



## **TOPIC:**

**Consider a setback waiver to allow “agriculture structures” to be rebuilt within the same footprint.**



## **TOPIC:**

**Consider a setback waiver to allow “agriculture structures” to be rebuilt within the same footprint.**

### **DISCUSSION ON THIS TOPIC SHOULD INCLUDE**

- Review of "true" agricultural structures originally applied and built for *bona fide agriculture* and agricultural uses,  
**versus**
- “Ag barns/structures” applied for, permitted and built with a different or undeclared use than the current actual use.
  - Historically, construction of “Ag Barns” bypassed Uniform State Building Code (USBC).
  - Subsequent application for change of use were made (e.g., to B&B, banquet event facility, VaABC use tasting room, etc.), and/or change of classification by P&Z/B&D/COR.
  - Application of USBC is not retroactive to ag structures built with change of use.
  - Code of VA added a signage requirement in 2023; Loudoun has since required inspections for some facilities reclassified as “banquet event” uses.

### **BACKGROUND**

- **LOUDOUN COUNTY:**
  - Prior to ~2021 permit applications to Zoning and B&D would state “**Agricultural Building**,” “**ag barn**,” “**barn**,” making the structure exempt from Uniform State Building Code (USBC).
  - Not disclosed on permits: Some buildings were constructed with bathrooms, water connections, planned occupancy greater than 50 people and in some cases, residential apartments for B&B use.
  - The Building & Zoning Permit Application was REVISED in ~2021 to be more clear requiring:
    - If an **Ag Building** is applied for, a second form, “**Farm Building or Structure Attachment**,” is required to be submitted -- under penalty of perjury -- for a **Farm Structure Exemption Request**. The Form clauses state:  
*A Zoning Permit is required for **all new farm building(s) or structure(s) or any change of use** of an existing building or structure, regardless if the Building Official deems the building or structure exempt from the USBC.*
- **VIRGINIA STATE CODE – Uniform Statewide Building Code Exemption**
  - A Bill was initiated in 2018 to add exemption of winery and brewery tasting rooms to the list of EXEMPT “farm buildings and structures” under Code of VA § 36-99 – Uniform Statewide Building Code (USBC).
  - The Bill was indefinitely postponed (failed). A 2018 study resulted was initiated with state-wide stakeholders, including Loudoun County representatives.
  - VA Bills were highlighted in 2019 and 2023 during Zoning Ordinance Rewrite with stakeholders, indicating in April 2023 that Loudoun “*could not*” finalize any zoning ordinance changes until the VA Code review was final and approved, which was approved a month earlier in March 2023.



- **FINAL RESULT: Changes were enacted in 2023 Session: [APPROVED MARCH 26, 2023](#):**

Final Bill required “farm building or structure where the public is invited” for agritourism activity, recreation, entertainment or educational purpose and used for “display, sampling or sale of” ag, horticulture etc. for “*products produced on the farm* **SHALL HAVE:**”

**Portable fire extinguishers, written emergency plan, and a sign posted stating,**  
“*This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies.*”

### **Existing Setback Regulations:**

- Per the former Zoning Administrator, an “ag barn” without separate Use Specific Standards specifying setbacks, allows a **default 25’ setback** (base density) from residential property line (35” cluster option).<sup>6</sup>
- ZOR Public input indicated this was not sufficient for ag structure “*change of use*” to B&Bs, VaABC uses with outdoor music, large quantities of patrons, or banquet/event facilities.<sup>7</sup>

### **KEY QUESTION FOR WLRUS MEETINGS:**

- **Should a setback waiver to allow “agriculture structures” to be rebuilt within the same footprint ONLY apply to actual “Farm” or “Ag operation” structures?**
  - *Review attached table for actual current structures originally applied as “Ag” barn or structure with a change of use and revised classification.*
- **FOR WHAT USE(S) do/does the Farm Building or Structure Attachment and Farm Structure Exemption Request apply?**
  - Does it **only** apply for “**Farm**” or “**Ag operations**,” if so, how defined?
  - Does it apply to **VABC Uses, Event Centers and/or B&B Uses** that occupy 50 people or more, contain bathrooms/kitchen or residential apartments without a Farm plan or other health department, VA Department requirements?
  - How would an exemption apply to **EXISTING FARM BUILDING/BARN** structure for a change of primary use (i.e., with no retroactive USBC requirements)?

