

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
December 16, 2015

Present: Chair Philippa Proulx, Commissioners Mike Harman, Linda Russell, Mary Kathryn Allen, Robert Goad and Larry Saunders (Board of Supervisors Liaison)

Staff Present: Tim Padalino, Director of Planning & Zoning and Stormy Hopkins, Secretary

Call to Order: Chair Proulx called the meeting to order at 7:00 P. M. in the General District Courtroom, County Courthouse, Lovingson.

Approval of Minutes: Chair Proulx noted that a copy of the November 18th meeting minutes were received; they will be reviewed at next month's meeting.

Public Hearing Items: Chair Proulx noted that there are not public hearing items.

1. "Bed and Breakfast Uses" – R2015-66

Mr. Padalino noted that the slides only reflect the modifications (noted in red) that were requested at the last meeting by the Planning Commissioners (PC), in response to comments received during the public hearing (see attached, dated October 30, 2015). He also noted that he did have Mr. Phil Payne review these; and that Mr. Payne indicated that they looked good from a technical standpoint and from here forward, it is a policy decision. He then noted that the PC's request to the Board of Supervisors (BOS) for a three (3) month extension was authorized/approved on December 8th. The new deadline for a recommendation is March 4th, 2016.

The Commissioners and Staff discussed the proposed changes and the PC recommended the following:

1. Article 5: Residential District R-1 – Section 5-1 Uses – Permitted by-right: remove the following:
 - a. Bed and breakfast, Class A and Vacation house: remove *"two or more of the following apply: (a) the subject property is five (5) acres or greater; (b)"; and "or (c) the subject property adjoins contiguous property(s) entirely zoning Agricultural A-1"*.
2. Article 5: Residential District R-1 – Section 5-1-a Uses – Permitted by Special Use Permit only: remove the following:
 - a. *5-1-6a Boardinghouse*
3. Article 6: Residential District R-2 – Section ~~5-1-a~~ 6-1-a Uses – Permitted by Special Use Permit only: add the following:
 - a. *Boardinghouse (rearrange number sequence accordingly)*
4. Article 2: Definitions: Bed and breakfast, Class A and Bed and Breakfast Class B – remove *home occupations* from both.
5. Article 2: Definitions: Hotel – remove *rooming house*,
6. Article 8: Business District B-2: remove the following:
 - a. *8A-1-15 Bed and breakfast, Class A*
 - b. *8A-1-16 Bed and breakfast, Class B*

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c. 8A-1-18 Hotel

7. Article 8: Business District B-2 – Section 8A-1-a Uses – Permitted by Special Use Permit only: add 8A-1-15 Hotel
8. Article 8: Business District B-2 – Section 8A-1-a Uses – Permitted by Special Use Permit only: remove the following:
 - a. *8A-1-7a Campground*

The Commissioners posed the following questions:

1. If a SUP is applied for (such as a B&B) and the use requested is defined by ordinance, is it possible for conditions to be created that are more restrictive than what is allowed by definition? Mr. Padalino noted that the BOS could impose more restrictive conditions if there is a reason for doing so and if the conditions have a nexus with the protection or promotion of public health, safety, or welfare.
2. Is there a definition of the number of room there has to be to be called a hotel? Mr. Padalino noted that a hotel would allow for transient lodging exceeding eight (8) rooms, which is the maximum number of rooms permissible in a Bed & Breakfast, Class B definition. It would also depend on the length of stay.
3. Should the Uses – Permitted by right in Sections 8-1 and 8-2 be changed to Uses – Permitted by SUP only? Mr. Padalino stated that he does not think so. Commissioner Goad suggested the following:
 - a. Section 8-1 Uses – Permitted by right, *“subject to obtaining a SUP for a single family dwelling unless it is a non-conforming use.”*

Chair Proulx asked for another draft of the proposed amendments and to have Mr. Payne review those before the January meeting. Commissioner Russell asked if there needs to be an advertisement for a public hearing. Mr. Saunders noted that with removing some items, he thinks those are major changes. Mr. Padalino noted that he would check with Mr. Payne regarding the procedure.

Chair Proulx made a motion that Staff check with Phil Payne regarding advertising for a public hearing on the proposed amendment changes; if required to do so, advertise for the January Planning Commission meeting. Commissioner Russell provided the second; the vote 6-0.

The PC took a five (5) minute break at 8:10 p.m. The meeting reconvened at 8:15 p.m.

