WINERY is closed to the general public or where a cover charge is collected.

CFFC position:

CFFC supports the description of Farm Winery events as outlined in the first sentence of the definition in the Draft Ordinance. CFFC also supports the provision that FARM WINERY EVENTS shall by definition include any activity where food is served or where the Farm Winery is closed to the General Public or collects a cover charge.

CFFC **opposes** the selection of 8pm for the close of ‘Regular Business Hours’ established in this provision. CFFC instead supports a 6pm close for regular business hours with an automatic initial permitted extension to ‘6pm or Sunset, whichever is later’ as ‘Regular Permitted Business Hours’. This permitted extension shall be revoked for **NON COMPLYING FARM WINERIES**.

CFFC does **not** agree that WINE TASTING AND CONSUMPTION should be permitted, on an ‘Unlimited’ basis, beyond regular business hours by classifying it as a FARM WINERY EVENT.

CFFC Rationale:

Regular Business Hours

By enabling the County to roll back non-complying wineries to a 6pm closing time, which appears to be the Usual and Customary hour of a majority of Farm Wineries in both Fauquier County and the Commonwealth, this provision provides to some extent for a lessening of the consequences of being situated nearby a NON COMPLYING FARM WINERY.

CFFC believes that the extension of permitted hours for the conducting of regular business to ‘6pm or sunset whichever is later’ further emphasizes the agricultural nature of the Farm Winery business and makes a connection between wine tasting and consumption and the enjoyment of the rural landscape.

CFFC believes these ‘Regular Permitted Business Hours’, being predominantly ‘daylight hours’ would also have a positive impact on the health, safety, and welfare of the public by assuring that a majority of the additional traffic will occur during daylight hours. In addition to the improved safety of limiting nighttime vehicles on the road, this provision improves the welfare of neighboring citizens by recognizing their right to a residential atmosphere after dark, without a regular interruption of numerous cars pulling in an out of and adjacent property.

CFFC also believes defining a Farm Winery’s regular course of business as a predominantly daylight agricultural activity draws a further distinction between the wine tasting and consumption at a Farm Winery and the regular course of business of a traditional bar or roadhouse which is predominantly associated with a nighttime business model.

Strict adherence to these predominantly daylight ‘Regular Permitted Business Hours’ is a critical part of CFFC’s position. Any activities after these hours should be ‘infrequent’ and limited by regulation as Farm Winery Events.

Proposed Wording:

FARM WINERY EVENT: Activities held at a FARM WINERY for the purpose of marketing wine, to include wine receptions, wine education seminars, wine luncheons or dinners, wine fairs and festivals, as well as fundraisers and charity events, private weddings or other private business or private social gatherings where the FARM WINERY is allowing its facilities to be utilized. Regular business hours shall not extend beyond 6pm; provided however that each Farm Winery

shall be granted an initial permit to conduct regular business until the later of 6pm or sunset; provided further however that such permit shall be revoked for Non Complying Farm Wineries. FARM WINERY EVENTS shall by definition also include any activity:
where food is served pursuant to Section 6-102.1(C)(ii); or
where the FARM WINERY is closed to the general public or where a cover charge is collected.

CFFC Recommends adding the following definition:

NON COMPLYING FARM WINERY: A Farm Winery which has been cited within the prior year for violations of any Zoning Ordinance provision or State or Federal regulation, with a finding by the Zoning Administrator that 1) uncorrected violations exist or 2) repeated violations of regulations have occurred. The Zoning Administrator shall notify each applicable winery, in writing, that it has been determined to be a NON COMPLYING FARM WINERY.

6-102.1

Permitted Accessory Uses at Farm Wineries

1. The following uses and activities shall be considered by-right accessory uses at Farm Wineries authorized pursuant to Section 3-318(17) and shall be allowed upon approval of a zoning permit pursuant to Section 13-500 of the Ordinance, and the use limitations set forth in Section 6-102.1(2), below:

A. The sale, tasting and consumption of wine as authorized under a Farm Winery license issued by the Commonwealth of Virginia.

CFFC supports this provision.

