

A	WHAT IS AGRICULTURE?
This section describes the County’s zoning regulations pertaining to agriculture and related activities.	
<u>Contacts:</u> Jeremy Camp, Senior Planner/Zoning Administrator Clarke County Department of Planning Berryville-Clarke County Government Center, 101 Chalmers Court, Second Floor (540) 955-5131, jcamp@clarkecounty.gov	

Agriculture as Regulated by the Clarke County Zoning Ordinance

Clarke County has long been a predominantly rural and agricultural jurisdiction as reflected in its land use planning philosophies and zoning regulations designed to focus development in designated growth areas in order to preserve farmlands and open space. Agriculture is a principal use of land 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 is a permitted use in two zoning districts that make up the vast majority of the County’s land area – the Agricultural-Open Space-Conservation (AOC) District (located west of the Shenandoah River) and the Forestal-Open Space-Conservation District (located east of the Shenandoah River). The Code of Virginia mandates that localities which allow agriculture as a use must allow the use “by-right” in those zoning districts. This means that a locality cannot require an agricultural use to be approved by the governing body through a legislative review process such as a special use permit. Localities are authorized to impose administrative requirements such as minimum setbacks but must allow all agricultural uses that comply with such requirements.

Related Uses

Other uses that are related to agriculture and regulated by the Zoning Ordinance include:

- Farm Winery, Farm Brewery, and Farm Distillery. These agricultural businesses, or “agribusinesses,” are allowed by-right in the AOC and FOC Districts. They must be licensed by the Commonwealth of Virginia under specific categories of licensure (farm winery, limited brewery, or limited distillery) in order to qualify for protections under the Code of Virginia as an agribusiness. In addition to production and harvesting of agricultural products and production of wine, beer, or spirits, these agribusinesses may conduct other activities so long as they are a usual and customary part of the production process. Detailed information on the applicable regulations may be found in [Section C \(Regulations for Agribusinesses\)](#).

- Forestry. Forestry is defined as:

The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services.

Forestry activities enjoy similar protections as agricultural activities with the exception that a Pre-Harvest Plan must be reviewed and approved before the start of a harvest operation. More information on Pre-Harvest Plan requirements may be found in [Section E \(Forestry and Pre-Harvest Plans\)](#).

- Intensive Livestock, Dairy, or Poultry Operations – Large-scale farms involved in the raising of livestock and poultry or dairy operations are considered to be an “intensive” operation if at any one time the operation has 300 “animal units” of livestock or 200 animal units of poultry. An animal unit is used to measure the quantity of animals at an agricultural operation. 300 animal units of livestock equates to:

- 300 cattle (slaughter and feeder)
- 200 mature dairy cattle
- 750 swine (each weighing over 35 pounds)
- 150 horses
- 3,000 sheep and lambs

200 animal units of poultry equates to:

- 11,000 turkeys
- 20,000 laying hens or broilers

Intensive operations are regulated differently from other agricultural operations because of the potential impact that the large number of animals can have on the land and surrounding properties. The Zoning Ordinance contains setback regulations from specific geographic features. An Intensive Livestock, Dairy, or Poultry Facility Development Plan is also required to be submitted for approval (see [Zoning Ordinance Section 6.2.8](#)).

- Agritourism Activities. An “agritourism activity” is a temporary activity conducted as an accessory use to an agricultural operation that allows members of 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 participants pay to participate in the activity and include the following examples:

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

Similar to farm wineries, farm breweries, and farm distilleries, the Code of Virginia limits the regulatory authority of localities over agritourism activities. The Zoning Ordinance requires a zoning permit to be issued by the Zoning Administrator for all agritourism activities. The permitting process and regulations are described in more detail in [Chapter 5 \(Special Events\)](#) of this manual.

Agricultural Buildings (such as barns, run-in sheds, and the like)

An agricultural building is a structure under roof that is accessory to an agricultural or forestry use. An agricultural building is regulated similarly to an accessory structure except that the Clarke County Building Official has determined that it is exempt from building permit requirements. [Section B](#) contains a detailed description of the permitting processes for agricultural buildings.

Uses and Activities That Are Not Considered to Be Agriculture

Onsite Sale of Agricultural Products

The definition of agriculture does not include the onsite sale of agricultural products produced by a farm. The “wholesale or retail sale of agricultural products” is allowed as an accessory use to an agricultural operation, and the “small-scale processing of fruits and vegetables” is allowed with approval of a special use permit by the Board of Supervisors. “Livestock auction markets” are also allowed with approval of a special use permit by the Board of Supervisors. These uses are discussed in more detail in [Section C \(Regulations for Agribusinesses\)](#).

Home Garden

A home garden is the outdoor cultivation of vegetables, fruits, flowers, or other small plants as accessory to a residential use on the same lot and primarily for consumption or enjoyment by the occupants of the residence. This use is allowed by-right as an accessory use in the AOC, FOC, and Rural Residential (RR) zoning districts. Any buildings constructed for a home garden would be considered as accessory structures and not agricultural buildings.

Minor Commercial Public Assembly Activities and Special Events

Some agricultural operations open their facilities to the public as a venue for special events and assembly activities for a fee including weddings, parties, music concerts, and the like. These activities are not considered to be part of the by-right agricultural use or the agritourism activity temporary use. Such activities may be able to be permitted as a “minor commercial public assembly” use with a special use permit approved by the Board of Supervisors, or by Special Event Permit in accordance with [County Code Chapter 57](#). More information on these permitting processes may be found in [Chapter 5 \(Special Events\)](#) of this manual.