Other Agenda Items:

1. “Temporary Events, Festival Grounds, and Out-Of-Door Accessory Uses” – R2015-68:

Mr. Padalino noted that the slides only reflect the modifications (noted in red) that were requested at the last Planning Commission meeting (see attached documents dated 12/2/2015). He noted that he met with Mr. Payne on the 30th of last month regarding these proposed amendments. He further noted that the PC’s request to the BOS for a three (3) month extension was authorized/approved on December 8th, and the new deadline for a recommendation is March 4th, 2016.

The Commissioners and Staff discussed the proposed changes, and the PC had the following questions/comments/changes:

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Updated: 2/12/2016
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1. Is “temporary” defined? Mr. Padalino noted that it was specified in each of the event categories.
2. There needs to be some clarity given for chart in Section 24-3-C (page 5). It should include “and” to clearly indicate that someone could do all numbers in each category (as opposed to being an “either/or”).
3. Need to add “Planning & Zoning” before Director in Section 24-3-D (page 5).
4. Need to change spelling of promotor to “*promoter*” in Section 24-3-E (page 5).
5. What if a property is split-zoned (A-1 and R-1), that gets a Category 1 temporary event permit, does that follow under the third line (Any other property zoned A-1, B-1, B-2, or SE-1)? Mr. Padalino stated that he believes as long as the event is held in the A-1 portion of the property, it would be permissible.
6. In Section 24-2-E-2 (page 3), should/could the PC review the SUP first, every five (5) years before the BOS? Mr. Padalino referenced Section 12-3-8 (“Renewal of SUP with Time Limits, Expiration, Revocation”) in the current Zoning Ordinance, which contains established procedures.
7. Could an event permit be revoked? Mr. Padalino noted that it could be revoked, if the use is not being conducted as it is supposed to be under the terms or conditions or approval.
8. Are the fees a one-time thing? Mr. Padalino indicated that SUP application fees are a one-time payment and that Temporary Event Permits require fee payment for each permit application but not necessarily for each event, depending on the details of the application.
9. The word “*renew*” needs to be removed from Section 24-2-E-2 (page 3).

Mr. Saunders asked if the BOS could revoke a SUP? Mr. Padalino again referenced Section 12-3-8 and stated that a SUP could be revoked if there was a violation, and there would have to be cause to do so.

Commissioner Allen made a motion to hold a public hearing on temporary events. Commissioner Harman provided the second; the vote 6-0.

Chair Proulx asked for a revised draft of the proposed amendments before the January meeting. Mr. Padalino stated that he would have a revised copy for the PC.

Staff Updates:

Mr. Padalino reported on the following:

1. Farmer’s Market working group: The citizen’s working group, headed up by Mr. Tommy Bruguiere, met on November 19th. Mr. Brady Nicks was added to the group. A lot of progress has been made. A final draft reflecting the most recent discussions will be made available to the working group members before the next BOS meeting.
2. A SUP for a “banquet hall” for Mr. Thieblot will be on the PC’s agenda for next month.
3. Work on the Rockfish Valley Area Plan will soon begin due to a grant award through the AFID Planning Grant program. That program requires that an “Ag Working Group” be created with representatives from the community to participate in the RVAP in a formalized way. Within the grant application, staff recommended that the Ag Working Group contain two (2) County Supervisors, one (1) Planning Commissioner, and others from the local agricultural industries (agritourism/forestry). After discussion among the Commissioners, it was determined that Chair Proulx would be the PC representative on the Ag Working Group.

Board of Supervisors report: Mr. Saunders did not report anything.

Adjournment:

At 9:20 P.M. Commissioner Allen made a motion to adjourn; vote 6-0.

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Respectfully submitted,



Stormy V. Hopkins
Secretary, Planning & Zoning

➤ **Article 2: Definitions**

Delete the following:

~~**Boardinghouse, tourist home:** A building arranged or used for lodging, with or without meals, for compensation by more than five (5) and not more than fourteen (14) persons and open to transients. A boardinghouse or tourist home shall not be deemed a home occupation.~~

~~**Tourist home:** See Boardinghouse.~~

Add the following:

Bed and breakfast, Class A: A use composed of transient lodging provided by the resident occupants of a dwelling that is conducted within said dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than five (5) guest rooms in the aggregate, and having not more than twelve (12) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the bed and breakfast home occupation provided that the dining and meeting rooms are accessory to the bed and breakfast home occupation use.