B. Retail sales and shipment of wine, and the storage, warehousing and wholesaling of wine in accordance a Farm Winery license issued by the Commonwealth of Virginia and applicable federal law.

CFFC supports this provision.

C. The provision of food for on-site consumption, subject to the following limitations:

- i. Finger foods and similar snacks may be served in conjunction with Wine Tasting and Consumption;
- ii. Other food, including meals, may be served no more than three times a week in conjunction with authorized Farm Winery Events, provided that such food is either: prepared off-site by a licensed caterer or prepared on-site in a properly licensed/permitted mobile food establishment that is temporarily placed on the property only during an event;
- iii. In no case shall food be provided which results in a FARM WINERY having to be licensed as a food establishment under the Code of Virginia.

CFFC supports this provision.

D. The incidental retail sale of wine-related items and locally produced artisanal goods, subject to the following limitations:

- i. The sales of non-wine-related items shall not exceed 10 percent of gross retail merchandise sales (including wine) at the Farm Winery;

- ii. All display and sales of the goods shall occur indoors, except outdoor sales may occur in conjunction with an authorized Farm Winery Event occurring outdoors;
- iii. Locally produced artisanal goods shall mean food, art, craft and home goods which are hand-produced within Fauquier County or adjoining Counties.

CFFC Position:

CFFC recognizes the effort to promote locally produced goods but is wary of the impact this will have on the agricultural nature of the Farm Winery. CFFC has decided to adopt a ‘wait and see’ approach to this provision. CFFC proposed a slight change to the wording for clarification purposes.

Proposed Wording:

- D. Incidental retail sales shall be limited to wine-related items and locally produced artisanal goods, subject to the following limitations:
 - i. The sales of non-wine-related items shall not exceed 10 percent of gross retail merchandise sales (including wine) at the Farm Winery;
 - ii. All display and sales of the goods shall occur indoors, except outdoor sales may occur in conjunction with an authorized Farm Winery Event occurring outdoors;
 - iii. Locally produced artisanal goods shall mean food, art, craft and home goods which are hand-produced within Fauquier County or adjoining Counties.

E. The provision of on-site Farm Winery tours;

CFFC supports this provision.

F. Private personal gathering held by the Farm Winery owner who resides at the Farm Winery where wine is not sold or marketed at such event, and payment (or consideration in lieu of payment) is not received for the event, and further provided that such private gathering is not otherwise regulated pursuant to the provisions of this Ordinance.

CFFC supports this provision.

G. Farm Winery Events pursuant to the rules below:

CFFC recommends adding the following (2) rules to the DWO:

- 1. CFFC believes Special Service Provisions should apply to Farm Winery Events of 200 people and above (Table 1.2, 1/Year category, Level B and above) similar to the provisions in the Special Event Zoning Ordinance Sections 5-914, 5-915 and 5-916 in order to protect the health safety and welfare of the public.

CFFC Proposed Wording:

- iii. The following Special Service Provisions shall apply to Farm Winery Events of 200 people and above as described in Table 1.2 (1/Year category, Level B and above):

The Farm Winery shall provide adequate security, emergency, traffic control, sanitation and refreshment services at each applicable event or activity. At least thirty (30) days prior to holding an applicable event the Farm Winery shall provide to the Zoning Administrator written proof, including copies of any permits or licenses if required, from the following agencies that control traffic, security, emergency services and on-site sanitary and refreshment facilities are adequate for the size and the type of the event or activity to be held:

Fauquier County Sheriff's
Office Virginia Department of Transportation
Fauquier County Emergency Services Coordinator
Fauquier County Health Department

2. The current proposed draft has no Farm Winery Event closing time. CFFC supports a 10pm 'hard close' from Sunday to Thursday and an 11pm 'hard close' on Friday and Saturday for Farm Winery Events. This timing is consistent with the County's civil noise ordinance.

CFFC Proposed Wording:

iv. No Farm Winery Event shall end later than 10pm from Sunday to Thursday or 11pm on Friday and Saturday. The "end" of an event means all activities have been concluded and all customers have departed.

i. Any Farm Winery licensed after approval of this ordinance (_____, ____ 2011) and having no direct access to a public street shall be allowed no by-right Farm Winery Events.

