

Planning For Agritourism, Local Permitting for Farm Enterprises (Part 1)

Presented by

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Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

- **§ 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.
- "Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.
- "Farm or ranch" means one or more areas of land used for the production, cultivation, growing, harvesting or processing of agricultural products.
- "Inherent risks of agritourism activity" mean those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.
- "Participant" means any person, other than an agritourism professional, who engages in an agritourism activity.

Permits Which May Be Needed For The Establishment or Operation of A Business

- Building Permit
- Business License
- Sales Tax
- Health Regulation
- Zoning
- Environmental Regulation
- E & S Permit
- Liability Issues

NOT ALL INCLUSIVE



COUNTY OF ALBEMARLE
Department of Community Development
401 McIntire Road, Room 227
Charlottesville, Virginia 22902-4596

Phone (434) 296-5832

Fax (434) 972-4126

Permit # _____

**EXEMPTION OF FARM BUILDINGS OR STRUCTURES FROM THE VIRGINIA UNIFORM
STATEWIDE BUILDING CODE**

In accordance with Section 101.4 of the September 15, 2000 amendment to the 1996 Virginia Uniform Statewide Building Code (Va. USBC), farm buildings or structures are exempt from regulation by the VA. USBC. As such, the Building Code Office requires no inspections, and none will be performed. Also, issuance of a Certificate of Occupancy is not required, and none will be issued.

Farm Building Structure:

A farm building or structure is any structure, not used for residential purposes, located on a farm, which is utilized primarily for a) the storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced on the farm; or b) sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products; or c) business or office uses related to the farm operations; or d) use of farm machinery or equipment, or maintenance or storage of vehicles, machinery equipment of the farm; or e) storage or use of supplies and materials used on the farm; or f) implementation of the best management practices associated with farm operations.

A building or a portion of a building located on a farm is operated as a restaurant as defined in Section 35.1-1 of the Code of Virginia and licensed as such by the Board of Health under Chapter 2 (Section 35.1-11 et seq.) of the Title 35.1 of the Code of Virginia is not exempt from regulation by the Virginia Uniform Statewide Building Code.

Farm:

A farm is a tract, or plot, of land devoted to agricultural purposes, or to the raising of animals or livestock; or a tract of water devoted to the artificial cultivation of aquatic life.

I/We have read and understand the above, and affirm that the structure proposed to be built qualifies as a farm building or structure.

Owner: _____ Date: _____

Co-Owner: _____ Date: _____

Code of Virginia

Title 58.1. Taxation

Chapter 37. License Taxes

- **§ 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority.**
- C. No county, city, or town shall impose a license fee or levy any license tax:
 - 2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town, provided such products are grown or produced by the person offering them for sale;
 - 5. On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in §§ [58.1-3712](#) and [58.1-3713](#).

Code of Virginia

Title 58.1. Taxation

Chapter 6. Retail Sales and Use Tax

- **§ 58.1-609.2. Agricultural exemptions.**
- The tax imposed by this chapter or pursuant to the authority granted in §§ [58.1-605](#) and [58.1-606](#) shall not apply to the following:
 - 1. Commercial feeds; seeds; plants; fertilizers; liming materials; breeding and other livestock; semen; breeding fees; baby chicks; turkey poults; rabbits; quail; llamas; bees; agricultural chemicals; fuel for drying or curing crops; baler twine; containers for fruit and vegetables; farm machinery; medicines and drugs sold to a veterinarian provided they are used or consumed directly in the care, medication, and treatment of agricultural production animals or for resale to a farmer for direct use in producing an agricultural product for market; tangible personal property, except for structural construction materials to be affixed to real property owned or leased by a farmer, necessary for use in agricultural production for market and sold to or purchased by a farmer or contractor; and agricultural supplies provided the same are sold to and purchased by farmers for use in agricultural production, which also includes beekeeping and fish, quail, rabbit and worm farming for market.
 - 2. Every agricultural commodity or kind of seafood sold or distributed by any person to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or consumption in the process of preparing, finishing, or manufacturing such agricultural or seafood commodity for the ultimate retail consumer trade, except when such agricultural or seafood commodity is actually sold or distributed as a marketable or finished product to the ultimate consumer. "Agricultural commodity," for the purposes of this subdivision, means horticultural, poultry, and farm products, livestock and livestock products, and products derived from bees and beekeeping.
 - 3. Livestock and livestock products, poultry and poultry products, and farm and agricultural products, when produced by the farmer and used or consumed by him and the members of his family.

