

<ul style="list-style-type: none"> to attend their meetings. • <u>Michael Bastile</u> spoke on increased County taxes. • <u>Morgan Butler</u>, on behalf of the Southern Environmental Law Center, thanked the Board and County staff for steadying the stream of misinformation regarding the Rio Road intersection. • <u>Neal Williamson</u>, spoke on the County's Places 29 plan. 		
<p>12. <u>Pb Hrg: PROJECT: SP-2013-00023. Buck Mountain Episcopal Church Addition (Sign #1).</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED resolution to approve SP-2034-000023. Buck Mountain Episcopal Church Addition with attached conditions. 	<p><u>Clerk:</u> Forward copy of signed resolution, including conditions, to County Attorney's office and Community Development. (Attachment 3)</p>	<p>Listen</p>
<p>13. <u>Pb Hrg: PROJECT: ZMA-2013-00016. Avinity II (Sign 67).</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED Ordinance No.14-A(4) ZMA-2013-00016. • By a vote of 6:0, ADOPTED resolution to approve the special exception for ZMA-2013-00016, Avinity II. 	<p><u>Clerk:</u> Forward copy of signed ordinance, including proffers, and resolution to County Attorney's office and Community Development. (Attachment 4)</p>	<p>Listen</p>
<p>14. <u>Pb Hrg: 14-03(2) – Agricultural and Forestal Districts.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED Ordinance No.14-3(2). 	<p><u>Clerk:</u> Forward copy of signed ordinance to County Attorney's office and Community Development. (Attachment 5)</p>	<p>Listen</p>
<p>15. <u>Pb Hrg: ZTA- 2014-00001. Agricultural operations and farm breweries.</u></p> <ul style="list-style-type: none"> • By a vote of 5:1 (Dittmar), ADOPTED Ordinance No.14-3(2). 	<p><u>Clerk:</u> Forward copy of signed ordinance to County Attorney's office and Community Development. (Attachment 6)</p>	<p>Listen</p>
<p>16. <u>Pb Hrg: To receive comments on the request to granting in fee simple to the Commonwealth of Virginia a portion of that real property owned by the County located at the intersection of Old Trail Drive and Jarmans Gap Road (Parcel ID 055E0-00-00-000A1).</u></p> <ul style="list-style-type: none"> • By a vote of 6:0 ADOPTED Resolution to approve the proposed conveyance and to authorize the County Executive and the County Attorney to sign the necessary documents to complete the conveyance of the portion of the Lot, including those to correct or waive any errors or omissions in that proceeding to this date, once those documents are approved as to content and form by the County Attorney. 	<p><u>Clerk:</u> Forward copy of signed resolution County Attorney's office, OFD and General Services. (Attachment 7)</p>	<p>Listen</p>
<p>17. <u>Pb Hrg: To receive comments on the request to grant a temporary construction easement and two temporary stormwater management and use easements to March Mountain Properties, LLC on the Old Trail Park property owned by the County located along the southern property boundary adjacent to Claremont Lane</u> and identified as Parcel ID 055E0-01-00-000H0.</p> <ul style="list-style-type: none"> • By a vote of 6:0 ADOPTED Resolution to approve the conveyance of the easements, and to authorize the County Executive to sign all necessary documents once approved as to 	<p><u>Clerk:</u> Forward copy of signed resolution County Attorney's office and, Parks and Recreation. (Attachment 8)</p>	<p>Listen</p>

	content and form by the County Attorney.		
2c1.	Town Hall Check-in. • DICUSSED.	<u>Lee Catlin:</u> Proceed as directed.	Listen
18.	From the Board: Committee Reports and Matters Not Listed on the Agenda. • There were none.		Listen
19.	From the County Executive: Report on Matters Not Listed on the Agenda. <u>Tom Foley:</u> • There were none.		
20.	Adjourn. • At 9:11 p.m., the meeting was adjourned.		

ewj/tom

Attachment 1 – Paul Coleman Recognition

Attachment 2 – Proclamation recognizing Charles E. “Mo” Stevens

Attachment 3 – SP-2013-00023. Buck Mountain Episcopal Church Addition – Resolution of Approval

Attachment 4 – ZMA-2013-00016. Avinity II (Sign 67). – Ordinance No.14-A(4) with Proffers and Resolution of Approval

Attachment 5 – 14-03(2) – Agricultural and Forestal Districts - Ordinance No.14-3(2).

Attachment 6 – ZTA- 2014-00001. Agricultural operations and farm breweries – Ordinance No.

Attachment 7 – Resolution – Stormwater Management Facility to Commonwealth of Virginia

Attachment 8 – Resolution – Temporary Drainage Easement for Old Trail Village

RESOLUTION
In Recognition Outstanding Conservation Farmer

In recognition of **Paul Coleman** for his outstanding farm conservation management practices which includes implementation of a farm nutrient management plan,

WHEREAS, *the Thomas Jefferson Soil and Water Conservation District serves this community through programs and activities that enhance water quality of our surface and ground waters; while conserving and protecting our natural resources; and*

WHEREAS, *in cooperation with the Virginia Department of Conservation and Recreation, farmers who demonstrate outstanding management practices which conserve our precious natural resources are selected and recognized through the Clean Water/Bay Friendly Farm Award Program; and*

WHEREAS, *the Thomas Jefferson SWCD has selected Paul Coleman as the Clean Water Farm Award Program recipient of Albemarle for 2013.*

WHEREAS, *Paul Coleman, demonstrates a commitment to the conservation of the natural resources on his/her farm through:*

- *managing 640 acres of pasture, as 27 paddocks, and 236 acres of woodland*
- *grazing around 200 cow/calf pairs and 150 hair sheep for meat.*
- *installing 20 frost-free automatic water troughs on the farms*
- *protecting 3.5 miles of streams with 95.4 acres of riparian buffers*
- *carefully planning to allow cattle access to the shade from mature forest in each field while restricting the livestock from the steeper wooded slopes.*

NOW, THEREFORE, BE IT RESOLVED by the Albemarle County Board of Supervisors that Paul Coleman is hereby commended for his commitment to protecting and enhancing waters that flow beyond farm boundaries and for the conservation ethic he demonstrates through his farm management practices.

Signed and Sealed this 12th day of November, 2014.

RECOGNITION

WHEREAS, Charles E. “Mo” Stevens has made many significant contributions to ornithology in Albemarle County, including his annotated checklist of birds of Albemarle County, which was a “milestone in ornithological history of Albemarle County” (*The Birds of Albemarle County and Charlottesville Virginia*, p. 1); and

WHEREAS, Mo made remarkably extensive discoveries in botany in Albemarle and throughout the state, and added over 25,000 specimens to the Longwood Herbarium (now the Harvill-Stevens Herbarium) and was a significant contributor to the recently published *Flora of Virginia* (*Flora of Virginia*, p.19); and

WHEREAS, Mo’s participation with the Biodiversity Workgroup, as well as his explorations and remarkably extensive notes, have been invaluable to the County by documenting many of our most special places and species; and

WHEREAS, Mo served as a mentor to some of the Commonwealth’s most respected field specialists;

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors recognizes and honors the considerable life achievements of Charles E. “Mo” Stevens as a citizen, scientist and naturalist who has greatly deepened our understanding of the natural world in Albemarle County and the Commonwealth of Virginia.

Signed and sealed this 12th day of November, 2014.

**RESOLUTION TO APPROVE
SP 2013-23 BUCK MOUNTAIN EPISCOPAL CHURCH**

WHEREAS, Buck Mountain Episcopal Church (the "Owner") is the owner of Tax Map and Parcel Number 03100-00-00-03500 (the "Property"); and

WHEREAS, the Owner filed an application to amend the application plan for Special Use Permit SP 1996-037 Buck Mountain Episcopal Church to build an addition onto the existing fellowship hall, and the application is identified as Special Use Permit 2013-00023 ("SP 2013-23"); and

WHEREAS, on September 16, 2014, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2013-23 with the conditions recommended by County staff; and

WHEREAS, on November 12, 2014, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2013-23.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2013-23 and all of its attachments, the information presented at the public hearing, and the factors relevant to a special use permit in Albemarle County Code § 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2013-23, subject to the condition attached hereto.

CONDITIONS OF APPROVAL

PROJECT: SP-2013-00023. Buck Mountain Episcopal Church Addition.

1. Development and use shall be in general accord with the conceptual plan titled "Buck Mountain Episcopal Church Proposed Addition- Site, Grading and Utility Plan" prepared by Draper Aden Associates dated June 13, 2014 and revised October 9, 2014 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
 - a. Location of proposed addition
2. Add additional Oak tree to replace the one that is being taken down.

