

ORDINANCE O2016-04
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA, APPENDIX A
ZONING, ARTICLE 24 TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-
DOORS ACCESSORY USES, ARTICLE 2 DEFINITIONS, ARTICLE 4
AGRICULTURAL (A-1), ARTICLE 5 RESIDENTIAL DISTRICT (R-1), ARTICLE 8
BUSINESS DISTRICT (B-1), ARTICLE 8A BUSINESS DISTRICT (B-2) , AND
ARTICLE 8B SERVICE ENTERPRISE DISTRICT (SE-1) “TEMPORARY EVENT”
USES

BE IT ORDAINED, by the Nelson County Board of Supervisors that Appendix A Zoning, Article 24, Temporary Events, Festival Grounds, Out-of-Door Accessory Uses, Article 2, Definitions, Article 4 Agricultural District (A-1), Article 5 Residential District (R-1), Article 8: Business District (B-1), Article 8A Business District (B-2), and Article 8B Service Enterprise District (SE-1) be amended as follows:

ARTICLE 24. TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-DOORS
ACCESSORY USES

Statement of Intent

This Article provides regulations designed to address temporary uses in districts where such uses would not otherwise be permissible, establishes criteria for the approval or disapproval of such temporary uses, and provides requirements for the permitting and conduct of such uses. The Article also requires for the issuance of a Special Use Permit for properties where the intended use envisions large scale events, and provides for the regulation of out-of-door activities conducted as an accessory use to certain permitted commercial uses. The Article is not intended to regulate, and does not regulate, the traditional non-commercial use of property by its owners; such use is subject to other provisions of this Ordinance, the Noise Ordinance, and other applicable law.

24-1 Definitions

Agritourism Activity: any activity carried out on a farm or ranch engaged in bona fide Agricultural Operations 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.

Festival Grounds: The use of land for the hosting and operation of Category 3 Temporary Events, and the construction, erection, or other use of structures or other improvements (temporary or permanent) associated with Category 3 Temporary Events. The minimum acreage for a Festival Grounds is 250 acres. Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage; if contiguous parcels are under different ownership or control, the owner or agent for each parcel must formally authorize the application for a Festival Grounds Special Use Permit.

Out-of-Door, Accessory Use: The following out-of-door activities are accessory uses to a Banquet Hall, Conference Center, Corporate Training Center, Restaurant, Brewery, and Distillery: receptions, dining, and entertainment, such as musical or other cultural performances, which (i) are conducted in connection with the primary permitted use, (ii) do not involve amplified sound later than 9:00 p.m. on Sundays through Thursdays or later than 10:00 p.m. on Fridays or Saturdays, and (iii) host no more than 500 attendees at any one time during the activity. Unless otherwise specified in (ii), all such accessory activities are limited to 10:00 p.m. on Sundays through Thursdays, and are limited to 11:00 p.m. on Fridays and Saturdays.

Temporary Event: The temporary use of property that is not otherwise a by-right use or use permitted by special or conditional use permit.

Temporary Event, Historical Property: An event such as historical reenactments, living history, home tours, or similar activities which are conducted in connection with a property of historical or natural value when there is either (i) no admission or (ii) a nominal admission dedicated to preservation, restoration, or charitable purposes.

Temporary Event, Non-Profit: An event conducted by local non-profit community service organizations such as fire departments, rescue squads, schools, fraternal organizations, faith-based organizations, or community centers.

Temporary Event, Social: A one day private social event, such as weddings, receptions, and reunions, which is conducted on property not zoned for commercial uses and not a farm winery or agritourism activity venue, which is not open to the general public, to which attendance does not exceed 300 people, and for which the landowner charges a fee for the use of his property.

24-2 Temporary Event Permits

A Temporary Event Permit is required for Temporary Events defined in this subsection as either Category 1, 2, or 3.

24-2-A Exempt Events

The following Temporary Events are exempt from Temporary Event Permit requirements and fees:

1. Private non-commercial functions conducted on the property of the host
2. Social Temporary Events where permitted by right
3. Historical Property Temporary Events
4. Non-Profit Temporary Events having or projecting no more than 500 attendees at any time during the event
5. Athletic and sporting events conducted on sites approved for such events
6. Political gatherings
7. Religious gatherings
8. Out-of-Door Accessory Uses
9. Farm winery activities that, by virtue of the number of attendees, size and location of property, or hours of conduct, do not cause any substantial impact(s) on the health, safety, or general welfare of the public.

10. Agritourism activities that, by virtue of the number of attendees, size and location of property, or hours of conduct, do not cause any substantial impact(s) on the health, safety, or general welfare of the public.