Code of Virginia

Title 58.1. Taxation

Chapter 6. Retail Sales and Use Tax

(Continued)

- 4. Machinery, tools, equipment, materials or repair parts therefor or replacement thereof; fuel or supplies; and fishing boats, marine engines installed thereon or outboard motors used thereon, and all replacement or repair parts in connection therewith; provided the same are sold to and purchased by watermen for use by them in extracting fish, bivalves or crustaceans from waters for commercial purposes.
- 5. Machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy or supplies, and cereal grains and other feed ingredients, including, but not limited to, drugs, vitamins, minerals, nonprotein nitrogen, and other supplements or additives, used directly in making feed for sale or resale. Making of feed shall include the mixing of liquid ingredients.
- 6. Machinery or tools and repair parts therefor or replacements thereof, fuel, power, energy or supplies, used directly in the harvesting of forest products for sale or for use as a component part of a product to be sold. Harvesting of forest products shall include all operations prior to the transport of the harvested product used for (i) removing timber or other forest products from the harvesting site, (ii) complying with environmental protection and safety requirements applicable to the harvesting of forest products, (iii) obtaining access to the harvesting site, and (iv) loading cut timber or other forest products onto highway vehicles for transportation to storage or processing facilities.
- 7. Agricultural produce, as defined in § [3.2-4738](#), and eggs, as described in § [3.2-5305](#), raised and sold by an individual at local farmers markets and roadside stands, when such individual's annual income from such sales does not exceed \$1,000.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 51. Food and Drink

- **§ 3.2-5130. Inspections required to operate food establishment.**
- A. It is unlawful to operate a food manufacturing plant, food storage warehouse, or retail food store until it has been inspected by the Commissioner. This section shall not apply to:
 - 1. Food manufacturing plants operating under a grant of inspection from the Office of Meat and Poultry Services or a permit from the Office of Dairy and Foods in the Department; and Grade A fluid milk manufacturing plants and shellfish and crustacea processing plants operating under a permit from the Virginia Department of Health;
 - 2. Nonprofit organizations holding one-day food sales;
 - 3. Private homes where the resident processes and prepares candies, jams, and jellies not considered to be low-acid or acidified low-acid food products, dried fruits, dry herbs, dry seasonings, dry mixtures, coated and uncoated nuts, vinegars and flavored vinegars, popcorn, popcorn balls, cotton candy, dried pasta, dry baking mixes, roasted coffee, dried tea, cereals, trail mixes, granola, and baked goods that do not require time or temperature control after preparation if such products are: (i) sold to an individual for his own consumption and not for resale; (ii) sold at the private home or at farmers markets; (iii) not offered for sale to be used in or offered for consumption in retail food establishments; (iv) not offered for sale over the Internet or in interstate commerce; and (v) affixed with a label displaying the name, physical address, and telephone number of the person preparing the food product, the date the food product was processed, and the statement "NOT FOR RESALE -- PROCESSED AND PREPARED WITHOUT STATE INSPECTION" shall be placed on the principal display panel. Nothing in this subdivision shall create or diminish the authority of the Commissioner under [§ 3.2-5102](#);

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Title 3.2. Agriculture, Animal Care, and Food