Bed and breakfast, Class B: A use composed of transient lodging provided within a single family dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than eight (8) guest rooms in the aggregate, and having not more than twenty-four (24) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the bed and breakfast provided that the dining and meeting rooms are accessory to the bed and breakfast use.

Boardinghouse: A use composed of a single building in which more than one room is arranged or used for lodging by occupants who lodge for thirty (30) consecutive days or longer, with or without meals, for compensation. A boardinghouse may be occupied by the owner or operator, but may not be operated on the same parcel as a bed and breakfast.

Tent: A structure or enclosure, constructed of pliable material, which is supported by poles or other easily removed or disassembled structural apparatus.

Transient: A guest or boarder; one who stays for less than thirty (30) days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

Transient lodging: Lodging in which the temporary occupant lodges in overnight accommodations for less than thirty (30) consecutive days.

Vacation House: A house rented to transients. Rental arrangements are made for the entire house, not by room. Vacation houses with more than five (5) bedrooms are subject to the requirements contained in Article 13, Site Development Plan.

Amend the following:

Campgrounds: Any place used for transient camping where compensation is expected in order to stay in a tent, travel trailer, or motor home. Campgrounds require the provision of potable water and sanitary facilities. ~~A tract of land developed to accommodate paying guests, or nonpaying guests as in a group-sponsored outing, for short duration in tents designed for single families or travel trailers owned by the guests.~~

Dwelling: Any building which is designed for residential purposes (except apartment houses, boardinghouses, dormitories, hotels, and motels).

Dwelling, single-family detached: A building arranged or designed to contain one (1) dwelling unit ~~with not more than (5) lodgers or boarders.~~

Home occupation, class A: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than one (1) person is employed, other than members of the family residing on the premises, such as the tailoring of garments, ~~rental of rooms to tourists~~, the preparation of food products for sale, and similar activities; beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Home occupation, class B: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than four (4) persons are employed, other than members of the family residing on the premises, such as the tailoring of garments, ~~rental of rooms to tourists~~, the preparation of food products for sale, and similar activities; beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Hotel: Any hotel, inn, hostelry, motel, rooming house, or other place used for overnight lodging which is rented by the room to transients, is not a residence, and where the renting of the structure is the primary use of the property. ~~A building designed or occupied as the more or less temporary abiding place for fifteen (15) or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.~~

Travel Trailer: A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreational, and vacation uses. The term "travel trailer" does not include mobile homes or manufactured homes. ~~Any vehicle less than thirty two (32) feet and used or constructed for use as a conveyance upon highways, so designed and constructed as to permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons.~~

➤ **Article 4: Agricultural District A-1**

Amend as follows:

Section 4-1 *Uses – Permitted by right.*
4-1-3 ~~Boardinghouse, tourist home~~ Boardinghouse
4-1-30 Bed and breakfast, Class A
4-1-31 Bed and Breakfast, Class B
4-1-32 Vacation House

Section 4-1-a *Uses – Permitted by Special Use Permit only:*
4-1-10a Campgrounds

➤ **Article 5: Residential District R-1**

Amend as follows:

Section 5-1 *Uses – Permitted by-right.*
5-1-17 Bed and breakfast, Class A, if two or more of the following apply: (a) the subject property is five (5) acres or greater; (b) the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1; or (c) the subject property adjoins contiguous property(s) entirely zoned Agricultural A-1.
5-1-18 Vacation House, if two (or more) of the following apply: (a) the subject property is five (5) acres or greater; (b) the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1; or (c) the subject property adjoins contiguous property(s) entirely zoned Agricultural A-1.

Section 5-1-a *Uses – Permitted by Special Use Permit only:*
5-1-4a Bed and breakfast, Class A, if the provisions in 5-1-17 do not apply to the subject property
5-1-5a Vacation House, if the provisions contained in 5-1-18 do not apply to the subject property
5-1-6a Boardinghouse

➤ **Article 6: Residential District R-2**

Amend as follows:

Section 6-1 *Uses – Permitted by right.*
6-1-18 Boardinghouse

Section 6-1-a *Uses – Permitted by Special Use Permit only:*
6-1-3a Bed and breakfast, Class A
6-1-4a Vacation House

➤ **Article 7: Residential Planned Community District RPC**

Amend as follows:

Section 7-5-2 Single-Family Residential Sector - SR

In Single-Family Residential Sectors, the following uses will be permitted:

1. Single-family detached dwellings.
2. Single-family attached dwellings.
3. Other uses as permitted in Residential Districts R-1 and in Section 7-5-1(b); except that Vacation House shall be a permissible by-right use in the SR Sector of the RPC District and shall not require a Special Use Permit.