CFFC supports this provision.

ii. All other Farm Wineries shall be allowed the level of by-right Farm Winery Events established by the tables below:

Step 1: Determine Level of Winery Step 2: Determine Allowable Events Based on Level of Winery

Acres (May be in multiple lots, if contiguous and under same ownership)	Access on a Collector or Higher Classification Street?	
	No	Yes
Up to 25	Level A	Level B
25-49	Level B	Level C
50 and Over	Level B	Level D

	Maximum Size and Frequency of Events Allowed		
	Unlimited	1/Week	1/Year
Level A	25	50	100
Level B	35	75	200
Level C	50	100	300
Level D	75	150	500

CFFC supports replacing the Step 1 and Step 2 tables above with the following tables:

Table 1.1

Step 1 Table: Determine Level of Winery

Acres (May be in multiple lots, if contiguous and under same ownership)	Access on a Collector or Higher Classification Street?	
	No	Yes
Up to 24*	Level A	Level B
25-49*	Level B	Level C
50-74*	Level C	Level D
75+*	Level D	Level E

* Any Winery less than 500' to a private Residence, not on winery property, shall be Level A

Table 1.2

Step 2 Table: Determine Allowable Events Based Winery Level

Maximum Size and Frequency of By-Right Events without Special Exception						
	Daily		Monthly		Annual	
	Restricted to Regular Permitted Business Hours		During or after Regular Permitted Business Hours (pursuant to Subsection 1.G.iv above)			
		Size	# Events per Month	Size	# Events per Year	Size
Level A	Unlimited	25	1	50	1	100
Level B	Unlimited	35	4	75	1	200*
Level C	Unlimited	50	4	100	1	300*
Level D**	Unlimited	50	4**	100	1**	300*
Level E**	Unlimited	75	4**	150	1**	500*

* Requires Special Service Provisions drawn from Special Events Zoning Ordinance Sections 5-914, 5-915, and 5-916.
 ** Denotes Level of Winery which may apply for Additional Events under Subsection 1.H.

Note: The difference between Level C and Level D Farm Wineries in the CFCC proposal is the ability of Level D Farm Wineries to seek additional events without going through the special exception process as outlined in the draft Subsection 1.H.

CFFC Position on Trumbo/Schwartz Tables & Comparison to CFFC Proposed Tables:

Step 1 Table: Determine Level of Winery

Column 1 - Acreage as a determining Factor:

CFFC believes acreage of a farm winery, although a contributing factor, is not always a sufficient determining criterion for the impact of a Farm Winery Event on the health, safety and welfare of its neighbors. The distance of a Farm Winery structure used for events to the nearest residence not on winery property is a better determinant of the impact of the size and frequency of Winery Events on a Farm Winery's neighbors.

By comparative analysis CFFC has determined that for Weekly events, after Regular Permitted Business Hours, a distance of 500' is a minimum acceptable distance from a residence not on Farm Winery property, to a Farm Winery structure used for events. At a distance of less than 500', after hours Farm Winery events at a weekly frequency could pose a dramatic risk to the health, safety and welfare of the neighboring property owner. Any Winery closer than 500' to a neighboring residence is automatically Level A in the CFFC table.

Acre Categories:

After analyzing existing Fauquier County Farm Wineries and the statistical impact of acreage on distance to the nearest residence not on the Farm Winery property, CFFC has adjusted the acreage categories for Farm Wineries.

Column 2:

Access on a Collector or Higher Classification Street:

CFFC supports the concept that the level of street access to the Farm Winery is an appropriate criterion for judging the impact of a Farm Winery event on the health, safety and welfare of the public. CFFC recommends referencing or incorporating Map 10.1 of the County's Comprehensive Plan as a definition of Local Roads.

Unlike in the County's proposal, in the CFFC proposal wineries on a local road are reduced ONE level.