Chapter 51. Food and Drink

- 4. Private homes where the resident processes and prepares pickles and other acidified vegetables that have an equilibrium pH value of 4.6 or lower if such products are (i) sold to an individual for his own consumption and not for resale; (ii) sold at the private home or at farmers markets; (iii) not offered for sale to be used in or offered for consumption in retail food establishments; (iv) not offered for sale over the Internet or in interstate commerce; (v) affixed with a label displaying the name, physical address, and telephone number of the person preparing the food product, the date the food product was processed, and the statement "NOT FOR RESALE -- PROCESSED AND PREPARED WITHOUT STATE INSPECTION" shall be placed on the principal display panel; and (vi) not exceeding \$3,000 in gross sales in a calendar year. Nothing in this subdivision shall create or diminish the authority of the Commissioner under § [3.2-5102](#);
- 5. Private homes where the resident processes and prepares honey produced by his own hives, if: (i) the resident sells less than 250 gallons of honey annually; (ii) the resident does not process and sell other food products in addition to honey, except as allowed by subdivisions 3 and 4; (iii) the product complies with the other provisions of this chapter; and (iv) the product is labeled "PROCESSED AND PREPARED WITHOUT STATE INSPECTION. WARNING: Do Not Feed Honey to Infants Under One Year Old." Nothing in this subdivision shall increase or diminish the authority of the Commissioner under § [3.2-5102](#); and
- 6. Retail establishments that (i) do not prepare or serve food; (ii) sell only food or beverages that are sealed in packaging by the manufacturer and have been officially inspected in the manufacturing process; (iii) do not sell infant formulas; (iv) do not sell salvaged foods; and (v) certify to the Department that they meet the provisions of this subdivision.
- B. Nonprofit organizations, private homes, and retail establishments that qualify for an exception under subsection A shall be exempt from inspection and the inspection fees. Nothing in this section shall prevent the Department from inspecting any nonprofit organization, private home, or retail establishment if a consumer complaint is received.
- C. Any person who violates any provision of this section is guilty of a Class 1 misdemeanor.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 47. Sale of Farm Produce

- **§ 3.2-4738. Definitions.**
- As used in this article, unless the context requires a different meaning:
- "Agricultural produce" means fruits and vegetables.
- "Bond" means a bond executed by a surety company licensed to do business in the Commonwealth.
- "Buying brokerage transaction" means a transaction in which the dealer acts as agent for the grower in the purchase of agricultural produce at the day's price for the agricultural produce purchased in the transaction.
- "Cash buyer" means any person who obtains from the producer, or his representative, title, possession or control of any agricultural produce or contracts for the title, possession or control of any agricultural produce, and who buys any agricultural produce by paying to the producer at the time of obtaining possession or control, or at the time of contracting for the title, possession or control of any agricultural produce, the agreed price of such agricultural produce in coin or currency, certified checks, cashier's checks or drafts issued by a bank.
- "Consignment" means any transfer of agricultural produce by the seller to the custody of another person who acts as the agent for the seller for the purpose of selling such agricultural produce.
- "Day's price" means the market price of any agricultural produce on a given day as determined by the U.S. Department of Agriculture and published by the Division.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 47. Sale of Farm Produce

(Continued)

- "Dealer" means any person who buys, sells, solicits for sale, processes for sale or resale, resells, exchanges, negotiates, purchases or contracts for processing or transfers any agricultural produce of a producer. The term shall exclude: (i) any person operating solely on a commission basis in Virginia as a licensed commission merchant under the provisions of Article 2 of this chapter; (ii) farmers or groups of farmers selling agricultural produce grown by them; (iii) any person who operates strictly as a cash buyer; (iv) any processor who processes agricultural produce within Virginia; and (v) any person who buys agricultural produce for wholesale or retail in Virginia.
- "Grower's agent transaction" means a transaction or series of transactions in which the dealer agrees to sell the entire crop produced by one grower during one season, at a price to be agreed upon between the dealer and the grower.
- "Joint account transactions" means a transaction between a dealer and grower in which the dealer pays the grower based on the price for which the agricultural produce sells in relation to the price agreed upon between the dealer and grower.
- "Processor" means any person operating any plant in the Commonwealth that freezes, dehydrates, cans, or otherwise changes the physical form or characteristics of agricultural produce.
- "Producer" means any person who produces agricultural produce in Virginia.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 47. Sale of Farm Produce

