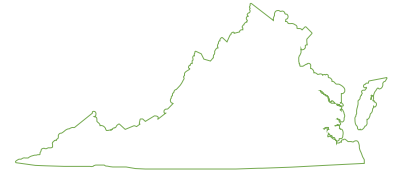


Zoning to Support Agricultural Enterprises



CITY OF CHESAPEAKE

Zoning ordinances define agricultural uses and can be used to determine whether activities like agritourism, commercial composting, farm stands, riding stables, wineries, or value-added processing are allowed by right or are considered accessory (subordinate to agriculture but related) or ancillary (unrelated). They also determine when uses are conditional and/or require special permitting. Once defined, ordinances usually include performance standards to guide the appearance, intensity, scale, and scope of the built environment. In Agricultural Protection Zones, they generally limit the amount of land and/or structures allowed for specific purposes and require that accessory and ancillary activities support and do not thwart future farming activities.

Accessory and Ancillary Uses of Agricultural Land

Accessory uses support agriculture but are secondary to its principal permitted uses. In the [Code of Virginia § 3.2-6400, Definitions](#) a farm is considered land used for the production, cultivation, growing, harvesting, or processing of agricultural products. Agricultural products are broadly defined to include “livestock, aquaculture,

poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops” but also include agritourism, which is defined in the Code. Given this definition, accessory uses would include marketing-related activities like value-added processing or a farm stand.

Ancillary uses are secondary land uses that do not support the farming operation but also do not interfere with it, like renting office space in an outbuilding or leasing land to hunters.

Agritourism

The Code of Virginia defines agritourism activity as “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” (See [Agritourism](#) fact sheet) and states that no locality is allowed to regulate agritourism activities unless there is a substantial impact on the health, safety, or general welfare. However, the Code does provide criteria to measure those impacts. As a result, some communities have created zoning



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provisions to establish standards and/or to require special permits for certain types of activities. Standards and permitting often are based on acreage requirements and number of attendees, and to address food trucks, vehicle trips, traffic, and other concerns related to health, safety, and general welfare.

Composting

Composting combines organic wastes in rows, piles, or vessels, including leaves and yard waste, manures, discarded food, and bulking agents such as wood chips. Adding compost to the soil improves its fertility, promoting higher yields and limiting petrochemical inputs. It has other environmental benefits, as it provides carbon sequestration, improves water retention in soils, and reduces methane emissions by keeping organic waste out of landfills.

Some farms compost their own waste while others handle municipal leaves and other organic materials as a source of extra income. Zoning ordinances can address the size and scale of composting operations, determine what wastes can be composted, and create policies to mitigate odors and pests. Commercial composting facilities generally are regulated by state as well as local governments because they have larger impacts and require plan approval and setbacks especially if in or near residential zones. Local governments also may

consider regulations to prevent stormwater runoff, and to screen large sites from public view.

Farm Labor Housing

Zoning can address housing development specifically for farm labor. Ordinances vary widely but generally are fairly flexible as long as standards uphold public health and safety laws. They may allow mobile homes, cabins, or other temporary housing for seasonal workers, or allow building a second or third house on farm without triggering subdivision regulations. Housing provided through the federal H2A program must meet state and local health and safety standards—if not, [federal standards](#) must be applied. Employers are responsible for compliance with all the applicable standards, including those that require cleaning.

On-Farm Energy Production

Wind turbines, solar arrays, and methane digesters supply farms with renewable energy and in some cases can be sold to utilities for additional income. By adapting roofs and other structures, ditches, and other marginal land, they can augment agricultural operations without undermining the farm's underlying purpose.

Utility-scale energy production, especially solar, requires significantly more land and is a more complex issue,

often competing with agriculture and food production. Thus, zoning frequently allows energy production for agricultural use by right but is more restrictive about commercial installations (See [Mitigating the Impacts of Solar Siting](#) fact sheet).

The Virginia Department of Environmental Quality (DEQ) [has developed regulations](#) that use a Permit by Rule (PBR) for small renewable energy projects of 150 megawatts (MW) and less. As a result, any renewable energy project that meets DEQ's regulatory requirements is deemed to have a permit. The statute and implementing regulations address pre-construction natural resource analyses, mitigation, post-construction monitoring, and other PBR requirements.

Retail Marketing and Value-Added Processing

Zoning can be used to support on-farm sales through farm stands, Community Supported Agriculture (CSA), and other forms of direct marketing. Ordinances address the scale, scope, and seasonality of different types of operations, what kinds of products can be sold, and how much must be produced on the farm. They also address issues such as road setbacks, parking, lighting, and signage. These issues are especially important to address for year-round farm stores and CSAs, which require parking and infrastructure requirements to



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accommodate shoppers and farm-share pick up.

Zoning also can be used to regulate farm-to-consumer marketing in public places. Communities often support *farmers' markets*, where farmers come together to sell local food and other products. Depending on size and frequency, they may take place seasonally in a facility like a park or parking lot, or year-round in a permanent structure. Zoning can assign how, when, and where these markets operate. Some communities have a straightforward permitting process and allow farmers' markets by right across all or multiple zones. Others require a special permit and restrict them to commercial, mixed use, or other specified zones. Ordinances may leave rulemaking to the individual market or regulate

what kinds of products may be sold. They also may regulate signage, parking, and whether entertainment or the sale of local crafts are allowed. *Mobile markets* operate like small farmers markets on wheels, often serving communities with limited access to fresh, local food. Communities may have specific ordinances for these markets or simply extend farmers' market regulations. Some ordinances dictate the size or grade of allowable vehicles, but usually they are allowed in parking lots of facilities with public access.



GRAPEWOOD FARM

Finally, zoning can support on-farm processing, as well as *community kitchens* and *incubators* which allow for shared use of food processing equipment farmers can use to add value to their products. These operations must comply with state and local health ordinances and sanitary regulations.

Signage

Signs can be used to promote the location of local farms. [The Code of Virginia Chapter 12 section 33.2-1204](#) addresses signage in its General Policies and Regulations. Zoning also can address both permanent and seasonal signs and billboards. Permits and setbacks may be required, especially for permanent signs. Ordinances usually define their size and placement, what materials can be used and how much illumination—if any—is allowed. For example, Fauquier County requires a sign/zoning permit for permanent signs when installed or refaced, and a building permit for a new sign unless the sign is painted on a building, is a flat sign screwed to the building, or is a freestanding sign less than 6' in height with no lighting.

Wineries, Breweries, and Distilleries

Wineries, breweries, and distilleries are another way farmers can add value to their products. Communities can use zoning to determine which types of activities are allowed by-right and where—usually in rural areas—and which require a zoning clearance, like weddings and other large events. While producing and harvesting fruit and grains are considered agricultural, processing them into alcoholic beverages like wine, beer, and spirits are not and are regulated under [Virginia Code § 4.1-206.1](#).



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[Manufacturer licenses](#). Zoning can be used to address issues like on-farm wine tasting rooms, restaurants, helicopter rides, as well as acreage requirements based on numbers of visitors and other issues related to agritourism.

To Learn More

- › [American Planning Association: “Policy Guide on Community and Regional Food Planning”](#)
- › [Code of Virginia § 3.2-6400, Definitions](#)
- › [2009 Small Renewable Energy Project Statute](#)
- › [Virginia Cooperative Extension: “Bramble Hollow Farm: A Soil for Water Case Study”](#)
- › [US Department of Labor: “H2A Housing Standards for Rental and Public Accommodations”](#)