**ORDINANCE NO. 14-A(4)
ZMA 2013-00016**

**AN ORDINANCE TO AMEND THE ZONING MAP
FOR TAX MAP AND PARCEL NUMBERS 09100-00-00-016A0,
09100-00-00-016C0, 09100-00-00-016E0, AND 09100-00-00-01400 (PORTION)**

WHEREAS, the application to amend the zoning map for Tax Map and Parcel Numbers 09100-00-00-016A0 ("Parcel 16A"), 09100-00-00-016C0 ("Parcel 16C"), 09100-00-00-016E0 ("Parcel 16E"), and 09100-00-00-01400 ("Parcel 14") (portion) is identified as ZMA 2013-00016, Avinity II ("ZMA 2013-00016"); and

WHEREAS, Parcels 16A, 16C and 16E are zoned Residential (R-1) and Parcel 14(portion) is zoned Planned Residential District (PRD); and

WHEREAS, ZMA 2013-00016 proposes to rezone Parcels 16A, 16C, and 16E to Planned Residential District (PRD) with proffers and an application plan, to allow the development of 102 maximum residential units, including townhouses and attached and detached single family dwellings; and

WHEREAS, ZMA 2013-00016 also proposes to amend the application plan for a portion of Parcel 14, as depicted on the application plan, which was approved as part of ZMA 2006-005 Avinity I Phase IV, to replace a 24-unit condominium building with a maximum of eight townhouses; and

WHEREAS, on August 19, 2014, after a duly noticed public hearing, the Planning Commission recommended approval of ZMA 2013-00016, with recommended technical revisions to the proffers and the application plan, which have since been satisfactorily addressed; and

WHEREAS, on November 12, 2014, the Albemarle County Board of Supervisors held a duly noticed public hearing on ZMA 2013-00016.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the executive summary and staff report prepared for ZMA 2013-00016 and their attachments, including the proffers and the application plan, the information presented at the public hearing, the material and relevant factors in Virginia Code § 15.2-2284, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2013-00016 with the proffers dated October 30, 2014, and the application plan entitled "Avinity II Planned Residential Development (PRD) Application Plan," last revised October 13, 2014, and the zoning map for Tax Map and Parcel Numbers 09100-00-00-016A0, 09100-00-00-016C0, 09100-00-00-016E0, and 09100-00-00-01400 (portion) are amended accordingly.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR ZMA 2013-00016, AVINITY II**

WHEREAS, Wallace B. Hughes is the owner of Tax Map and Parcel Number 09100-00-00-016A0, Moss Acquisitions, LLC is the owner of Tax Map and Parcel Number 09100-00-00-016C0, and Avon Properties, LLC is the owner of Tax Map and Parcel Number 09100-00-00-016E0 and a portion of Tax Map and Parcel Number 09100-00-00-01400; all of the owners of such parcels are referred to herein collectively as the "Owner" and the parcels are referred to herein collectively as the "Property"; and

WHEREAS, the Owner filed an application to amend the zoning map for the Property, which rezoning application is identified as ZMA 2013-00016, Avinity II ("ZMA 2013-00016"); and

WHEREAS, on August 19, 2014, the Planning Commission recommended approval of ZMA 2013-00016 with certain conditions, including the approval of a special exception to modify the building separation requirements under County Code § 18-8.2(b)(4).

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the executive summary prepared in conjunction with the application, and its supporting analysis included on pages 9 and 10 of the executive summary, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-8.2(b)(4) and 18-33.8, the Albemarle County Board of Supervisors hereby approves the special exception to authorize the modification of the building separation requirements under County Code § 18-8.2(b)(4), subject to the conditions attached hereto.

ZMA 2013-00016 Avinity II Special Exception Conditions

1. The applicant shall submit a revised subdivision plat that shows an eight (8) foot maintenance easement between structures to allow residents to maintain their units.
2. The minimum building separation shall be ten (10) feet with architectural features and building overhangs allowed to encroach into the setback no further than one foot.

Original Proffers X

October 30, 2014

PROFFER STATEMENT

ZMA No. 2013-016 Avinity II

Tax Map and Parcel Number(s): **09100-00-00-016A0, 09100-00-00-016C0, 09100-00-00-016E0, and portion of 09100-00-00-01400.**

Owner(s) of Record: **Wallace B. Hughes; Moss Acquisitions, LLC; and Avon Properties, LLC**

Date of Proffer Signature: October 30, 2014

13.453 acres to be rezoned from R-1 & PRD to PRD

Wallace B. Hughes is the owner of Tax Map and Parcel Number 09100-00-00-016A0; Moss Acquisitions, LLC is the owner of Tax Map and Parcel Number 09100-00-00-016C0; and Avon Properties, LLC is the owner of Tax Map and Parcel Number 09100-00-00-016E0 and 09100-00-00-01400, a portion of which is subject to this zoning map amendment; all the owners of such parcels are referred to herein, collectively as the "Owner" and the parcels are referred to herein collectively as the "Property." The Property is the subject of the rezoning application ZMA 2013-016, for a project to be known as "Avinity II" (the "Project"), which includes an application plan prepared by Collins Engineering entitled, "Avinity II Planned Residential Development (PRD) Application Plan" and with latest revision date of October 13, 2014 (the "Application Plan").

Pursuant to Section 33 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as a part of the proposed rezoning, and the Owner acknowledges that the conditions are reasonable.

1. Cash Proffer for Capital Improvements Projects.

The Owner shall contribute cash on a per "market-rate" dwelling unit basis in excess of the number of units that are allowed by right under the zoning in existence at the time of this zoning map amendment for the purposes of addressing the fiscal impacts of development on the County's public facilities and infrastructure, i.e., schools, public safety, libraries, parks and transportation. For the purposes of this Proffer 1, the number of units allowed by right under the applicable zoning is twelve (12). A "market rate" unit is any unit in the Project that is not considered an Affordable Dwelling Unit as defined in Proffer 2. The cash contributions shall be Twenty Thousand, Four Hundred Sixty and 57/100 Dollars (\$20,460.57) cash for each single family detached dwelling unit, other than an Affordable Dwelling Unit within the Project. In other words, the cash contributions for the "market rate" single family units shall begin after a building permit for the twelfth (12) market rate unit is obtained. The cash contributions shall be Thirteen Thousand Nine hundred thirteen and 18/100 Dollars (\$13,913.18) cash for each single family attached or townhouse dwelling unit, other than an Affordable Dwelling Unit within the Project qualifying as such under Proffer 2. The cash contribution shall be paid at the time of the issuance of the building permit for each new unit, unless the timing of the payment is otherwise specified by state law.

2. Affordable Housing.

The Owner shall provide affordable housing equivalent to fifteen percent (15%) of the total residential units constructed on the Property. The Owner or its successors in interest reserve the right to meet the affordable housing objective through a variety of housing types, or through cash contributions, as more particularly described below. For the purposes of this Proffer 2, "Affordable Dwelling Unit" shall mean any unit affordable to households with incomes less than eighty percent (80%) of the area median income (as determined from time to time by the Albemarle County Office of Housing) such that housing costs consisting of principal, interest, real estate taxes and homeowners insurance (PITI) do not exceed thirty percent (30%) of the gross household income; provided, however, that in no event shall the selling price for such affordable units be more than sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) maximum sales price/loan limit for first-time homebuyer programs at the beginning of the 180-day period referenced in Proffer 2(A)(1) hereof (the "VHDA Limit").

A. For-Sale Affordable Dwelling Units. The Owner may meet the 15% affordable housing objective by constructing all or a portion of the Affordable Dwelling Units. The Owner shall impose by contract the responsibility herein of constructing and selling the Affordable Dwelling Units to any subsequent owner or developer of the Property (or any portion thereof). Such subsequent owner(s) and/or developer(s) shall succeed to the obligations of the Owner under this Proffer 2; and the term "Owner" shall refer to such subsequent owner(s) and/or developer(s), as applicable.

(1) **Role of County Housing Office.** All purchasers of the for-sale Affordable Dwelling Units shall be approved by the Albemarle County Housing Office or its designee (the "Housing Office"). At the proposed time of construction of any Affordable Dwelling Unit, the Owner shall provide the Housing Office a period of one hundred eighty (180) days to identify and approve an eligible purchaser for such affordable unit. The 180-day qualification period shall commence upon written notice from the Owner to the Housing Office of the approximate date the Unit is expected to receive a certificate of occupancy from the County (the "Notice"). Such Notice shall be given no more than ninety (90) days prior to the expected issuance of the certificate of occupancy, and the 180-day approval period shall extend no less than ninety (90) days after the issuance of the certificate of occupancy. Nothing in this Proffer 2 shall prohibit the Housing Office from providing the Owner with information on income eligibility sufficient for the Owner to identify eligible purchasers of Affordable Dwelling Units for approval by the Housing Office. If, during the 180-day qualification period, (i) the Housing Office fails to approve a qualified purchaser, or (ii) a qualified purchaser fails to execute a purchase contract for an Affordable Dwelling Unit, then, in either case, the Owner shall have the right to sell the Unit without any restriction on sales price or income of the purchaser(s), and such unit shall be counted toward the satisfaction of this Proffer 2. This Proffer 2 shall apply only to the first sale of each of the for-sale Affordable Dwelling Units. For the purposes of this Proffer 2, such Affordable Dwelling Units shall be deemed to have been provided when the subsequent Owner/builder provides written notice to the Albemarle County Office of Housing or its designee that the unit(s) will be available for sale.