- **§ 3.2-4739. License required; application for license and license fee; license renewals; list of dealers.**
- A. Every dealer shall obtain a license to operate and conduct business.
- B. Such persons shall on or before May 1 of each year file a written application for a license with the Commissioner for the licensing year of May 1 to April 30. Each dealer shall pay a license fee of \$50 per licensing year. Each license shall expire on April 30 of the licensing year for which the license was issued. The license shall be valid through May 31 of the next licensing year or until issuance of the renewal license, whichever occurs first, if the holder shall have filed a renewal application and a new bond or a continuation certificate continuing his current bond with the Commissioner on or before April 30 of the licensing year for which the Commissioner issued the license. Any dealer proposing to transact business within the Commonwealth who fails to file such written application for a license and pay the licensing fee on or before May 1 shall pay a \$50 late fee in addition to the license fee. Any person who engages in business as a dealer before obtaining a license shall be subject to a \$250 penalty, in addition to the license fee and the late fee.
- C. The application for a license shall be on a form furnished or approved by the Commissioner and shall contain the following information along with such other information as the Commissioner shall require on the form:
 - 1. The name and address of the applicant and that of its local agent, if any, and the location of its principal place of business within the Commonwealth;
 - 2. The kinds of agricultural produce the applicant proposes to handle; and
 - 3. The type of produce business proposed to be conducted.
- D. Each licensee shall renew his licenses on or before May 1 of each year for the licensing year May 1 to April 30. The licensee shall make application to the Commissioner on a form furnished or approved by the Commissioner and the licensee is subject to the provisions of subsection B.
- E. The Commissioner may publish a list of dealers licensed under this article.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 3. Right to Farm

- **§ 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.
- "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.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 3. Right to Farm

- **§ 3.2-301. Right to farm; restrictive ordinances.**
- In order to limit the circumstances under which agricultural operations may be deemed to be a nuisance, especially when nonagricultural land uses are initiated near existing agricultural operations, no locality shall adopt any ordinance that requires that a special exception or special use permit be obtained for any production agriculture or silviculture activity in an area that is zoned as an agricultural district or classification. Localities may adopt setback requirements, minimum area requirements, and other requirements that apply to land on which agriculture and silviculture activity is occurring within the locality that is zoned as an agricultural district or classification. No locality shall enact zoning ordinances that would unreasonably restrict or regulate farm structures or farming and forestry practices in an agricultural district or classification unless such restrictions bear a relationship to the health, safety, and general welfare of its citizens. This section shall become effective on April 1, 1995, and from and after that date all land zoned to an agricultural district or classification shall be in conformity with this section.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 3. Right to Farm

- **§ 3.2-302. When agricultural operations do not constitute nuisance.**
- A. No agricultural operation or any of its appurtenances shall be or become a nuisance, private or public, if such operations are conducted in accordance with existing best management practices and comply with existing laws and regulations of the Commonwealth. The provisions of this section shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or its appurtenances.
- B. The provisions of subsection A shall not affect or defeat the right of any person to recover damages for any injuries or damages sustained by them on account of any pollution of, or change in condition of, the waters of any stream or on the account of any overflow of lands of any such person.
- C. Any and all ordinances of any unit of local government now in effect or hereafter adopted that would make the operation of any such agricultural operation or its appurtenances a nuisance or providing for abatement thereof as a nuisance in the circumstance set forth in this section are and shall be null and void. The provisions of this section shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or any of its appurtenances.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

- **§ 15.2-2283. Purpose of zoning ordinances.**
- Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of § [15.2-2200](#). To these ends, such ordinances shall be designed to give reasonable consideration to each of the following purposes, where applicable: (i) to provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime and other dangers; (ii) to reduce or prevent congestion in the public streets; (iii) to facilitate the creation of a convenient, attractive and harmonious community; (iv) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; (v) to protect against destruction of or encroachment upon historic areas; (vi) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other dangers; (vii) to encourage economic development activities that provide desirable employment and enlarge the tax base; (viii) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; (ix) to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning *(Continued)*

- (x) to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated; and (xi) to provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard. Such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water as defined in § [62.1-255](#).

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

- **§ 15.2-2284. Matters to be considered in drawing and applying zoning ordinances and districts.**
- Zoning ordinances and districts shall be drawn and applied with reasonable consideration for the existing use and character of property, the comprehensive plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of flood plains, the protection of life and property from impounding structure failures, the preservation of agricultural and forestal land, the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the locality.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

- **§ 15.2-2288. Localities may not require a special use permit for certain agricultural activities.**
- A zoning ordinance shall not require that a special exception or special use permit be obtained for any production agriculture or silviculture activity in an area that is zoned as an agricultural district or classification. For the purposes of this section, production agriculture and silviculture is the bona fide production or harvesting of agricultural products as defined in § [3.2-6400](#), including silviculture products, but shall not include the processing of agricultural or silviculture products, the above ground application or storage of sewage sludge, or the storage or disposal of nonagricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm, subject to the provisions of the Virginia Waste Management Act. However, localities may adopt setback requirements, minimum area requirements and other requirements that apply to land used for agriculture or silviculture activity within the locality that is zoned as an agricultural district or classification. Nothing herein shall require agencies of the Commonwealth or its contractors to obtain a special exception or a special use permit under this section.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

