

The Fairfax County Federation of Citizens Associations
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Resolution

Operation of Farm Wineries

Background

The Code of Virginia, Section 15.2-2288.3, states that no locality shall regulate a farm winery's activities consisting of "on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery." However, the same section states that "Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public."

In addition, this same section states that "no local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents."

In light of these citations from the Code of Virginia, various counties have determined that "substantial impact on the health, safety, or welfare of the public" may occur from farm wineries unless some limits are placed on the wineries. For example, Prince William County does not allow on-site food preparation, limits the number of occupants to 150, and limits the floor area for wine tasting and food sales to 20% of the gross floor area.

The purpose of RC-zoned land includes promoting "open, rural areas for the growing of crops, pasturage, horticulture, dairying, floriculture, the raising of poultry and livestock" (see <http://www.fairfaxcounty.gov/dpz/zoningordinance/articles/art03.pdf>). This section of the Fairfax County zoning ordinance allows, under special permit, RC-zoned land owners to use their land for temporary uses, limited to "Carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities." Furthermore, it states that "no sale of goods or products shall be permitted, except as accessory and incidental to a permitted, special permit or special exception use." Farm wineries fall under this category. The lot size must be at least 5 acres, except cluster lots may be as small as 36,000 square feet.

The purpose of RE-zoned land also includes promoting agricultural uses. Lot sizes can be as small as 75,000 square feet (1.7 acres). R-1-zoned land allows some agricultural uses, but does not specifically forbid the use of the land for the production and sale of wine.

Resolution

WHEREAS, Fairfax County has no regulations that, as allowed by the Code of Virginia, protect the properties near farm wineries;

THEREFORE

BE IT RESOLVED, that the Fairfax County Federation of Citizens Associations requests that the Fairfax County Board of Supervisors revise the Fairfax County Zoning Ordinance such that all agricultural businesses conducted in a residential district shall demonstrate by analysis that the agricultural operation will not jeopardize the health, safety, or welfare of the public in the vicinity of the business.

FURTHERMORE, BE IT RESOLVED, that this revision to the zoning ordinance be instituted at the earliest possible date, preferably before January 2010.

Approved at the Federation membership meeting on December 17, 2009.