(2) **Tracking.** Each subdivision plat and site plan for land within the Property shall: i) designate the lots or units, as applicable, that will constitute Affordable Dwelling Units within such subdivision plat or site plan and ii) contain a running tally of the Affordable Dwelling Units either constructed or contributed for under this Proffer 2.

B. Cash In Lieu of Constructing Affordable Dwelling Units. If at any time prior to the County's approval of any initial site plan or subdivision plat for the Property which includes one or more

for-sale Affordable Dwelling Units, the Housing Office informs the then-current Owner in writing that it may not have a qualified purchaser for one or more of the for-sale Affordable Dwelling Units at the time that the then-current Owner/builder expects the units to be completed and that the Housing Office will instead accept a cash contribution to the Housing Office to support affordable housing programs in the amount of Twenty-one Thousand One Hundred Twenty-Five Dollars (\$21,125.00) in lieu of each Affordable Dwelling Unit(s), then the then-current Owner/builder shall pay such cash contribution to the County prior to obtaining a certificate of occupancy for the unit(s) that were originally planned to be Affordable dwelling Units, and the then-current Owner/builder shall have the right to sell the unit(s) without any restriction on sales price or income of the purchaser(s).

C. Prior to the issuance of the forty-eighth (48th) building permit for a market rate dwelling unit within the Property, the then-current Owner/builder shall obtain certificates of occupancy for (or make an Affordable Housing Credit Payment on account of) seven (7) Affordable Dwelling Units within the Property. Prior to the issuance of the ninety-sixth (96th) building permit for a market rate dwelling unit within the Property, the then-current Owner/builder shall obtain certificates of occupancy for (or make an Affordable Housing Cash Payment on account of) seven (7) additional Affordable Dwelling Units within the Property. Prior to the issuance of the final building permit for a market rate dwelling unit within the Property, the Owner shall obtain certificates of occupancy for (or make an Affordable Housing Cash Payment on account of) all of the remaining required Affordable Dwelling Units within the Property.

3. Cost Index.

Beginning January 1, 2015, the amount of each cash contribution required by Proffers 1 and 2 shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Marshall and Swift Building Cost Index ("MSI"). The annual adjustment shall be made by multiplying the proffered cash contribution amount due for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the preceding calendar year, the denominator of which shall be the MSI as of December 1 in the year preceding the calendar year most recently ended (the "Annual Percentage Change"). By way of example, the first annual adjustment shall be $\$20,460.57 \times 2015 \text{ MSI} / 2014 \text{ MSI}$. Each annual adjustment shall be based on the amount of the proffered cash contribution due for the immediately preceding year based on the formula contained in this Proffer 3 (the amount derived from such formula shall be referred to hereinafter as the "Cash Contribution Due"), provided, however, in no event shall the cash contribution amount paid by the Owner be less than \$20,460.57 per single family detached dwelling unit and \$13,913.18 per single family attached or townhouse dwelling unit under Proffer 1 or \$21,125.00 per Affordable Dwelling Unit under Proffer 2 (the "Minimum Cash Contribution"). The Annual Percentage Change shall be calculated each year using the Cash Contribution Due, even though it may be less than the Minimum Cash Contribution, HOWEVER, the amount paid by the Owner shall not be less than the Minimum Cash Contribution. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

4. Road Improvements.

If requested by the Avinity Home Owner's Association, ("HOA"), and so long as such request meets all requirements of applicable health and safety rules or regulations of the County and its emergency response agencies, the Owner shall install traffic calming, speed humps (or raised cross-walks) in up to four (4) locations along Avinity Loop, generally in the areas shown on the Application Plan. The Avinity HOA shall have two (2) years from the issuance of the forty-eighth (48th) building permit for a market rate dwelling unit within the Property to request that the Owner install such traffic calming speed humps along Avinity Loop. If the HOA does not request speed bumps as provided herein, within (2) years of the issuance of the forty-eighth (48th) building permit for a market rate dwelling unit

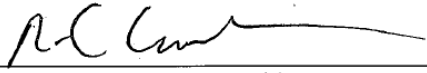
within the Property, the Owner shall be relieved of installing speed bumps, and this Proffer 4 shall be fully satisfied.

This Proffer Statement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

WITNESS the following signatures:

OWNER:

Moss Acquisitions, LLC, a Virginia limited liability company


By: 

R. Coran Capshaw, President

Wallace B. Hughes

By: _____
Wallace B. Hughes

Avon Properties, LLC, a Virginia limited liability company

By: 

R. Coran Capshaw, President

within the Property, the Owner shall be relieved of installing speed bumps, and this Proffer 4 shall be fully satisfied.

This Proffer Statement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

WITNESS the following signatures:

OWNER:

Moss Acquisitions, LLC, a Virginia limited liability company

By: _____
Alan R. Taylor, Manager

Wallace B. Hughes

By: Wallace B. Hughes by his PA W. Berger *12/24/14*
Wallace B. Hughes

Avon Properties, LLC, a Virginia limited liability company

By: _____
Alan R. Taylor, Manager

RECEIVED
DECEMBER 24 2014
COMMERCIAL BANK

ORDINANCE NO. 14-3(2)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

Sec. 3-214 Hardware Agricultural and Forestal District
 Sec. 3-219 Keswick Agricultural and Forestal District
 Sec. 3-220 Kinloch Agricultural and Forestal District
 Sec. 3-222 Moorman's River Agricultural and Forestal District

**CHAPTER 3. AGRICULTURAL AND FORESTAL DISTRICTS
 ARTICLE II. DISTRICTS OF STATEWIDE SIGNIFICANCE
 DIVISION 2. DISTRICTS**

Sec. 3-214 Hardware Agricultural and Forestal District.

The district known as the "Hardware Agricultural and Forestal District" consists of the following described properties: Tax map 72, parcel 51C; tax map 73, parcels 38, 39C7, 41A, 41B1, 41B2, 42, 42A, 43, 44; tax map 74, parcels 6H, 6N, 26, 28, 28B; tax map 75, parcels 4A, 5; tax map 86, parcels 14, 16, 16A, 16C, 16D, 16E, 16F, 16H, 27, 27A; tax map 87, parcels 10, 13A, 13E (part consisting of 89.186 acres), 16A; tax map 88, parcels 2A, 3R, 3T, 3U, 3V, 6A, 20A, 20B, 20C, 20D, 20F, 23, 23E, 23F, 24, 24A, 24B, 26B, 29, 40, 42; tax map 99, parcels 10 (part), 29, 52, 52B. This district, created on November 4, 1987 for not more than 10 years and last reviewed on September 12, 2007, shall next be reviewed prior to September 12, 2017.

(Code 1988, § 2.1-4(h); Ord. No. 98-A(1), 8-5-98; Ord. 00-3(2), 7-12-00; Ord. 07-3(2), 9-12-07; Ord. 09-3(4), 12-2-09; Ord. 10-3(2), 7-7-10; Ord. 10-3(3), 12-1-10; Ord. 12-3(1), 7-11-12; Ord. 13-3(1), 12-4-13)

Sec. 3-219 Keswick Agricultural and Forestal District.

The district known as the "Keswick Agricultural and Forestal District" consists of the following described properties: Tax map 48, parcels 30, 30A, 30B, 30C, 30D, 30E; tax map 63, parcels 39, 39A, 40, 42A; tax map 64, parcels 5, 7, 7A, 8A, 9, 10 10A, 10B, 10C, 10D, 11 12, 13, 13A, 14; tax map 65, parcels 13, 14A, 14A1, 31C1, 31C3, 31D, 32; tax map 79, parcel 46; tax map 80, parcels 1, 2, 2A, 2C, 3A, 3A1, 3G, 3H, 3I, 4, 61D, 88, 114A, 115, 164, 169, 169A, 169C, 169C1, 174, 176, 176A, 182, 183A, 190, 192, 194; tax map 81, parcels 1, 8A, 15A6, 15B, 63, 69, 72, 73, 74, 79. This district, created on September 3, 1986 for not more than 10 years and last reviewed on November 12, 2014, shall next be reviewed prior to November 12, 2024.

(10-12-94; 4-12-95; 8-13-97; Code 1988, § 2.1-4(e); Ord. 98-A(1), 8-5-98; Ord. 04-3(3), 11-3-04; Ord. 09-3(4), 12-2-09; Ord. 10-3(3), 12-1-10; Ord. 11-3(4), 12-7-11; Ord. 12-3(1), 7-11-12; Ord. 13-3(1), 12-4-13)

Sec. 3-220 Kinloch Agricultural and Forestal District.