- **§ 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.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning (*Continued*)

- 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.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

- **§ 15.2-2307.1. Protection of established commercial fishing operations.**
- Registered commercial fishermen and seafood buyers who operate their businesses from their waterfront residences shall not be prohibited by a locality from continuing their businesses, notwithstanding the provisions of any local zoning ordinance. This section shall only apply to businesses that have been in operation by the current owner, or a family member of the current owner, for at least 20 years at the location in question. The protection granted by this section shall continue so long as the property is owned by the current owner or a family member of the owner.

Code of Virginia

Title 10.1. Conservation

Chapter 11. Forest Resources and the Department of Forestry

- **§ 10.1-1126.1. Silvicultural practices; local government authority limited.**
- A. Forestry, when practiced in accordance with accepted silvicultural best management practices as determined by the State Forester pursuant to § [10.1-1105](#), constitutes a beneficial and desirable use of the Commonwealth's forest resources.
- B. Notwithstanding any other provision of law, silvicultural activity, as defined in § [10.1-1181.1](#), that (i) is conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § [10.1-1105](#) and (ii) is located on property defined as real estate devoted to forest use under § [58.1-3230](#) or in a district established pursuant to Chapter 43 (§ [15.2-4300](#) et seq.) or Chapter 44 (§ [15.2-4400](#) et seq.) of Title 15.2, shall not be prohibited or unreasonably limited by a local government's use of its police, planning and zoning powers. Local ordinances and regulations shall not require a permit or impose a fee for such silvicultural activity. Local ordinances and regulations pertaining to such silvicultural activity shall be reasonable and necessary to protect the health, safety and welfare of citizens residing in the locality, and shall not be in conflict with the purposes of promoting the growth, continuation and beneficial use of the Commonwealth's privately owned forest resources. Prior to the adoption of any ordinance or regulation pertaining to silvicultural activity, a locality may consult with, and request a determination from, the State Forester as to whether the ordinance or regulation conflicts with the purposes of this section. Nothing in this section shall preclude a locality from requiring a review by the zoning administrator, which shall not exceed ten working days, to determine whether a proposed silvicultural activity complies with applicable local zoning requirements.

Code of Virginia

Title 10.1. Conservation

(Continued)

Chapter 11. Forest Resources and the Department of Forestry

- C. The provisions of this section shall apply to the harvesting of timber, provided that the area on which such harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ [10.1-1100](#) et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § [10.1-1163](#).
- The provisions of this section shall not apply to land that has been rezoned or converted at the request of the owner or previous owner from an agricultural or rural to a residential, commercial or industrial zone or use.
- Nothing in this section shall affect any requirement imposed pursuant to the Chesapeake Bay Preservation Act (§ [62.1-44.15:67](#) et seq.) or imposed by a locality pursuant to the designation of a scenic highway or Virginia byway in accordance with §§ [33.2-405](#) through [33.2-408](#).