24-2-B Temporary Event, Category 1

A Category 1 Temporary Event is any event which is neither an otherwise permitted use nor exempt and:

- (i) for which admission is charged or at which goods and services are sold, having or projecting no more than 500 attendees at any time during the event, or,
- (ii) Non-Profit Temporary Events having or projecting more than 500 attendees and less than 1,000 attendees at any time during the event, or,
- (iii) Farm winery activities or Agritourism activities which – by virtue of the number of attendees, size and location of property, or hours of conduct – cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or projecting less than 1,000 attendees at any time during the event.

Each such event may not exceed a maximum duration of four (4) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 1 Temporary Event Requires a Temporary Event Permit.

24-2-C Temporary Event, Category 2

24-2-C-1 A Category 2 Temporary Event is any event which is neither an otherwise permitted use nor exempt:

- (i) for which admission is charged or at which goods and services are sold, and having or projecting more than 500 attendees but less than 10,000 attendees, or
- (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event, or,
- (iii) Farm winery activities or Agritourism activities which by virtue of the number of attendees, size and location of property, or hours of conduct cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event

Each such event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 2 Temporary Event Requires a Temporary Event Permit.

24-2-D Structures for Category 1 and 2 Temporary Events

The installation of temporary structures and facilities, such as tents and portable lavatories, is permissible in connection with approved Temporary Event Permits, subject to all applicable laws and regulations. All such temporary structures and facilities shall be lawfully removed within ten (10) days of the approved end date.

No new non-temporary structure(s) used for either Category 1 or 2 Temporary Event(s) shall be installed or constructed unless all required zoning permit approvals and building permit approvals are obtained, as may be applicable.

Existing non-temporary structures proposed for use for either Category 1 or 2 Temporary Event(s) (i) shall have been in existence on the date of adoption of this Article, provided that this requirement shall not apply to accessory structures less than 150 square feet in size, and (ii) shall be a lawful conforming properly permitted structure and shall support or have supported a lawful use of the property.

24-2-E Temporary Event, Category 3

24-2-E-1 A Category 3 Temporary Event is any event having or projecting more than 10,000 attendees and requires a Special Use Permit for Festival Grounds land use to be obtained pursuant to Article 12, Section 3 “Special Use Permits” and Article 13 “Site Development Plan” and also a Temporary Event Permit. The erection of non-temporary structures and/or the installation of permanent infrastructure used in connection with Category 3 Temporary Events is permissible in connection with a Festival Grounds Special Use Permit, and subject to all other required zoning permit approvals and building permit approvals, including but not limited to Zoning Ordinance Article 13 “Site Development Plan.”

24-2-E-2 A Festival Grounds Special Use Permit shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every five (5) years after the initial issuance, after which hearing the Board may revoke or modify the terms and conditions of the Special Use Permit in accordance with Article 12, Section 3 “Special Use Permits.”

24-2-E-3 A Category 3 Temporary Event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday and Sunday morning. Without limiting the general authority of the Board of Supervisors under Article 12, the Board of Supervisors may impose additional conditions or further modify the number of events, days, and times in granting a Special Use Permit for Festival Grounds land use.

24-2-F For the purposes of this Article 24, “applicant” includes the members of an applicant’s immediate family or an affiliated business entity relationship. An affiliated business entity relationship exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control

between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

24-3 Issuance of Temporary Event Permits

24-3-A The Planning and Zoning Director shall evaluate Temporary Event Permit applications to determine if any substantial impacts to public health, safety, or welfare would be reasonably likely to occur, due to the proposed event's operational details such as location, size, or number of attendees; frequency of events; or hours of conduct.

Specifically, the following factors shall be considered when determining whether a Temporary Event Permit will be issued:

1. The completeness of the Temporary Event Permit application as specified in Section 24-3-D;
2. If and how the proposed event would alter the character of the area or circumvent the ordinance;
3. The relationship between the proposed event and the permitted primary use(s) of the property;
4. If and how the proposed event would result in undue interference with other planned activities in the County;
5. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
6. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
7. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
8. Compliance with the requirements of other agencies and departments; and
9. The prior history of compliance by the applicant or landowner with this article, the zoning ordinance, and applicable conditions. Prior or existing non-compliance may be grounds for the denial of a permit.

24-3-B In issuing the permit, the Planning and Zoning Director, may, after consideration of the foregoing factors, modify the terms of approval as may be necessary to protect the health, safety and welfare of attendees and residents of the County.

24-3-C The Director may issue a single Temporary Event Permit for more than one Temporary Event if he determines that each Temporary Event is substantially similar in nature and size and that a single set of conditions would apply to each Temporary Event.