The district known as the "Kinloch Agricultural and Forestal District" consists of the following described properties: Tax map 49, parcels 5C, 6A1; tax map 50, parcels 13, 19; tax map 65, parcels 7, 7A, 8, 84A, 86, 89, 90, 91, 91A, 92, 93A, 93A1, 94, 94A, 94B, 94C, 95, 95A, 100, 121; tax map 66, parcels 2, 3C, 3G, 32, 32D, 32E, 34 (Albemarle part only), 34B. This district, created on September 3, 1986 for not more than 10 years and last reviewed on November 12, 2014, shall next be reviewed prior to November 12, 2024.

(11-17-93; 10-12-94; Code 1988, § 2.1-4(f); Ord. 98-A(1), 8-5-98; Ord. 00-3(3), 9-13-00; Ord. 04-3(3), 11-3-04; Ord. 09-3(5), 12-9-09; Ord. 10-3(2), 7-7-10)

Sec. 3-222 Moorman's River Agricultural and Forestal District.

The district known as the "Moorman's River Agricultural and Forestal District" consists of the following described properties: Tax map 27, parcels 32, 34, 34A, 40, 40A, 40A1, 42, 42A; tax map 28, parcels 2, 2A, 3, 4, 5, 6, 6A, 6B, 7A, 7A1, 7B, 8, 12, 12A, 12B, 13, 13A, 17A, 17C, 18, 25 (part), 30, 30A, 30A1, 30B, 32B, 32D, 34B, 35, 35B, 37A, 37B, 37C, 38; tax map 29, parcels 2C, 4E, 8, 8B, 8E, 8E1, 8J, 9, 10, 15C, 40B, 40C, 40D, 45, 45H1, 45H2, 49C, 50, 54A, 61, 62, 63, 63A, 63D, 67C, 69F, 70A, 70B, 70C, 70F, 70H1, 70K, 70L, 70M, 71, 71A, 74A, 76, 78, 78A1, 79C, 79E, 79F, 84, 85; tax map 30, parcels 10, 10A, 10C, 12C, 12C1, 12D, 23; tax map 41, parcels 8, 8B, 8C, 8D, 9E, 15, 15A, 17C, 18, 19, 41C, 41H, 44, 50, 50C, 65A1, 67B, 70, 72, 72B, 72C, 72D, 72E, 72F, 89; tax map 42, parcels 5, 6, 6B, 8, 8C, 10, 10A, 10D, 37F, 37J, 38, 40, 40C, 40D, 40D1, 40G, 40H2, 41, 41B, 42B, 42B1, 43, 43A, 44; tax map 43, parcels 1, 1F, 2A1, 2B, 3A, 4D, 5, 5A, 9, 10, 16B2, 16B3, 18E4, 18G, 18J, 19I, 19N, 19P, 20A, 20B, 20C, 2I, 21A, 24, 25A, 25B, 30, 30A, 30B, 30B1, 30B2, 30B3, 30B4, 30G, 30H, 30M, 30N, 32H, 33, 33E, 34D1, 41, 42, 43, 44, 45, 45C, 45D; tax map 44, parcels 1, 2, 24, 26, 26A, 26B, 26C, 27B, 27C, 28, 29, 29A, 29D, 30, 30A, 30B, 31, 31A, 31A1, 31D, 31F, 31G, 31H; tax map 57, parcel 69; tax map 59, parcels 32, 32A, 34, 35, 82A; tax map 60E3, parcel 1. This district, created on December 17, 1986 for not more than 10 years and last reviewed on November 12, 2014, shall be next reviewed prior to November 12, 2024.

(4-14-93; 12-21-94; 4-12-95; 8-9-95; Code 1988, § 2.1-4(g); Ord. 98-A(1), 8-5-98; Ord. 99-3(4), 5-12-99; Ord. 00-3(1), 4-19-00; Ord. 04-3(4), 12-1-04; Ord. 05-3(2), 7-6-05; Ord. 08-3(2), 8-6-08; Ord. 09-3(4), 12-2-09; Ord. 10-3(2), 7-7-10)

ORDINANCE NO. 14-18(4)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, BASIC REGULATIONS, ARTICLE III, DISTRICT REGULATIONS, AND ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Regulations, Article II, Basic Regulations, Article III, District Regulations, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 5.1.25 Farm winery
- Sec. 5.1.47 Farm stands, farm sales and farmers markets
- Sec. 10.2.1 By right
- Sec. 10.2.2 By special use permit
- Sec. 11.3.1 By right uses
- Sec. 11.3.2 By special use permit
- Sec. 31.5 Zoning clearance

By Adding:

- Sec. 5.1.57 Farm breweries
- Sec. 5.1.58 Events and activities at agricultural operations

Article I. General Provisions

Sec. 3.1 Definitions.

...

Agriculture: An agricultural operation, the keeping of livestock or poultry, or both, regardless of whether the keeping of livestock or poultry qualifies as an agricultural operation. The term includes accessory processing facilities for agricultural products grown or raised solely on the farm on which the agriculture is located, such as fruit packing plants and dairies. The term does not include any processing facilities permitted only by special use permit. (Amended 12-2-87, 5-5-10)

Agricultural operation: 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. This term includes aquaculture and plant nurseries.

Agricultural operation event: An event conducted at, and subordinate to, an agricultural operation for up to three (3) consecutive days comprised of: (i) agritourism-related events such as tastings not conducted in the daily course of agritourism, farm sales, or the sale of agricultural products or food products; farm-to-table dinners; agricultural festivals; and auctions or livestock shows pertaining to livestock, animals, or other agricultural products not grown or raised at that agricultural operation; (ii) events that promote the sale of agricultural or silvicultural products; (iii) events that promote the sale of food products; (iv) events that are usual and customary at Virginia agricultural operations; and (v) fundraisers and charity events.

Agricultural products: Any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

Agritourism: Any activity carried out at a farm winery, farm brewery, or an agricultural operation, 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, regardless of whether or not the participant paid to participate in the activity. These rural activities also include, but are not limited to, farm tours, tours of an individual agricultural operation, hayrides, heirloom plant and animal exhibits, crop mazes, and educational programs, workshops, or demonstrations related to agriculture or silviculture. (Added 5-5-10)

...

Devoted to the bona fide production of crops, animals, or fowl: As used in the definition of “agricultural operation,” any lot on which the production of one or more agricultural products is a primary use (“agricultural production”) and the agricultural production is engaged in good faith and not merely to enable the lot to be eligible to host events and activities at an agricultural operation as provided in sections 5.1.58, 10.2.1(30), 10.2.2(56), 11.3.1(29), and 11.3.2(10). In determining whether the agricultural production is a primary use and engaged in good faith, the following factors may be considered: (i) whether the lot is subject to use value assessment because it is real estate devoted agriculture, horticulture, or silviculture; (ii) the acreage in agricultural production; (iii) the proportion of the lot’s acreage in agricultural production; (iv) the crops, animals, or fowl being produced; (v) the acreage of the lot and of the site; (vi) the owner’s federal tax forms including Form 1040F (Farm Expense and Income), Form 4385 (Farm Rental Income and Expenses), Form 1040E (Cash Rent for Agricultural Land), Form 1040C (Business Profit and Loss), or Form 1120 (Corporate Partnership); (vii) receipts showing gross sales over the most recent three-year period or evidence of the value of agricultural products that would have been sold but for a natural disaster; (viii) the proportion of the owner’s total income derived from agricultural production on the site; (ix) evidence of participation in a federal farm subsidy program; (x) evidence of operating under a conservation farm management plan prepared by a professional; (xi) the proportion of capital investment in the site devoted to the production of agricultural products, operating, and labor expenses; (xii) Albemarle County-level United States Department of Agriculture Census of Agriculture data; and (xiii) any other relevant factors.

...

Farm brewery: An establishment located on one or more lots in Albemarle County licensed as a limited brewery under Virginia Code § 4.1-208.

Farm brewery event: An event conducted at a farm brewery on one or more days where the purpose is agritourism or to promote beer sales including, but not limited to, gatherings not otherwise expressly authorized as a use under section 5.1.57(a), (b)(1) and (b)(3) through (b)(9) including, but not limited to, beer festivals; receptions where beer is sold or served; beer club meetings and activities; beer tasting educational seminars; beer tasting luncheons, business meetings, and corporate luncheons with a focus on selling beer; gatherings with the purpose of promoting sales to the trade, such as restaurants, distributors, and local chamber of commerce activities; brewmasters’ dinners where beer is paired with food; agritourism promotions; and fundraisers and charity events.