- **Agriculture**
- There are several programs within the DEQ that involve the agricultural community. In addition, DEQ partners with other state and federal agencies to deliver ag-related programs. These agencies include the [VA Department of Conservation and Recreation \(DCR\)](#), the [Virginia Cooperative Extension Service \(VCES\)](#), the [VA Department of Agriculture and Consumer Services \(VDACS\)](#), and the [USDA Natural Resources Conservation Service \(NRCS\)](#). Environmental protection related to Virginia's agricultural activities is achieved through a combination of regulatory and voluntary programs.
- **Animal Feeding Operations/ Concentrated Animal Feeding Operations**
- [DEQ Animal Feeding Operations \(AFO\) and Concentrated Animal Feeding Operations \(CAFO\) Programs](#)
- [EPA CAFO Rule](#)
- **Animal Mortality**
- [DEQ On-Site Composting of Routine Animal Mortality](#)
- [DEQ On-Site Burial of Routine Animal Mortality](#)
- [VCES On Farm Mortality Disposal Options for Livestock Producers](#)
- [VCES Composting for Mortality Disposal on Hog Farms](#)
- **Biosolids**
- [Biosolids Land Application Program](#)
- **Water Reuse**
- [Water Reclamation and Reuse Program](#)
- **Clean Water Financing & Assistance**
- [Low Interest Loans for Agricultural Best Management Practices](#)
- **Total Maximum Daily Load (TMDL)**
- [TMDL Program](#)
- [Guidance Manual for TMDL Implementation Plans](#)
- **[USDA Natural Resources Conservation Service \(NRCS\)](#)**
- [VA NRCS Programs](#)
- [NRCS Available Technical Resources](#)
- **[Virginia Cooperative Extension Service \(VCES\)](#)**
- [On-Farm Composting](#)
- **[Virginia Department of Agriculture and Consumer Services \(VDACS\)](#)**
- [Agricultural Stewardship Program \(ASA\)](#)
- **[Virginia Department of Conservation and Recreation \(DCR\)](#)**
- [Nutrient Management Program \(NMP\)](#)
- [Agricultural BMP Cost Share and Tax Credit Programs \(BMP\)](#)

LINK:

[Http://www.deq.virginia.gov/Programs/Water/LandApplicationBeneficialReuse/Agriculture.aspx](http://www.deq.virginia.gov/Programs/Water/LandApplicationBeneficialReuse/Agriculture.aspx)

Code of Virginia

Title 58.1. Taxation

Chapter 32. Real Property Tax

- **§ 58.1-3230. Special classifications of real estate established and defined.**
- For the purposes of this article the following special classifications of real estate are established and defined:
- "Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Prior, discontinued use of property shall not be considered in determining its current use. 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. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be the sole considerations.

Code of Virginia

Title 58.1. Taxation

Chapter 32. Real Property Tax

(Continued)

- "Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; and nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit or otherwise shall be considered real estate devoted to horticultural 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 horticultural 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. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to horticultural use. In determining whether real property is devoted to horticultural use, zoning designations and special use permits for the property shall not be the sole considerations.

Code of Virginia

Title 58.1. Taxation

Chapter 32. Real Property Tax

(Continued)

- "Real estate devoted to forest use" shall mean land, including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#) and in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.). Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#). Real property that has been designated as devoted to forest 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 is 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. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to forest use. In determining whether real property is devoted to forest use, zoning designations and special use permits for the property shall not be the sole considerations.

Code of Virginia

Title 58.1. Taxation

Chapter 32. Real Property Tax

(Continued)

- "Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, including public or private golf courses, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands as defined in § [58.1-3666](#), (v) riparian buffers as defined in § [58.1-3666](#), (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § [58.1-3240](#) and in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) and the local ordinance. Prior, discontinued use of property shall not be considered in determining its current use. Real property that has been designated as devoted to open-space 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 is 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. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to open-space use. In determining whether real property is devoted to open-space use, zoning designations and special use permits for the property shall not be the sole considerations.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 43. Agricultural and Forestal Districts Act

- **§ 15.2-4312. Effects of districts.**
- A. Land lying within a district and used in agricultural or forestal production shall automatically qualify for an agricultural or forestal use-value assessment pursuant to Article 4 (§ [58.1-3229](#) et seq.) of Chapter 32 of Title 58.1, if the requirements for such assessment contained therein are satisfied. Any ordinance adopted pursuant to § [15.2-4303](#) shall extend such use-value assessment and taxation to eligible real property within such district whether or not a local ordinance pursuant to § [58.1-3231](#) has been adopted.
- B. No local government shall exercise any of its powers to enact local laws or ordinances within a district in a manner which would unreasonably restrict or regulate farm structures or farming and forestry practices in contravention of the purposes of this chapter unless such restrictions or regulations bear a direct relationship to public health and safety. The comprehensive plan and zoning and subdivision ordinances shall be applicable within said districts, to the extent that such ordinances are not in conflict with the conditions to creation or continuation of the district set forth in the ordinance creating or continuing the district or the purposes of this chapter. Nothing in this chapter shall affect the authority of the locality to regulate the processing or retail sales of agricultural or forestal products, or structures therefor, in accordance with the local comprehensive plan or any local ordinances. Local ordinances, comprehensive plans, land use planning decisions, administrative decisions and procedures affecting parcels of land adjacent to any district shall take into account the existence of such district and the purposes of this chapter.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 43. Agricultural and Forestal Districts Act *(Continued)*

