

Department of Community Development Staff Report

Subject: A Zoning Ordinance Text Amendment to Sections 3-318.17-18, 5-1810, 6-102, and 15-300 Related to Farm Wineries

Date: August 11, 2011

The proposed text amendment seeks to update the County's regulations related to farm wineries to bring them into compliance with updated Code of Virginia provisions on Farm Wineries (attached). Staff began working on this amendment in late 2007, with a Board initiation of the text amendment occurring in November 2008. The Planning Commission held its first work session on the issue in February 2009, holding multiple additional work sessions and public hearings until taking action on August 27, 2009, unanimously recommending approval of a revised draft of regulations.

The Board of Supervisors held a work session on the winery issues on October 8, 2009. At that meeting, staff reviewed the legislative history of farm winery regulation in the County, the Code of Virginia provisions, and the draft regulations recommended by the Planning Commission. An initial public hearing and additional work session on the issue were also held by the Board on November 12, 2009, and additional public hearings were held on December 10, 2009, January 14, 2010 and July 11, 2011.

The July 11, 2011 draft of the Ordinance included multiple refinements proposed by Supervisors Schwartz and Trumbo, based on input from wineries and the public. This updated draft incorporates additional changes based on input from these groups.

Prior staff reports on this issue have reviewed the history of the County and State regulation of farm wineries, information on the existing farm wineries in the County, details of the review process and the Planning Commission positions on the Ordinance. This report presents only a summary of the key elements of the current attached Ordinance draft.

By-Right Activities/Uses at Wineries, Other Than Events

The revised regulations set forth a list of activities permitted by-right (as accessory uses to a farm winery) in Section 6-102.1 and through the definition of FARM WINERY. The by-right activities include all of those activities required to be allowed by the Code of Virginia, to include:

- Growing of grapes and manufacturing of wine;
- Retail and wholesale sales of wine and storage of wine;
- Tasting and consumption of wine within normal business hours;
- Provision of finger-foods for on-site consumption in conjunction with wine tasting;
- Provision of on-site farm winery tours;

- Private personal gatherings of the winery owner who lives on the property; and
- The incidental sales of wine-related items.

The proposed Ordinance allows wineries some flexibility on retail sales beyond that mandated by state law. Specifically, retail sales of non-wine related items are allowed. Locally produced artisanal goods, defined to include food, art, craft and home goods which are hand-produced within Virginia, may also be sold, provided the sales of these non-wine related items do not exceed 10 percent of the gross retail merchandise sales at the winery.

Events

A level of by-right events which will not cause substantial impact to the health, safety and welfare of the public is authorized by the Ordinance. Additional events, up to twice the by-right number, may be authorized administratively for wineries without documented violations. Any winery may also seek special exception approval to allow numbers and sizes of events on a case-by-case basis.

Definition of Event

The Ordinance establishes a definition for Farm Winery Events.

FARM WINERY EVENT: Activities held at a FARM WINERY for the purpose of marketing wine, including (a) wine education seminars, wine luncheons or dinners featuring wine and food pairings, wine fairs and festivals; (b) weddings or other private business or social gatherings where the FARM WINERY’s wines are featured and served in conjunction with the event; and (c) fundraisers, charity events, entertainment or theme events where a specific starting time (other than the FARM WINERY’s normal opening time) is advertised or otherwise stated in any promotion or advertisement. FARM WINERY EVENTS shall by definition also include:

- WINE TASTING AND CONSUMPTION each day it occurs or continues beyond 7 p.m. Sunday through Thursday except holiday-weekend Sundays and 9 p.m. Friday, Saturday and holiday-weekend Sundays. For purposes of this provision, “continues beyond” means wine or food is served or music or other entertainment continues or starts.
- any activity where food is served pursuant to Section 6-102.1(C)(ii).
- any activity where the FARM WINERY is closed to the general public or where a cover charge is collected.

By-Right Events

The Ordinance incorporates a matrix provided which categorizes wineries based on their property size and type of road access/entrance type, the best factors staff could identify to predict substantial impacts from wineries. In addition, for new wineries going forward (those with no ABC license or no pending ABC license), the distance between winery buildings and the nearest residences is also factored into the level of events allowed.

The Ordinance establishes the following levels for by-right events at existing Farm Wineries:

Step 1: Determine Level of Farm 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 and Over	Level B*	Level D

*Any winery 25 acres or larger not on a collector or higher classification street, but with a commercial entrance installed per VDOT requirements shall be increased to a LEVEL C

Step 2: Determine Allowable Events Based on Level of Farm

	Maximum Number of Total Attendees Allowed at Event and Frequency of Event Allowed		
	Unlimited	1/Week	1/Year
Level A	25	50	100
Level B	35	75	200
Level C	50	150	300
Level D	75	175	500

As currently drafted, after adoption of the Ordinance, any new winery less than 10 acres in size or without direct access to a public street will be allowed no by-right events. All other wineries will be allowed by-right events based on the tables below.

Step 1: Determine Level of Farm Winery

Any Farm Winery where events occur within 500 feet of a private residence not on winery property, shall be Level A.
Otherwise:

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
25-74	Level B	Level C
75+	Level C	Level D

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

	Maximum Number of Total Attendees Allowed at Event and Frequency of Event Allowed		
	Unlimited	1/Week	1/Year
Level A	25	50	100
Level B	35	75	200
Level C	50	150	300
Level D	75	175	500

Additional Events

The Ordinance makes two provisions for allowing additional events. First, the number of by-right events authorized through the tables above may be doubled by Administrative approval of the Zoning Administrator, in cases where no documented violations have occurred at a Winery in the past year. Second, a special exception public hearing process is available to all wineries. This process allows wineries to request more or larger events, allowing the Board to consider unique characteristics of each winery property in the process.

Other Event Issues

An event ending time has been incorporated into the Ordinance: 10:00 p.m. Sunday through Thursday except holiday-weekend Sundays; and 11:00 p.m. Friday, Saturday and holiday-weekend Sundays.

Noise

The Virginia Code provision does not allow the County to apply any noise limitations to wineries that are not part of the code applying to all uses, except that it does specifically allow localities to regulate outdoor amplified music related to events and activities. The current draft proposes the following limitation on outdoor amplified music:

- 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 set forth in Section 9-700.

Setbacks

Existing Zoning Ordinance regulations require many farm buildings to be set back a minimum of 100 feet from a property line. The proposed Ordinance proposes a 300 foot setback. However, the Ordinance allows existing Farm Winery buildings to expand even though they do not meet the 300 foot setback.