Farm sales: The sale of agricultural products, value-added products and accessory merchandise on a farm, either outdoors or within a temporary or permanent structure, where the vendor selling the products and merchandise is engaged in production agriculture on the farm on which the farm sales use is located. (Added 10- 11-95; Amended 5-5-10)

Farm stand: The sale of local agricultural products and value-added products, either outdoors or within a temporary or permanent structure, where the vendor selling the products is engaged in production agriculture in Albemarle County, but not on the lot on which the farm stand is located. (Added 5-5-10)

Farm tour: An event organized by two or more agricultural operations or by a third party, to which the public is invited to visit two or more agricultural operations, and which may include educational programs, workshops, or demonstrations related to agriculture or silviculture.

Farm winery: An establishment located on one or more lots in Albemarle County licensed as a farm winery under Virginia Code § 4.1-207. (Added 12-16- 81; Amended 5-5-10)

Farm winery event: An event conducted at a farm winery on one or more days where the purpose is agritourism or to promote wine sales including, but not limited to, gatherings not otherwise expressly authorized as a use under section 5.1.25(a), (b)(1) and (b)(3) through (b)(9) including, but not limited to, wine fairs; receptions where wine is sold or served; wine club meetings and activities; wine tasting educational seminars; wine tasting luncheons, business meetings, and corporate luncheons with a focus on selling wines; gatherings with the purpose of promoting sales to the trade, such as restaurants, distributors, and local chamber of commerce activities; winemakers’ dinners where wine is paired with food; agritourism promotions; and fundraisers and charity events. (Added 5-5-10)

...

Farmers’ market: The sale of agricultural products, value-added products, and accessory merchandise either outdoors or within a temporary or permanent structure by two (2) or more vendors in the rural areas (RA) district or by one or more vendors in any other zoning district where the use is allowed, where each vendor selling the

products and merchandise is engaged in production agriculture in Albemarle County regardless of whether it is on or not on the lot on which the farmers' market is located. (Added 10-11-95; Amended 5-5-10)

Production agriculture or production silviculture: 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.

Substantial impact: An impact that may arise from an event or activity at a farm winery, farm brewery, or agricultural operation that has a significant adverse effect on: (i) an abutting lot or the neighborhood, including an impact on any owner, occupant, or agricultural or silvicultural activity; or (ii) any rural road, natural resource, cultural resource, or historical resource. A substantial impact may result from a wide variety of factors including, but not limited to, the generation of traffic, noise, dust, artificial outdoor light, trash, stormwater runoff, and excessive soil compaction; the failure to provide adequate traffic controls and sanitation facilities; the cumulative effects of large numbers of events and activities occurring simultaneously, particularly when they are in close proximity to one another or require travel on the same rural roads; and events and activities that are incompatible with existing production agriculture.

Usual and customary use, event or activity: A use, event, or activity at a farm winery, farm brewery, or agricultural operation that is both ordinary and commonly practiced or engaged in at farm wineries, farm breweries, or agricultural operations, as applicable, within the Commonwealth, as determined by objective evidence.

(§ 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9), 10-17-01; Ord. 02-18(2), 2-6-02; Ord. 02-18(5), 7-3-02; Ord. 02-18(7), 10-9-02; Ord. 03-18(1), 2-5-03; Ord. 03-18(2), 3-19-03; Ord. 04-18(2), 10-13-04; 05-18(2), 2-2-05; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 07-18(1), 7-11-07; Ord. 07-18(2), 10-3-07; Ord. 08-18(3), 6-11-08; Ord. 08-18(4), 6-11-08; Ord. 08-18(6), 11-12-08; Ord. 08-18(7), 11-12-08; Ord. 09-18(3), 7-1-09; Ord. 09-18(5), 7-1-09; 09-18(8), 8-5-09; Ord. 09-18(9), 10-14-09; Ord. 09-18(10), 12-2-09; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 11-18(5), 6-1-11; Ord. 11-18(6), 6-1-11; Ord. 12-18(3), 6-6-12; Ord. 12-18(4), 7-11-12; Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 13-18(1), 4-3-13; Ord. 13-18(2), 4-3-13; Ord. 13-18(3), 5-8-13; Ord. 13-18(5), 9-11-13; Ord. 13-18(6), 11-13-13, effective 1-1-14; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(2), 3-5-14)

State law reference – Va. Code § 15.2-2286(A)(4).

Article II. Basic Regulations

Sec. 5.1.25 Farm wineries.

Each farm winery shall be subject to the following:

- a. *Uses permitted.* The following uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm winery:
 1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine including, but not limited to, activities related to the production of the agricultural products used in wine including, but not limited to, growing, planting and harvesting the agricultural products and the use of equipment for those activities.
 2. The sale, tasting, including barrel tastings, or consumption of wine within the normal course of business of the farm winery.
 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 of the Virginia Code and the 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 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.

5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 6. The sale of wine-related items that are incidental to the sale of wine including, but not limited to, the sale of incidental gifts such as cork screws, wine glasses, and t-shirts.
 7. Private personal gatherings of a farm winery owner who resides at the farm winery or on property adjacent thereto that is owned or controlled by the owner, provided that wine is not sold or marketed and for which no consideration is received by the farm winery or its agents.
- b. *Agritourism uses or wine sales related uses.* The following uses are permitted at a farm winery, provided they are related to agritourism or wine sales:
1. Exhibits, museums, and historical segments related to wine or to the farm winery.
 2. Farm winery events at which not more than two hundred (200) persons are in attendance at any time.
 3. Guest winemakers and trade accommodations of invited guests at a farm winery owner's private residence at the farm winery.
 4. Hayrides.
 5. Kitchen and catering activities related to a use at the farm winery.
 6. Picnics, either self-provided or available to be purchased at the farm winery.
 7. Providing finger foods, soups, and appetizers for visitors.
 8. Tours of the farm winery, including the vineyard.
 9. Weddings and wedding receptions at which not more than two hundred (200) persons are in attendance at any time.
 10. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time.
- c. *Agritourism uses or wine sales related uses; more than 200 person at any time; special use permit.* The following uses, at which more than two hundred (200) persons will be allowed to attend at any time, are permitted at a farm winery with a special use permit, provided they are related to agritourism or wine sales:
1. Farm winery events.
 2. Weddings and wedding receptions.
 3. Other uses not expressly authorized that are agritourism uses or wine sales related uses which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more uses authorized under section 5.1.25(c) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height and lumens of outdoor

lighting for each use; and (vi) the location of any stage, structure or other place where music will be performed.

2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each farm winery licensed on and after November 12, 2014 shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm winery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm winery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.
 2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
 3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
- f. *Yards.* Notwithstanding any other provision of this chapter, the minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after May 5, 2010 and to all tents, off-street parking areas and portable toilets used in whole or in part to serve any use permitted at a farm winery, provided the minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.
- g. *Uses prohibited.* The following uses are prohibited:
1. Restaurants.
 2. Helicopter rides.

(§ 5.1.25, 12-16-81, 1-1-84; Ord. 98-20(1), 4-1-98; Ord. 01-18(6), 10-3-01; Ord. 10-18(3), 5-5-10; Ord. 11-18(3), 3-9-11)

Sec. 5.1.47 Farm stands and farmers' markets.

Each farm stand and farmers' market shall be subject to the following, as applicable:

- a. *Zoning clearance.* Notwithstanding any other provision of this chapter, each farm stand or farmers' market shall obtain approval of a zoning clearance issued by the zoning administrator as provided by section 31.5 before the use is established as provided herein:
1. *Application.* Each application for a zoning clearance shall include a letter or other evidence from the Virginia Department of Transportation establishing that it has approved the entrance from the public street to the proposed use and:
 - (a) *Farm stands.* For farm stands, a sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the zoning administrator depicting: (i) all structures that would be used for the use; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this section and this chapter; and (iii) how potential adverse impacts to adjoining property will be mitigated.