Step 2 Table: Determine Allowable Events Based on Level of Winery

Column 1 - Unlimited:

CFFC is strongly opposed 'unlimited events' *unless* 1. they are restricted to Regular Permitted Business Hours, *and* 2. those hours are as defined by CFFC in

5-1300 Definitions: FARM WINERY EVENT. CFFC believes that the provision for by-right ‘unlimited events’ after Regular Permitted Business Hours undermines the agricultural nature of a Farm Winery, fails the USBC standard of ‘infrequent’ events in agricultural buildings, undermines the concept of ‘regular business hours’, blurs the distinction between a Farm Winery and a drinking establishment or bar and unacceptably impacts the health, safety and welfare of Farm Winery neighbors.

Column 2 and Column 3 - 1/Week and 1/Year

CFFC does not support granting Level A wineries weekly events. These small acreage wineries or wineries with neighboring residences less than 500’ from their event structures will have a substantial impact on the health safety and welfare of the neighbors and community.

CFFC believes that Farm Wineries with less than 25 acres and Farm Wineries with event structures less than 500’ to a neighboring residence should have ‘0’ weekly by-right Events after Regular Permitted Business Hours. CFFC’s position on the extension by permit of regular business hours to ‘6pm or sunset, whichever is later’ takes into consideration the economic impact on Farm Wineries of this limitation.

Replacing the ‘1/Week’ column with a roughly equivalent ‘Monthly’ column would permit essentially the same number of events but would allow the wineries more flexibility in scheduling. CFFC would support 1 by-right event per month after Regular Permitted Business Hours’ for Level A wineries.

CFFC does not support the size of events proposed for properties of 50 acres or more. CFFC believes this category should be broken into two categories: 50-74 acres (Level D) and 75+ acres (Level E). Our analysis indicates that Farm Wineries with 75 or more acres have a much greater likelihood of at least a 700’ distance to the nearest neighboring residence than do Farm Wineries in the 50-74 acre category. CFFC’s comparative analysis sets a 700’ distance as a minimum standard for the reduced impact category.

H. Additional Farm Winery Events, up to twice the number authorized in Subsection G, above, may be authorized by the Zoning Administrator by Administrative Permit, for a period not to exceed one year, provided no substantiated complaints have been received by the County during the prior year and that no other violations of County, State or Federal regulations have been documented. The Zoning Administrator may re-approve this increase on an annual basis, upon application by the Farm Winery.

CFFC Position:

The wording of this provision needs clarification. The provision should clearly spell out that ‘twice the number authorized’ refers to the number of *Events*, not the number of *People* per size level of event.

CFFC does not support administrative increases for Farm Wineries of less than 50 Acres (Level A, B or C). The special exception process is more appropriate for these Levels due to the increased likelihood of an impact to the health, safety and welfare of Farm Winery neighbors.

CFFC Proposed Wording:

H. Additional Farm Winery Events, up to twice the *frequency* authorized in Subsection G, above, may be authorized by the Zoning Administrator for Farm Wineries eligible under Table 1.2 by Administrative Permit, for a period not to exceed one year, provided no substantiated complaints have been received by the County during the prior year and that no other violations of County, State or Federal regulations have been documented. The Zoning Administrator may re-approve this increase on an annual basis, upon application by the Farm Winery.

Additionally, ‘Substantiated Complaints’ needs to be defined and should not be too onerous on the public. CFFC recommends Farm Wineries be required to provide to Farm Winery neighbors with the name and number of a contact person for the purposes of complaints.

- I. Larger or more frequent Farm Winery Events than those authorized by Subsections G and H, above, may be authorized by Special Exception pursuant to Sections 3-318.18 and 5-1810:
CFFC supports this provision.
2. Use Limitations for all Permitted Accessory Uses (including by-right Farm Winery Events) at Farm Wineries:
 - A. Noise: Sound generated by outdoor amplified music shall not be audible at or beyond the property line of the Farm Winery. Outdoor amplified music shall include music emanating from an open or temporary structure. In addition, no noise shall exceed the noise limits in or adjacent to residential uses as set forth in Section 9-704.

CFFC Position:

CFFC supports the provision for granting Farm Wineries the right to Outdoor Amplified Music with the specific limitation that the music shall not be audible beyond the property line. This audibility standard is critical to CFFC’s support.