➤ **Article 8: Business District B-1**

Amend as follows:

Section 8-1 Uses – Permitted by right.

- 8-1-25 Bed and breakfast, Class A
- 8-1-26 Bed and breakfast, Class B
- 8-1-27 Vacation House

Section 8-1-a Uses – Permitted by Special Use Permit only:

- 8-1-13a Campground

➤ **Article 8A: Business District B-2**

Amend as follows:

Section 8A-1 Uses – Permitted by right.

- 8A-1-15 Bed and breakfast, Class A
- 8A-1-16 Bed and breakfast, Class B
- 8A-1-17 Hotel
- 8A-1-18 Vacation House

Section 8A-1-a Uses – Permitted by Special Use Permit only:

- 8A-1-7a Campground

► **Article 8B: Service Enterprise District SE-1**

Amend as follows:

Section 8B-1 Uses – Permitted by right.

8B-1-3 Boardinghouse, ~~tourist house~~ vacation house, ~~bed and breakfast inn~~ class A bed and breakfast, class B bed and breakfast, churches, church adjunctive graveyards, libraries, schools, hospitals, clinics, parks, playgrounds, post offices, fire department, and rescue squad facilities

Section 8B-1-a Uses – Permitted by Special Use Permit only:

8B-1-14a Campground

9/24 Draft Amendments for PC Consideration

Payne's comments 10/8/15

TP recommendations 10/20/2015

TP modifications 12/2/2015

**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 small band 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) hosts less than 1,000 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.

Comment [TMP1]: This was added as a recommendation for amplified outdoor music to be conducted no later than 9:00pm on weeknights or 10:00pm on weekend nights, while allowing all other outdoor accessory uses (such as a theater performance, etc.) to be conducted until 10:00pm or 11:00pm on those same nights

The concept is to have amplified music stop earlier in the night as compared to other types of accessory uses, since amplified music may be more likely to cause a nuisance or impact to neighbors and adjoining properties.

Deleted: comply in all respects with other applicable ordinances and regulations.

Deleted: Such

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 which is not open to the general public, such as weddings, receptions, and reunions, to which attendance does not exceed 300 people, conducted on property not zoned for commercial uses 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 less than 1,000 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 and Agritourism activities conducted between the hours of 7:00 a.m. and 7:00 p.m.

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 less than 1,000 attendees, or,
- (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees, or,
- (iii) Farm winery or Agritourism activities conducted after 7:00 p.m. and having or projecting less than 1000 attendees.

Deleted: The temporary outdoor use of property(s) for activities not otherwise permissible and which involve activities and/or structures outside the scope of the properly permitted use(s) of the subject property(s), or which otherwise extend beyond the normal uses and standards allowed by the Zoning Ordinance. Temporary events are subject to the provisions, regulations, and limitations of Article 23 of the Nelson County Zoning Ordinance.

Deleted: as permissible pursuant to VA Code §15.2-2288.3 and having or projecting less than 400 attendees for properties 5 acres or smaller, or having or projecting less than 1,000 attendees for properties greater than 5 acres
10. Agritourism activities as permissible pursuant to VA Code §15.2-2288.6, §3.2-300 and §3.2-6400 and having or projecting less than 400 attendees for properties 5 acres or smaller, or having or projecting less than 1,000 attendees for properties greater than 5 acres

Deleted: for properties 5 acres or smaller, or having or projecting 1,000 or more attendees for properties greater than 5 acres, or, (iv) Agritourism activities having or projecting 400 or more attendees for properties 5 acres or smaller, or having or projecting 1,000 or more attendees for properties greater than 5 acres

Deleted: No more than (6) Category 1 Temporary Events may be conducted in a calendar year by the same applicant or on the subject property or on properties contiguous to or adjacent to the subject property if under the same ownership or control as the subject property.

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, for which admission is charged or at which goods and services are sold, having or projecting 1,000 or more attendees but less than 10,000 attendees. 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

Each structure used for either a Category 1 or 2 event (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. 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.