- (b) *Farmers' markets.* For farmers' markets, a site plan showing only the details not excepted under section 32.3.5(a).
2. *Notice.* The zoning administrator shall provide written notice that an application for a zoning clearance for a farm stand or by right farmers' market has been submitted to the Virginia Department of Health and to the owner of each abutting lot under different ownership than the lot on which the proposed use would be located. The notice shall identify the proposed use and its size and location, and invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance as provided in section 32.4.2.1(g). The review by the Virginia Department of Health shall be independent of the zoning administrator's review of the application for a zoning clearance and the approval of the zoning clearance shall not be dependent on any approval by the Virginia Department of Health. The notice requirements shall not apply to a zoning clearance required for a farmers' market that has been approved by special use permit.
- b. *Structure size.* Structures used in conjunction with a farm stand or farmers' market shall comply with the following:
1. *Farm stands.* Any permanent structure established on and after May 5, 2010 (hereinafter, "new permanent structure") used for a farm stand shall not exceed one thousand five hundred (1500) square feet gross floor area. Any permanent structure, regardless of its size, established prior to May 5, 2010 (hereinafter, "existing permanent structure") may be used for a farm stand provided that if the structure does not exceed one thousand five hundred (1500) square feet gross floor area, its area may be enlarged or expanded so that its total area does not exceed one thousand five hundred (1500) square feet gross floor area, and further provided that if the existing structure exceeds one thousand five hundred (1500) square feet gross floor area, it may not be enlarged or expanded while it is used as a farm stand.
2. *Farmers' markets.* Any new or existing permanent structure may be used for a farmers' market without limitation to its size.
- c. *Yards.* Notwithstanding any other provision of this chapter, the following minimum front, side and rear yard requirements shall apply to a farm stand or farmers' market:
1. *New permanent structures and temporary structures.* The minimum front, side and rear yards required for any new permanent structure or temporary structure shall be as provided in the bulk and area regulations established for the applicable zoning district, provided that the minimum front yard on an existing public road in the rural areas (RA) district shall be thirty-five (35) feet. The minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.
2. *Existing permanent structures.* If an existing permanent structure does not satisfy any minimum yard requirement under subsection 5.1.47(c)(1), the minimum yard required shall be the distance between the existing permanent structure and the street, road, access easement or lot line on May 5, 2010 and that distance shall not be thereafter reduced. An enlargement or expansion of the structure shall be no closer to a street, road, access easement or lot line than the existing structure.
- d. *Parking.* Notwithstanding any provision of section 4.12, the following minimum parking requirements shall apply to a farm stand or farmers' market:
1. *Number of spaces.* Each use shall provide one (1) parking space per two hundred (200) square feet of retail area.
2. *Location.* No parking space shall be located closer than ten (10) feet to any public street right-of-way.
3. *Design and improvements.* In conjunction with each request for approval of a zoning clearance, the zoning administrator shall identify the applicable parking design and improvements required

that are at least the minimum necessary to protect the public health, safety, and welfare by providing safe ingress and egress to and from the site, safe vehicular and pedestrian circulation on the site, and the control of dust as deemed appropriate in the context of the use. The zoning administrator shall consult with the county engineer, who shall advise the zoning administrator as to the minimum design and improvements. Compliance with the identified parking design and improvements shall be a condition of approval of the zoning clearance.

(§ 5.1.19, 12-10-80; Ord. 01-18(6), 10-3-01; §5.1.35, Ord. 95-20(3), 10-11-95; § 5.1.36, Ord. 95-20(4), 10-11-95; § 5.1.47, Ord. 10-18(4), 5-5-10)

Sec. 5.1.57 Farm breweries.

Each farm brewery shall be subject to the following:

- a. *Uses permitted.* The following uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm brewery:
 1. The production and harvesting of barley and other grains, hops, fruit, and other agricultural products, and the manufacturing of beer including, but not limited to, activities related to the production of the agricultural products used in beer including, but not limited to, growing, planting, and harvesting the agricultural products and the use of equipment for those activities.
 2. The sale, tasting, or consumption of beer within the normal course of business of the farm brewery.
 3. The direct sale and shipment of beer in accordance with Title 4.1 of the Virginia Code and the regulations of the Alcoholic Beverage Control Board.
 4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 5. The storage and warehousing of beer in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 6. The sale of beer-related items that are incidental to the sale of beer including, but not limited to, the sale of incidental gifts such as bottle openers, beer glasses, and t-shirts.
 7. Private personal gatherings of a farm brewery owner who resides at the farm brewery or on property adjacent thereto that is owned or controlled by the owner, provided that beer is not sold or marketed and for which no consideration is received by the farm brewery or its agents.
- b. *Agritourism uses or beer sales related uses.* The following uses are permitted at a farm brewery, provided they are related to agritourism or beer sales:
 1. Exhibits, museums, and historical segments related to beer or to the farm brewery.
 2. Farm brewery events at which not more than two hundred (200) persons are in attendance at any time.
 3. Guest brewmasters and trade accommodations of invited guests at a farm brewery owner's private residence at the farm winery.
 4. Hayrides.
 5. Kitchen and catering activities related to a use at the farm brewery.
 6. Picnics, either self-provided or available to be purchased at the farm brewery.
 7. Providing finger foods, soups, and appetizers for visitors.
 8. Tours of the farm brewery, including the areas where agricultural products are grown.
 9. Weddings and wedding receptions at which not more than two hundred (200) persons are in attendance at any time.

10. Other uses not expressly authorized that are agritourism uses or are beer sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm breweries throughout the Commonwealth, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time.
- c. *Agritourism uses or beer sales related uses; more than 200 person at any time; special use permit.* The following uses, at which more than two hundred (200) persons will be allowed to attend at any time, are permitted at a farm brewery with a special use permit, provided they are related to agritourism or beer sales:
 1. Farm brewery events.
 2. Weddings and wedding receptions.
 3. Other uses not expressly authorized that are agritourism uses or beer sales related uses which are determined by the zoning administrator to be usual and customary uses at farm breweries throughout the Commonwealth.
 - d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more uses authorized under section 5.1.57(c) shall include the following:
 1. *Information.* Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each use; and (vi) the location of any stage, structure, or other place where music will be performed.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
 - e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
 1. *Zoning clearance.* Each farm brewery shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm brewery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm brewery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.
 2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
 3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
 - f. *Yards.* Notwithstanding any other provision of this chapter, the minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures and to all tents, off-street parking areas, and portable toilets used in whole or in part to serve any use permitted at a farm brewery, provided that the minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.
 - g. *Uses prohibited.* The following uses are prohibited:

1. Restaurants.
2. Helicopter rides.

Sec. 5.1.58 Events and activities at agricultural operations.

Each event or activity at an agricultural operation authorized below shall be subject to the following:

- a. *Purpose and intent.* The purpose and intent of this section 5.1.58 is to implement policies of the comprehensive plan and the requirements of Virginia Code § 15.2-2288.6. The stated elements of the county's vision for the Rural Area designated in the comprehensive plan include having a strong agricultural economy with large lots on which to produce agricultural products, opportunities to gain value from processing those products, and accessing local markets; maintaining a clearly visible rural character achieved by supporting lively rural industries and activities; having a significant tourist economy in which the rural landscape augments the visitors' experience; and having diverse, interconnected areas of viable habitat, healthy streams, sustainable supplies of unpolluted groundwater, and protected historic and cultural resources. The comprehensive plan's stated goal to protect the county's agricultural lands as a resource base for its agricultural industries and for the related benefits they contribute towards the county's rural character, scenic quality, natural environment, and fiscal health is achieved, in part, by allowing appropriately scaled low-impact events and activities on farms engaged in agricultural production as provided in this section. The comprehensive plan's stated goal to encourage creative and diverse forms of rural production and support rural land uses is achieved, in part, by allowing the events and activities such as farm sales, low-impact forms of agritourism, and other events and activities provided herein.

The comprehensive plan also recognizes that rural land uses depend on natural resources that are irreversibly lost when rural land is converted to residential and commercial uses, and that protecting rural land uses provides an opportunity to conserve natural, scenic, and historic resources – by maintaining farmland, forested areas, and other natural areas – and public fiscal resources – by limiting development and lessening the need to provide public services to wide areas of the County. In addition, the comprehensive plan recognizes that conflicts can arise not only between agricultural and residential uses, but also between different agricultural uses. Thus, to ensure that events and activities at agricultural operations do not conflict with the character of the Rural Area, to promote a vibrant rural economy while controlling the adverse impacts these events and activities may have on public fiscal resources and services, and to minimize possible adverse impacts resulting from events and activities, this section incorporates strategies provided in the comprehensive plan to address potential impacts.

This section shall be implemented and interpreted to achieve the objectives of its purpose and intent.

