

C	REGULATIONS FOR AGRIBUSINESSES AND AGRITOURISM ACTIVITIES
This section describes the regulations for certain types of agribusiness operations and activities in the County.	
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As noted in [Section A \(What is Agriculture?\)](#), “agriculture” is a land use that is defined in the [Clarke County Zoning Ordinance](#) as follows:

The use of land for tilling of the soil; the growing of crops or plant growth of any kind, including fruit, flowers, and ornamental plants; pasturage; dairying; or the raising of poultry and/or livestock.

Agriculture and agricultural operations are allowed by-right in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Districts which compose the vast majority of the County’s rural areas. Traditional farming activities are generally allowed without zoning approval however certain types of agribusinesses and accessory activities are subject to special zoning regulations. The sections below outline the County’s regulation of the following:

- Onsite sale of agricultural products produced by a farm
- Onsite processing of agricultural products
- Farm wineries, farm breweries, and farm distilleries
- Agritourism activities

Onsite Sale of Agricultural Products

Agricultural operations may sell their products onsite, either wholesale or retail, subject to the following requirements:

1. Only agricultural products that were grown by the agricultural operation are allowed to be sold onsite. An agricultural product that was processed using offsite products or ingredients may be sold onsite provided that a portion of the ingredients or materials used to make the agricultural product was produced by the agricultural operation.

Example – The operators of an apple orchard may sell apples grown on their farm. They may also sell products made from those apples and ingredients that do not come from

their farm, such as apple pie or apple butter. Apples grown by a different farm or products not made, at least in part, from the operator's apples may not be sold onsite.

2. Operators may sell agricultural products grown on any lot that is part of the agricultural operation.
3. The sale of agricultural products shall be clearly accessory or incidental to the agricultural operation. This means that the wholesale or retail sale activities cannot generate the primary level of activity on the lot containing the agricultural operation. For example, a retail farm stand cannot be operated on a lot owned by the agricultural operation if minimal or no agricultural activities are being conducted on that lot.

Onsite sale activities that exceed these requirements may be approvable with a special use permit and site development plan for a "retail business."

Onsite Processing of Agricultural Products

Similar to onsite sale of agricultural products, agricultural operations may also process their agricultural products that are produced onsite. Onsite processing is limited only to crops or plants grown onsite, or livestock raised onsite, by the agricultural operation. Processing can also include combining agricultural products produced both onsite and offsite, such as creating a feed blend from products grown on the farm and products obtained from a different farm or feed store. Onsite processing must be an activity that is accessory to and not more intensive than the agricultural operation located on the same lot.

Processing activities can include:

- Harvesting
- Cleaning, sorting, and storing products
- Butchering of livestock raised in conjunction with the agricultural operation
- Finishing and packaging agricultural products into products for resale

Agricultural operations are not permitted to process agricultural products that were raised or produced by another agricultural operation. Processing of livestock raised offsite would constitute an abattoir or slaughterhouse which is a prohibited use. Processing of fruit, vegetables, and/or apiary products may be approvable with a special use permit for "small-scale processing of fruits and vegetables."

Farm Wineries, Farm Breweries, Farm Distilleries

Farm wineries, farm breweries, and farm distilleries are agricultural operations that are classified separately from the "agriculture" use in the Zoning Ordinance. Per the Code of Virginia, these agribusinesses are permitted in zoning districts where agriculture is allowed by right provided that they possess the appropriate State licensure for a farm winery, limited brewery, or limited

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distillery. Unlike traditional farms, these agribusinesses require approval of a zoning permit issued by the zoning administrator prior to commencing operations.

Farm wineries, farm breweries, and farm distilleries are required to be an agricultural operation with agricultural activities being conducted on the same lot or a contiguous lot under common ownership. There is also a minimum lot size requirement of five (5) acres unless the lot is part of an agricultural operation located on multiple contiguous lots in common ownership.