- 24-3-D A Temporary Event Permit application requires the following submissions to be considered a completed application:
1. Temporary Event Permit application signed by the property owner(s) and the event promoter or sponsor, who shall collectively constitute the “Applicant”;
 2. Temporary Event Permit application fee, as follows:
 - a. Category 1 Temporary Event Permit application = \$100
 - b. Category 2 Temporary Event Permit application = \$500
 - c. Category 3 Temporary Event Permit application = \$2,500
 3. Site Plan, drawn to scale and containing all necessary dimensions, annotation, and other details regarding event layout and event operations; except that Category 3 Temporary Event Permit applications require a Site Plan to be prepared in accordance with Article 13 “Site Development Plan” and Article 24-2-E-1 and submitted with the Festival Grounds Special Use Permit application in accordance with Article 12, Section 3 “Special Use Permits.”
 4. Transportation Plan, containing all necessary details regarding vehicular arrival, departure, informational signage, and on-site circulation (as applicable);
 5. Safety Plan, containing all necessary details regarding emergency preparedness and emergency response plans, emergency services, medical services, law enforcement and security services, and similar details necessary for ensuring the safety of attendees and the general public; and
 6. Any other event information deemed necessary by the Director of Planning and Zoning.
- 24-3-E After formal approval of a Temporary Event Permit, and in the event of unforeseen circumstances outside of the event promoter’s control or causation, the Planning & Zoning Director has the authority to formally approve modifications to the Temporary Event Permit and/or the various event plans specified in the preceding subsection, in consultation with the applicable law enforcement and regulatory agencies and with the event promoter(s).

In addition to the proposed introduction of Article 24 (above), the following amendments are also proposed for existing Articles:

Article 2. Definitions

Modify the following:

Community Center: A building and grounds used for recreation, social, educational, health, or cultural activities open to the public or a portion of the public, owned and operated by a public or private non-profit group or agency. The activities may involve leasing of space for the sale of goods and services, offices, and Temporary Events in conjunction with Article 24 of this ordinance and subject to applicable zoning district regulations. The sale of goods and services may be carried on a for-profit basis or for charitable non-profit purposes by the owner or the owner’s approved lessee or licensee. Community Center uses, structures, and activities are subject to site plan approval. Signage conveying information about permissible Temporary Events and/or a permitted Outdoor Entertainment Venue is permissible, subject to applicable

regulations and approval requirements contained elsewhere in this Ordinance. There can be no other exterior indication of non-temporary commercial activities at the center, such as outside storage, sales area, or signage, except for a principal sign identifying the center, a single changeable letter sign, and additional small wayfinding and directional signs which may include identification of tenants.

Add the following:

Outdoor Entertainment Venue: The non-temporary use of any land, including the erection or use of non-temporary structure(s) or the installation of non-temporary infrastructure, for the hosting and operation of Category 1 and Category 2 Temporary Events, Exempt Events, or other entertainment activities for cultural, artistic, social, or recreational purposes.

Article 4. Agricultural District (A-1)

Remove the following:

4-11-3 Temporary events not otherwise a permitted use may be allowed pursuant to a Special Events Permit for a specified time period. [...]

Add the following:

4-1 Uses – Permitted by right:

- Agritourism Activity
- Social Temporary Event, provided that there are no more than twelve such events in a calendar year and that the event complies with the County Noise Ordinance
- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

4-1-a Uses – Permitted by Special Use Permit Only:

- Festival Grounds
- Social Temporary Event, in excess of twelve such events in a calendar year and provided that the event complies with the County Noise Ordinance
- Outdoor Entertainment Venue

Article 5. Residential District (R-1)

Add the following:

5-1-a Uses – Permitted by Special Use Permit only:

- Outdoor Entertainment Venue in connection with a permissible public or semi-public use pursuant to 5-1-4

Article 8. Business District (B-1)

Add the following:

8-1 Uses – Permitted by right:

Category 1 Temporary Event
Category 2 Temporary Event

8-1-a Uses – Permitted by Special Use Permit Only:
Outdoor Entertainment Venue

Article 8A. Business District (B-2)

Add the following:

8A-1 Uses – Permitted by right:
Category 1 Temporary Event
Category 2 Temporary Event

8A-1-a Uses – Permitted by Special Use Permit Only:
Outdoor Entertainment Venue

Article 8B. Service Enterprise District (SE-1)

Add the following:

8B-1 – Uses – Permitted by right:
Category 1 Temporary Event
Category 2 Temporary Event

8B-1-a Uses – Permitted by Special Use Permit Only:
Outdoor Entertainment Venue

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

Adopted: _____, 2016

Attest: _____, Clerk

Nelson County Board of Supervisors