- b. *Findings.* The board hereby finds that the standards and restrictions in this section were established by considering their economic impact on agricultural operations and the agricultural nature of the events and activities authorized herein. The board further finds that one or more substantial impacts on the public health, safety, or welfare have been identified when a zoning clearance or a special use permit is required by this section. These substantial impacts, and the thresholds and standards related thereto, are based upon the comprehensive plan, study, experience from authorizing and regulating similar events and activities under this chapter, and existing state standards. In addition, the board finds that the thresholds and standards established herein are the minimum necessary in order to satisfy the relevant policies, goals, and objectives of the comprehensive plan without allowing the events, activities, and structures permitted by this section to cause substantial impacts and thereby endanger the public health, safety, or welfare.
- c. *Applicability; limitations.* This section applies only to the events and activities permitted by right and by special use permit under subsection (d). This section does not apply to the agricultural operation itself, to any farm winery subject to section 5.1.25, or to any farm brewery subject to section 5.1.57.
- d. *Events and activities permitted.* The following events, activities, and structures are permitted by right, permitted by right with approval of a zoning clearance, or by special use permit as set forth in the following table, provided that these events, activities, and structures are individually and in the aggregate subordinate to the agricultural operation, and subject to the applicable requirements of this section and this chapter:

Event or activity ¹	Criterion	By right	By right with zoning clearance ²	By special use permit ³
Agritourism: generally, for any number of events or activities, not regulated as another category of agritourism in this subsection or as an agricultural operation event	On sites ⁴ greater than or equal to 21 acres and the event or activity will generate 50 or fewer visitor vehicle trips per day (“VTPD”)	X		
	Either on sites less than 21 acres or the event or activity will generate more than 50 visitor VTPD		X	
	The event or activity would have more than 200 attendees at any single agricultural operation at any time, regardless of the number of visitor VTPD or the acreage of the site			X
Agritourism: educational programs, or workshops or demonstrations related to agriculture or silviculture	On sites ⁴ greater than or equal to 21 acres and the event or activity will generate 50 or fewer visitor vehicle trips per day (“VTPD”), and each event or activity would have 200 or fewer attendees at any single time, regardless of whether the number of these events or activities, in the aggregate would exceed 4 in a calendar year	X		
	The event or activity would have 200 or fewer attendees at any single time, regardless of the number of visitor VTPD or the acreage of the site, where the number of these events or activities, in the aggregate would not exceed 4 in a calendar year	X		
	Either on sites less than 21 acres or the event or activity will generate more than 50 visitor VTPD and each event or activity would have 200 or fewer attendees at any single time, where the number of these events or activities, in the aggregate would exceed 4 in a calendar year		X	
	The event or activity would have more than 200 attendees at any single agricultural operation at any time, regardless of the number of visitor VTPD or the acreage of the site			X
Agritourism: farm tours	The number of farm tours in which the agricultural operation is participating would not exceed 4 in a calendar year, and each farm tour would have 200 or fewer attendees at any single agricultural operation at any time, regardless of the number of visitor VTPD or the acreage of the site	X		

Event or activity ¹	Criterion	By right	By right with zoning clearance ²	By special use permit ³
Agritourism: farm tours	The number of farm tours in which the agricultural operation is participating would exceed 4 in a calendar year, regardless of the number of attendees at any single agricultural operation at any time, the number of visitor VTPD, or the acreage of the site		X ⁵	
Sales: The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation, including farm sales but excluding harvest-your-own activities	On sites greater than or equal to 21 acres and the activity will generate 50 or fewer visitor VTPD	X		
	On sites less than 21 acres or the activity will generate more than 50 visitor VTPD		X	
	Structures used for the sales activity, in the aggregate, if the gross floor area devoted to sales is less than or equal to 4,000 square feet	X		
	Structures used for the sales activity, in the aggregate, if the gross floor area devoted to sales is greater than 4,000 square feet			X
Sales: harvest-your-own activities	On any site, regardless of the acreage of the site, the number of visitor VTPD, or the number of attendees at any time	X		
Sales: The preparation, processing, or sale of food products in compliance with Virginia Code § 3.2-5130(A)(3), (4) and (5) or related state laws and regulations (“sale of food products”)	On sites greater than or equal to 21 acres and the activity will generate 50 or fewer visitor VTPD	X		
	On sites less than 21 acres or the activity will generate more than 50 visitor VTPD		X	
Other Events or Activities: Agricultural operation events	The event will generate 50 or fewer visitor VTPD and will occur on sites greater than or equal to 21 acres	X		
	The event will generate more than 50 visitor VTPD or occur on sites less than 21 acres but have 200 or fewer attendees at any time		X	
	The event will have more than 200 attendees at any time, regardless of the number of visitor VTPD or the acreage of the site			X
	The number of events in a calendar year would exceed 24, regardless of the number of visitor VTPD, number of attendees, or the acreage of the site			X
Other Events or Activities: Other events or activities which are determined by the zoning administrator to be usual and customary uses at agricultural operations throughout the Commonwealth	The applicable criteria will depend on whether the proposed event or activity is classified as agritourism, sales, or an event; and the applicable criterion of the events or activities listed above shall apply	Determined by how event or activity is classified	Determined by how event or activity is classified	Determined by how event or activity is classified

1. If two or more events or activities categorized as “Agritourism” or “Other Events or Activities” are being, or will be, conducted on-site simultaneously for any duration, the number of visitor VTPD and the number of attendees shall each be aggregated, and the requirements of the more restricted event or activity shall apply. For the purposes of this provision, an event or activity requiring a special use permit is more restricted than an event or activity permitted by right, either with or without a zoning clearance, and an event or activity permitted by right with a zoning clearance is more restricted than an event or activity permitted by right.
 2. The zoning clearance shall be obtained under section 31.5 and shall include considering the matters in subsection (e).
 3. The special use permit shall be obtained under section 33 and, in addition to the requirements of that section, shall include the information required by subsection (f).
 4. The term “site,” as used in this section, means one or more abutting lots under the same ownership on which the agricultural operation and the event or activity is located.
 5. A single zoning clearance may be obtained for all agricultural operations participating in a farm tour.
- e. *Matters to be considered in review of request for approval of zoning clearance.* In reviewing a request for approval of a zoning clearance, the zoning administrator’s review shall include verifying that the proposed event or activity complies with the applicable minimum yard standards in subsection (h), Virginia Department of Transportation entrance standards, Virginia Department of Health health and sanitation standards, and shall ensure that on-site travelways can accommodate emergency vehicles, adequate on-site parking is provided in a location that complies with this chapter, environmental impacts are addressed by compliance with the applicable regulations or performance standards of this chapter and chapter 17, and that all improvements comply with the applicable requirements in section 4. In addition, for any zoning clearance for a farm tour that may have more than 200 attendees at any single agricultural operation at any time, the zoning administrator shall consider the traffic management plan submitted by the person requesting the zoning clearance. The traffic management plan shall demonstrate how traffic entering and exiting each agricultural operation participating in the farm tour will be managed to ensure safe and convenient access to and from the site and safe travel on public streets.
- f. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more event or activity (“use”) for which a special use permit is required under subsection (d) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each use; and (vi) the location of any stage, structure or other place where music will be performed.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning, depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- g. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each agricultural operation shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the agricultural operation. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the agricultural operation will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being generated.

2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
 3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
- h. *Yards and separation from dwelling units.* Notwithstanding any other provision of this chapter, the following minimum front, side, and rear yard requirements shall apply to any event or activity:
1. *Structures used for sales.* The minimum yards for structures used for the sale of agricultural or silvicultural products shall be as follows:
 - a. *New permanent structures and temporary structures.* The minimum front, side, and rear yards required for any new permanent structure or temporary structure shall be as provided in the bulk and area regulations established for the applicable zoning district, provided that the minimum front yard on an existing public road in the rural areas (RA) district shall be thirty-five (35) feet. The minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.
 - b. *Existing permanent structures.* If an existing permanent structure does not satisfy any minimum yard requirement under subsection (h)(1)(a), the minimum yard required shall be the distance between the existing permanent structure and the street, road, access easement, or lot line on November 12, 2014, and that distance shall not be thereafter reduced. An enlargement or expansion of the structure shall be no closer to a street, road, access easement or lot line than the existing structure.
 2. *Outdoor event and activity areas.* The minimum front, side, and rear yards for outdoor event and activity areas shall be seventy-five (75) feet. In addition, outdoor event and activity areas shall be a minimum of one hundred twenty-five (125) feet from any dwelling unit on an abutting lot not under the same ownership as the agricultural operation. These minimum standards shall not apply to any portion of the agricultural operation that is engaged in production agriculture or silviculture, even though it also is used for an agritourism activity.
 3. *Parking areas and portable toilets.* The minimum front, side, and rear yards for parking areas and portable toilets shall be seventy-five (75) feet. In addition, parking areas and portable toilets shall be a minimum of one hundred twenty-five (125) feet from any dwelling unit on an abutting lot not under the same ownership as the agricultural operation.
- i. *Uses prohibited.* The following uses are prohibited:
1. Restaurants.
 2. Helicopter rides.

Article III. District Regulations

Section 10. Rural Areas

Sec. 10.2.1 By right.

The following uses shall be permitted by right in the RA district, subject to the applicable requirements of this chapter:

. . .

3. Agriculture, forestry, and fishery uses except as otherwise expressly provided.

. . .

6. Water, sewer, energy, communications distribution facilities (reference 5.1.12). (Amended 5-12-93)

- ...
9. Public uses (reference 5.1.12). (Amended 11-1-89)

...

 17. Farm winery uses, events, and activities authorized by section 5.1.25(a) and (b). (Added 12-16-81; Amended 5-5-10)

...

 27. Farm stands (reference 5.1.47) (Added 5-5-10)

...

 29. Farm brewery uses, events, and activities authorized by section 5.1.57(a) and (b).
 30. Events and activities at agricultural operations authorized by right under section 5.1.58(d).