- C. It shall be the policy of all agencies of the Commonwealth to encourage the maintenance of farming and forestry in districts and all administrative regulations and procedures of such agencies shall be modified to this end insofar as is consistent with the promotion of public health and safety and with the provisions of any federal statutes, standards, criteria, rules, regulations, or policies, and any other requirements of federal agencies, including provisions applicable only to obtaining federal grants, loans or other funding.
- D. No special district for sewer, water or electricity or for nonfarm or nonforest drainage may impose benefit assessments or special tax levies on the basis of frontage, acreage or value on land used for primarily agricultural or forestal production within a district, except a lot not exceeding one-half acre surrounding any dwelling or nonfarm structure located on such land. However, such benefit assessment or special ad valorem levies may continue if imposed prior to the formation of the district.

Code of Virginia

Title 62.1. Waters of the State, Ports and Harbors

Chapter 3.1. State Water Control Law

- **§ 62.1-44.15:51. Definitions.**
- "Land-disturbing activity" means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:
 1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;
 2. Individual service connections;
 3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;
 4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
 5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1;
 6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ [10.1-1100](#) et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § [10.1-1163](#);

Code of Virginia

Title 62.1. Waters of the State, Ports and Harbors

Chapter 3.1. State Water Control Law

- 7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;
- 8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ [10.1-604](#) et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;
- 9. Disturbed land areas of less than 10,000 square feet in size or 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;
- 10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- 11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and
- 12. Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

- **§ 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.
- "Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.
- "Farm or ranch" means one or more areas of land used for the production, cultivation, growing, harvesting or processing of agricultural products.
- "Inherent risks of agritourism activity" mean those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.
- "Participant" means any person, other than an agritourism professional, who engages in an agritourism activity.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

- **§ 3.2-6401. Liability limited; liability actions prohibited.**
- A. Except as provided in subsection B, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in § [3.2-6402](#) is posted as required and, except as provided in subsection B, no participant or participant's representative is authorized to maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities; provided that in any action for damages against an agritourism professional for agritourism activity, the agritourism professional shall plead the affirmative defense of assumption of the risk of agritourism activity by the participant.
- B. Nothing in subsection A shall prevent or limit the liability of an agritourism professional if the agritourism professional does any one or more of the following:
 - 1. Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant;
 - 2. Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the activity, or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant;
or
 - 3. Intentionally injures the participant.
- C. Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

- **§ 3.2-6402. Warning required.**
- A. Every agritourism professional shall post and maintain signs that contain the warning notice specified in subsection B. The sign shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the warning notice specified in subsection B.
- B. The signs and contracts described in subsection A shall contain the following notice of warning:
 - "WARNING: Under Virginia law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."
- C. Failure to comply with the requirements concerning warning signs and notices provided in this section shall prevent an agritourism professional from invoking the privileges of immunity provided by this chapter.

AGRITOURISM

- AS WE DISCUSSED, AGRICULTURE AND AGRITOURISM IS PROTECTED AND ENCOURAGED BY THE COMMONWEALTH OF VIRGINIA THROUGH THE ADOPTION OF EXCEPTIONS AND PROHIBITIONS TO LICENSING REQUIREMENTS AND REGULATIONS THAT WOULD NORMALLY APPLY TO OTHER BUSINESSES.
- WHEN CONSIDERING THE BEGINNING, CONTINUATION OR EXPANSION OF ANY ACTIVITY OF A BUSINESS NATURE, CONSIDERATION MUST BE GIVEN TO WHETHER THE ACTIVITY QUALIFIES UNDER THE APPLICABLE DEFINITIONS ESTABLISHED IN THE CODE OF VIRGINIA AS AN EXEMPT OR PROTECTED ACTIVITY.
- GUIDANCE ON THOSE ISSUES CAN BE OBTAINED THROUGH LOCAL OFFICIALS, THE STATE DEPARTMENT OF AGRICULTURE, OR, IF ALL ELSE FAILS, CALL AN ATTORNEY. 😊

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