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 permanent structures and/or the installation of permanent infrastructure used in connection with Category 3 Temporary Events is permissible, subject to all other Zoning Ordinance provisions, including but not limited to 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 renew, 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;

Deleted: ¶

-2-C-2 Except as provided in connection with Festival Grounds, and subject to the criteria for issuance of a Temporary Event Permit provided in Section 23-3, no more than two (2) Category 2 Temporary Events may be conducted in a calendar year by the same applicant or on the subject property or on properties contiguous to or adjacent to the subject property if under the same ownership or control as the subject property. ¶

Deleted: no more than twelve Category 2 Temporary Events may be conducted in a calendar year two (2) Category 2 Temporary Event Permits may be issued in a calendar year to the same applicant or for the same property or for properties contiguous to, or adjacent to, such property.

Deleted: A Festival Grounds Special Use Permit shall automatically terminate five years after its issuance, upon which time a new Festival Grounds Special Use Permit may be applied for.

Deleted: A property granted a Special Use Permit for Festival Grounds use may host no more than three (3) Category 3 Temporary Events and no more than six (6) three (3) Category 1 or 2 Temporary Events in a calendar year.

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 restrict the number of events, days, and times in granting a Special Use Permit for Festival Grounds land use,

Deleted: pursuant to this subsection

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 will consider the following factors when determining whether a Temporary Event Permit will be issued;

Deleted: Whether a Temporary Event Permit will be issued will be determined after consideration of the following factors:

1. If and how the proposed event would result in undue interference with other planned activities in the County;
2. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
3. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
4. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
5. Compliance with the requirements of other agencies and departments; and
6. 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.

Deleted: shall

24-3-B In issuing the permit, the Planning and Zoning Director, may, after consideration of the foregoing factors:

1. Establish or modify times during which activities or amplified sound, or both, may be conducted;
2. Fix the permitted dates for the event;
3. Limit the number of attendees; and
4. Impose such conditions as are necessary to protect the health, safety and welfare of attendees and residents of the County.

24-3-C The maximum number of properly-permitted non-exempt Temporary Events which may be conducted in a calendar year on the same subject property, or on properties contiguous to or adjacent to the subject property if under the same ownership or control as the subject property, is limited as follows:

Type of Property	Category 1	Category 2	Category 3
<u>Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is equal to or greater than 250 acres*</u>	<u>16</u>	<u>8</u>	<u>4</u>
<u>Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is less than 250 acres*</u>	<u>12</u>	<u>6</u>	<u>3</u>
<u>Any other property zoned A-1, B-1, B-2, or SE-1**</u>	<u>8</u>	<u>4</u>	<u>2</u>
<i>*Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage.</i>			
<i>**Category 3 Temporary Events are not permissible in Service Enterprise District (SE-1)</i>			

24-3-D 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. Any such combined Temporary Event Permit shall not have the effect of allowing more Temporary Events than the limits set forth in the preceding subsections.

~~Deleted:~~ , provided that, if allowable, no more than six such temporary events in a calendar year may be permitted under a single permit.

24-3-E 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 promotor 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 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);

~~Deleted:~~ , per event

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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.

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

➤ **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 fifty such events in a calendar year and that any noise generated by the event is not discernible by adjoining landowners.
- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

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

Festival Grounds

➤ **Article 8. Business District (B-1)**

Add the following:

8-1 Uses – Permitted by right:

- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

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

Festival Grounds

➤ **Article 8A. Business District (B-2)**

Add the following:

8A-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

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

Festival Grounds

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

Add the following:

8B-1 – Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

LAW:

§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities. —

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;

2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

6. The sale of wine-related items that are incidental to the sale of wine.

"Agritourism activity" means any activity carried out on a farm or ranch 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. *Virginia Code* § 3.2-6400

§ 15.2-2288.6. Agricultural operations; local regulation of certain activities.

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400;
2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;
3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or
4. Other activities or events that are usual and customary at Virginia agricultural operations. Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

D. The provisions of this section shall not affect any entity licensed in accordance with Chapter 2 (§ 4.1-200 et seq.) of Title 4.1. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ 3.2-300 et seq.) of Title 3.2, to alter the provisions of § 15.2-2288.3, or to restrict the authority of any locality under Title 58.1.

§ 3.2-300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural operation" means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.

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"Production agriculture and silviculture" means the bona fide production or harvesting of agricultural or silvicultural products but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

§ 3.2-6400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural products" means any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

"Agritourism activity" means any activity carried out on a farm or ranch 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.

Land use tax consideration:

Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. *Virginia Code* § 58.1-3230

State law mandates that day festival-type activities on farms are permitted by right (except, perhaps, Sundays, which is not worth trying to regulate). Night functions on farms can be regulated.