(§ 20-10.2.1, 12-10-80; 12-16-81; 7-6-83; 11-1-89; 11-8-89; 11-11-92; 5-12-93; Ord. 95-20(5), 11-15-95; Ord. 98-A(1), § 18-10.2.1, 8-5-98; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 06-18(2), 12-13-06; Ord. 08-18(7), 11-12-08; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(3), 6-6-12; Ord. 13-18(5), 9-11-13)

Sec. 10.2.2 By special use permit.

The following uses shall be permitted by special use permit in the RA district, subject to the applicable requirements of this chapter: (Added 10-9-02; Amended 5-5-10)

- ...
2. Clubs and lodges (reference 5.1.02).
 3. Fire and rescue squad stations (volunteer) (reference 5.1.09).

...

 6. Energy and communications transmission facilities (reference 5.1.12).
 7. Day care centers (reference 5.1.06).

...

 53. Farm winery uses, events, and activities authorized by section 5.1.25(c). (Added 5-5-10)
 54. Farmers' markets (reference 5.1.47). (Added 5-5-10)
 55. Farm brewery uses, events, and activities authorized by section 5.1.57(c).
 56. Events and activities at agricultural operations authorized by special use permit under section 5.1.58(d).

(§ 20-10.2.2, 12-10-80; 3-18-81; 2-10-82; 4-28-82; 7-6-83; 3-5-86; 1-1-87; 12-2-87; 11-8-89; 6-10-92; 11-11-92; Ord. 95-20(1), 3-15-95; Ord. 95-20(3), 10-11-95; Ord. 95-20(5), 11-15-95; Ord. 98-A(1), § 18-10.2.2, 8-5-98; Ord. 99-18(4), 6-16-99; Ord. 00-18(6), 10-18-00; Ord. 01-18(2), 3-21-01; Ord. 02-18(6), 10-9-02; Ord. 04-18(1), 5-5-04 effective 7-1-04; Ord. 04-18(2), 10-13-04; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 08-18(7), 11-12-08; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11)

Section 11. Monticello Historic District

Sec. 11.3.1 By right.

The following uses shall be permitted by right in the MHD:

- ...
10. Water, sewer, energy, communications distribution facilities (reference 5.1.12).

...

 13. Public uses (reference 5.1.12).

...

- 19. Farm winery uses, events, and activities authorized by section 5.1.25 (a) and (b).
...
- 26. Farm stands (reference 5.1.47). (Added 5-5-10)
...
- 28. Farm brewery uses, events, and activities authorized by section 5.1.57(a) and (b).
- 29. Events and activities at agricultural operations authorized by right under section 5.1.58(d).
(Ord. 05-18(5), 6-8-05; Ord. 08-18(2), 5-7-08; Ord. 10-18(4), 5-5-10; Ord. 11-18(4), 4-6-11)

Sec. 11.3.2 By special use permit.

The following uses shall be permitted by special use permit in the MHD:
...

- 8. Farm winery uses, events, and activities authorized by section 5.1.25(c), provided, however, that no special use permit shall be required for any use that is otherwise permitted pursuant to section 11.3.1.
- 9. Farm brewery uses, events, and activities authorized by section 5.1.57(c), provided, however, that no special use permit shall be required for any use that is otherwise permitted pursuant to section 11.3.1.
- 10. Activities at agricultural operations authorized by special use permit under section 5.1.58(d), provided, however, that no special use permit shall be required for any use that is otherwise permitted pursuant to section 11.3.1.

(Ord. 05-18(5), 6-8-05; Ord. 10-18(4), 5-5-10; Ord. 11-18(4), 4-6-11)

Article IV. Procedure

Sec. 31.5 Zoning clearance.

The zoning administrator shall review requests for zoning clearances as follows:

- a. *When required.* A zoning clearance shall be required in the following circumstances:
 - 1. *New use.* Prior to establishing a new non-residential use, including those provided in subsections (a)(6) and (a)(7), other than an agricultural use.
 - 2. *Change or intensification of existing use.* Prior to changing or intensifying an existing non-residential use, including those provided in subsections (a)(6) and (a)(7), other than an agricultural use.
 - 3. *Change of occupant.* Prior to a new occupant taking possession of an existing non-residential use, other than an agricultural use.
 - 4. *Specific buildings, structures or uses.* Prior to establishing any building, structure, or use for which a zoning clearance is required under section 5.
 - 5. *Commencement of extraction activity.* Prior to commencing any natural resource extraction activity within the natural resources overlay district.
 - 6. *Events and activities at agricultural operations.* Prior to the first time that a specific class of event or activity is held at an agricultural operation, if a zoning clearance is required under section 5.1.58(d).
 - 7. *Outdoor amplified music.* Prior to the first time that outdoor amplified music is generated at an event or activity at a farm winery, farm brewery, or agricultural operation, as provided in sections 5.1.25, 5.1.57, and 5.1.58, respectively.

- b. *Approval.* If the proposed building, structure, improvements, and site, and the proposed use thereof, comply with this chapter, the zoning administrator shall issue the zoning clearance.
- c. *Circumstance when zoning clearance shall not be issued.* The zoning administrator shall not issue a zoning clearance if, after review of any site, the zoning administrator determines that additional improvements are necessary to protect the public health or safety, regardless of whether the improvements are shown on the site plan.
- d. *Notice to the owner if the applicant is not the owner.* Within ten (10) days after receipt of a request for a zoning clearance by an applicant who is not the owner of the lot and/or structure to which the zoning clearance pertains, and prior to acting on the request, the zoning administrator or the applicant, at the zoning administrator's request, shall give written notice of the request to the owner. Written notice mailed to the owner's last known address as shown on the current real estate tax assessment records shall satisfy this notice requirement. If the zoning administrator requests that the applicant provide the written notice, the applicant shall provide satisfactory evidence to the zoning administrator that the notice has been given.
- e. *Commercial and industrial uses defined.* For the purposes of this section 31.5, production agriculture, production silviculture, and agricultural operations are neither commercial nor industrial uses; a home occupation is a commercial use.
- f. *Effect of renumbering and renaming.* Any other section of this chapter that refers to section 31.2.3.2 or to a zoning compliance clearance shall be deemed to be a reference to section 31.5 or a zoning clearance.

(§ 31.2.3.2, 9-9-92; Ord. 01-18(6), 10-3-01; Ord. 09-18(3), 7-1-09; Ord. 11-18(1), 1-12-11; Ord. 11-18(8), 8-3-11)

**RESOLUTION APPROVING THE CONVEYANCE OF PROPERTY
AT THE INTERSECTION OF OLD TRAIL DRIVE AND JARMANS GAP ROAD
TO THE COMMONWEALTH OF VIRGINIA**

WHEREAS, the County of Albemarle owns certain property located at the intersection of Old Trail Drive and Jarmans Gap Road identified as Parcel ID 055E0-00-00-000A1; and

WHEREAS, the Commonwealth of Virginia commenced a condemnation action in 2010 against March Mountain Properties, the prior owner of the parcel, in error, and recorded a certificate of take for approximately 0.7 acres of the County-owned property (the "Lot"), of which the County was never notified, and which purported to transfer title of the Lot to the Commonwealth; and

WHEREAS, the Commonwealth established a stormwater management facility on the Lot in conjunction with the recently-completed improvements to Jarmans Gap Road; and

WHEREAS, the Board finds that conveying the property to the Commonwealth of Virginia serves a public purpose and is necessary for the commonwealth of Virginia to properly own and maintain its facilities on the Lot.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the conveyance of approximately 0.7 acres of Parcel ID 055E0-00-00-000A1 to the Commonwealth of Virginia, and authorizes the County Executive and the County Attorney to sign all documents, approved as to content and form by the County Attorney, necessary to convey this property to the Commonwealth.

**RESOLUTION APPROVING THE GRANTING OF
EASEMENTS ON THE OLD TRAIL PARK PROPERTY
TO MARCH MOUNTAIN PROPERTIES, LLC**

WHEREAS, the County of Albemarle owns certain property located along the southern property boundary adjacent to Claremont Lane known as the Old Trail Park and identified as Parcel ID 055E0-01-00-000H0; and

WHEREAS, a temporary construction easement and two temporary stormwater management and use easements on this County-owned property are necessary for March Mountain Properties, LLC to construct a permanent drainage pipe across a corner of the property and to use the temporary drainage basins to address Water Protection Ordinance requirements during construction of the additional proposed development of Old Trail Village; and

WHEREAS, the Board finds that granting such easements is appropriate to address the water quality requirements arising from the proposed development.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the granting of these certain easements to March Mountain Properties, LLC, and authorizes the County Executive to sign all documents, approved as to content and form by the County Attorney, necessary to convey these easements on Parcel ID 055E0-01-00-000H0 and to implement the terms and conditions thereof.