Activities conducted at farm wineries, farm breweries, and farm distilleries are limited to usual and customary activities associated with the production of wine, beer, or spirits. Activities that are not directly regulated by the Zoning Ordinance include:

- Production and harvesting of crops and manufacturing of wine, beer, or spirits
- On-premises sale, tasting, or consumption of product during regular business hours within the normal course of business (e.g., tasting rooms)
- Direct sale and shipment of product per Alcoholic Beverage Control Board regulations
- Sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Alcoholic Beverage Control Board regulations and Federal law
- Sale of product-related items that are incidental to the sale of wine, beer, or spirits as applicable (e.g., retail shops to sell product and product-related items)

Farm wineries, farm breweries, and farm distilleries are first and foremost agricultural uses and are not considered to be commercial or public assembly uses. The objective of the regulations is to allow these agricultural operations to conduct their core functions of growing agricultural products and producing beverages for public sale and consumption without allowing them to become an event and entertainment destination. Such public-oriented activities may be allowable through the special use permit process or other approval but not through the farm winery/farm brewery/farm distillery zoning permit process.

Below is a list of examples of activities which are not permitted in conjunction with these agribusinesses without additional zoning approval:

- Retail sale of products that are not related to the products produced by the business (e.g., garden supplies, outdoor furniture).
- Retail sale of wine, beer, or spirits produced by other businesses.
- Minor commercial public assembly events and activities such as weddings, private parties, or private meetings.

Public events including music concerts, theatrical performances, and similar entertainment unless approvable with a Special Event Permit per [County Code Chapter 57](#). Live music or

entertainment that is incidental and accessory to the farm winery, farm brewery, or farm distillery use is permissible subject to zoning regulations. Live music or entertainment concerts which are promoted as events and/or are charged a separate fee are not permissible without a Special Event Permit.

Zoning Permit Requirements

A zoning permit is required in order to operate a farm winery, farm brewery, or farm distillery. A zoning permit application for a farm winery, farm brewery, or farm distillery must include the following information for review by the zoning administrator:

- Proof that the farm winery, farm brewery, or farm distillery will be conducted as an agricultural operation with agricultural operations conducted on the same lot or contiguous lot under common ownership. This can include a planting plan for crops that will be used to produce the alcoholic beverage.
- Proof that the applicant has filed an application with the Virginia Alcoholic Beverage Control Authority (ABC) to operate a farm winery, limited brewery, or limited distillery. The applicant is also required to provide a copy of the approved ABC license prior to commencing production operations.
- Proof that the applicant has filed a business license application with the Office of the Commissioner of the Revenue. The applicant is also required to provide a copy of the approved business license prior to commencing production operations.
- Copies of approved private well and onsite sewage disposal permits from the Virginia Department of Health (VDH) for both domestic and process operations as applicable.
- Copy of the approval from the Virginia Department of Transportation (VDOT) to allow use of the property entrance by the farm winery, farm brewery, or farm distillery.
- Approval of an erosion and sediment control plan and stormwater management plan for the property if required.
- Any other pertinent information required by the zoning administrator including a zoning site sketch showing the location of structures and activity areas.

Farm wineries, farm breweries, and farm distilleries that are open to the public are subject to additional regulations:

- Limits on hours of public operation:
 - 8:00AM to 8:00PM Sunday through Thursday
 - 8:00AM to 9:00PM Friday and Saturday
- Food service:

Food service may be offered on a very limited basis provided that the operator does not

require a “Food Establishment” or “Temporary Food Establishment” permit issued by VDH. Temporary food vendors are permissible subject to compliance with the regulations for temporary vendors set forth in [Section 5.4 \(Temporary Uses\) of the Zoning Ordinance](#). Any area for temporary food vendors shall be shown on the zoning site sketch and shall be located within all building setback areas.

- Entertainment activities and amplified sound:
 - Live music and similar performance-based entertainment activities shall be incidental and accessory to the farm winery, farm brewery, or farm distillery. Any such activities that are advertised and/or promoted as a separate event or for which a separate admission fee is charged shall not be considered incidental and accessory.
 - Any building in which live music and similar performance-based entertainment activities are held or in which amplified sound is conducted shall be located a minimum of 300 feet from all property lines.
 - Amplified sound from live music or similar performance-based entertainment activities, whether generated indoors or outdoors, shall not be audible at or beyond the property lines of the subject property.
 - No amplified sound shall be conducted after 9:00PM Friday and Saturday and after 7:00PM Sunday through Thursday.
- Direct access to public road required:

Farm wineries, farm breweries, and farm distilleries that are open to the public shall have direct access to a public road and shall use such direct access as the means of public ingress and egress. A shared driveway or private access easement shall not be used for public ingress and egress but may be used for farm operations.
- Parking:

Off-street parking shall be provided per [Zoning Ordinance Section 7.2.5](#).
- Outdoor lighting:
 - Outdoor lighting shall conform to the requirements of [Zoning Ordinance Section 7.4.3](#) for outdoor lighting in the AOC and FOC Districts.
 - Lighting provided for the public’s safe egress from the property shall be turned off within one hour of closing or 10:00PM, whichever is earlier.
- Erosion and sediment control and stormwater management:
 - An erosion and sediment control plan shall be provided if required per Code of Clarke County Chapter 148 (Erosion and Sediment Control) for areas which are not agriculturally exempt as determined by the Building Official or designee.

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- A stormwater management plan shall be provided if required by the Virginia Department of Environmental Quality (DEQ).
- Land disturbance activities shall be conducted in accordance with the approved erosion and sediment control plan and/or stormwater management plan, if applicable.
- Agritourism activity zoning permits and special event permits:
 - Any event proposed to be held at a farm winery, farm brewery, or farm distillery as an agritourism activity zoning permit per [Zoning Ordinance Section 5.4](#) shall be subject to the limitations of these use regulations.
 - Any special event approved per [Code of Clarke County Chapter 57 \(Special Events\)](#) shall be subject to the limitations of these use regulations and shall conform to the requirements of the special event permit approval.
- Activities that are prohibited without additional permit approvals include but are not limited to:
 - Retail sales of merchandise not related to wine, beer, or alcoholic beverages
 - Minor commercial public assembly activities, such as weddings and private parties
 - Personal services such as spa and beauty services or educational/recreational classes
 - Amusement devices and similar rides including motorized go-karts, ATVs, hot air balloons, helicopters
 - Overnight accommodations
 - Camping

Agritourism Activities

The County recognizes that some agricultural operations promote their businesses through public educational activities or by having the public come to their farm to purchase agricultural products to support the business. These “agritourism activities” are temporary activities conducted as an accessory use to an agricultural operation, allowing the general public to view or participate in agricultural activities for recreational, entertainment, or educational purposes. An activity is an agritourism activity regardless of whether the participant paid to participate in the activity. Examples of agritourism activities include:

- Harvest-your-own fruits, vegetables, Christmas trees, and the like
- Farm tours and educational activities associated with the agricultural operation

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- Seasonal activities which may include the following periodic accessory activities:
 - Corn mazes, petting zoos, animal exhibitions, and similar activities
 - Incidental sale of agricultural or silvicultural-related products
 - Incidental live music or similar performance-based entertainment activities
 - Incidental sale of food and beverages
 - Temporary vendors
- Farm-to-table events at which food products produced in whole or in part from products grown by the agricultural operation are served to patrons

It is important that an agritourism activity be both periodic in nature and bear a relationship to the agricultural operation to which it is accessory. Activities such as weddings, private parties and gatherings, camping/overnight stays, or regularly-occurring music or entertainment activities would likely require additional zoning approval.

An agritourism activity requires approval of an agritourism activity zoning permit issued by the Zoning Administrator and must be conducted entirely on a lot or lots containing the agricultural operation to which it is accessory. An agritourism activity is intended to be seasonal or periodic so the maximum duration is 180 days in a calendar year. Applicants are required to provide a schedule with the zoning permit application to demonstrate compliance with this regulation. Approval of any other required Federal, State, or County permits is also required as a condition of zoning permit approval.

Live music and similar performance-based entertainment activities must be incidental and accessory to the permitted agritourism activity. Any such activities that are advertised and/or promoted as a separate event or for which a separate admission fee is charged shall not be considered incidental and accessory to the agritourism activity. Activities that exceed this scope may qualify for a special event permit per [Code of Clarke County Chapter 57 \(Special Events\)](#).

Equestrian activities or “horse shows” do not require an agritourism activity zoning permit if it is approved by a special event permit per [Code of Clarke County Chapter 57 \(Special Events\)](#) or if the following requirements are met:

- The activity shall not be advertised as open to the general public with or without an admission fee.
- The activity shall not include live music or similar performance-based entertainment activities that are spectator-oriented.
- The activity is periodic in nature and shall not occur for more than three consecutive days or for more than 10 days in any 30-day period.