- B. Lighting: Lighting shall be fully shielded as set forth in Section 9-1005 and shall comply with the general requirements set forth in Sections 9-1006.4 and 9-1006.7.

CFFC supports this provision.

- C. Any structure to be utilized as part of the Farm Winery shall be located a minimum of 200 feet from all lot lines, except that any existing structure previously permitted by the County for Farm Winery use shall be exempt from this limitation.

CFFC supports this provision and believes it is critical moving forward.

- D. All Farm Wineries shall keep records of attendance at the Farm Winery and Farm Winery Events and this information shall be made available to the Zoning Administrator upon request, and shall be subject to verification by audit at the discretion of the Zoning Administrator.

The phrase ‘keep records’ is unclear. Is the intent to keep records of *numbers* of customers or more specific information? Additionally, the purpose of the provision in keeping attendance records for regular Farm Winery operations is unclear.

Further explanation is required before CFFC can take a position on this provision. CFFC’s initial impression is that requiring Farm Wineries to keep records of attendance during the normal course of business during regular business hours places an unnecessary burden on the Farm Winery.

Additionally, it seems unlikely a Farm Winery would voluntarily record attendance for an event above the size limit allowed for a Farm Winery Event.

- E. All Farm Wineries electing to sale non-wine related items as authorized pursuant to Subsection (D) (i), above, shall keep records of the percentage of gross merchandise sales occurring on-site at the Farm Winery in such a format that the percentage of sales attributable to the incidental retail allowed pursuant to Subsection 1.F, above, is demonstrated. This information shall be made available to the Zoning Administrator upon request, and shall be subject to verification by audit at the discretion of the Zoning Administrator.

CFFC supports this provision.

- F. If a Farm Winery has been cited within the prior year for violations of any Zoning Ordinance provision or State or Federal regulation, authorization for the Farm Winery Events listed in Subsection 1.I, above, may be suspended by the Zoning Administrator for a period of time up to one year, upon a finding by the Zoning Administrator that 1) uncorrected violations exist or 2) repeated violations of regulations have occurred. The Zoning Administrator shall notify the winery in writing of the suspension of authorization for Winery Events. Any Farm Winery where Farm Winery Events has been suspended under this provision may seek Special Exception approval to allow such Farm Winery Events pursuant to Section 5-1810.2.

CFFC supports the concept of the suspension of Farm Winery Events for Non Complying Farm Wineries. In provision F above, the County’s intent is unclear as it only suspends the right to have events granted through the Special Exception Process in Subsection 1.I, and then later in the same paragraph permits the approval of such Farm Winery Events through the Special Exception process. CFFC supports the suspension of Farm Winery Events granted through the Special Exception Process in Subsection 1.I as well as through Administrative authorization in subsection 1.H.

CFFC Proposed Wording:

Authorization for NON COMPLYING FARM WINERIES to conduct Farm Winery Events listed in Subsection 1.I and 1.H above may be suspended by the Zoning Administrator for a period of time up to one year. The Zoning Administrator shall notify each applicable Farm Winery in writing of the suspension of authorization for such Winery Events.

G. The following uses/activities are specifically prohibited at Farm Wineries:

- Restaurants
- Hot Air balloons
- Fireworks
- Grocery or Convenience Store

CFFC recommends adding 'Helicopter Rides' to the list of specifically prohibited uses/activities.

5-1810 Standards for Additional Farm Winery Events

1. The specific standards for Class A, B and C events set forth in Sections 5-914, 5-915 and 5-916 shall apply to all Special Exceptions granted for Farm Winery Events, with the specific standards to be utilized determined based on the size of the proposed event(s).

2. The use limitations for accessory Farm Winery Uses set forth in Section 6-102.1(2) shall pertain to all additional Farm Winery Events apply to all events approved by Administrative Permit or Special Exception and cannot be waived as part of the approval. Where such limitations are more restrictive than the general limitations for Class A, B and C events, the more restrictive provisions shall apply.

CFFC supports these provisions.