### **AGRICULTURAL STRUCTURE CLASSIFICATIONS SUMMARY**

“**Ag Barns**” were originally classified in a number of ways by P&Z, B&D, Commissioner of Revenue and on Loudoun Mapping for a variety of business operations:

- **Types of structures originally identified in Loudoun Mapping as:** 1 Sty Loft Barn, Bank Barn, Misc Comm Structure, Banquet Hall, Light Utility Building, Storage Warehouse, etc.
- **Actual USE of operations:** Events/Weddings, Winery/Events, Brewery Events/Music, B&B, Rentals/Airbnb.
- **Structure type classifications updated** (zoning use, COR revenue tracking, etc.)
- **LandMARC Inspections:** Indicate full inspections (e.g., for SPEX banquet facility) versus partial or no inspections for Ag barn/structures with assemblies (Code of VA: more than 50 people).

<sup>6</sup> [Chapter 2, Table 2.04.01-1, AR-1 Zoning District Dimensional Standards](#)

<sup>7</sup> <https://www.loudoun.gov/5720/Review-Comments-on-the-Draft-Zoning-Ord>



**Listing of Actual Businesses<sup>8</sup> as of 2018-2020  
UPDATED to 2025 RECLASSIFICATION of Business Operations**

Applied For	Structure Type: ~2018	Size	Yr Built	Actual Structure Use (2025)	2025 Comm of Rev / Weblogis Classification & LandMARC (LM) Inspection
Existing Barn	Bank Barn	3,456	1800	Events/Weddings	Bank Barn / LM Inspe for B&B/Tents only (not ag structure)
(unknown)	1 STY Loft Barn	2,340	1807	Events/Weddings	Bank Barn / LM Inspe for Tents only (not ag structure)
Existing Barn	1 STY Loft Barn	1,200	1890	Events/Weddings	1 STY WD/MET GEN BARN (LM Inspec: B&B 2014)
Rehab barn	1 STY WD/MET GEN BARN	2,360	1900	Events/Weddings	Structure Occupancy: Winery, Brewery, Events, Commercial: Banquet Hall (LM Inspections: No)
"Ag barn"/ building	WD/CB MILKHSE/PARLOR	2,016	1900	Events/Weddings	Structure Occupancy: Winery, Brewery, Events, Banquet Hall / LM inspec for temporary amp
"Pole barn" w/ restroom		8,708	1997	Brewery/Music	Structure Occupancy: Winery, Brewery, Events, Commercial: Winery Shop
"Ag barn"/ building	Barn/residential	3,160	2006	Farm labor	Apartment over barn
"Ag barn"/ building	Light Utility Build	1,380	2007	Winery/events	Structure Occupancy: Winery, Brewery, Events, Commercial: Winery Shop
"Ag Barn, Pole Barn"	Misc Comm Structure (15K sqft)	5,676	2011	Winery/events	Structure Occupancy: Winery, Brewery, Events, Commercial: Winery Shop
"Ag barn"/ building	Misc Comm Structure	13,016	2012	Winery/events	Banquet Hall (LM Inspections: Fire Marshal, gas: Yes)
Com. Wedding Facility	Banquet Hall SPEX	7,200	2014	Events/Weddings	Banquet Hall (LM Inspections: Fire Marshal, plumb, bldg: Y)
"Ag barn"/ building	Light Utility Build	2,240	2014	Brewery/Events	Commercial: Winery Shop
"Agricultural Structure"	Cape/Bungalow	2,480	2014	Winery/events	Structure Occupancy: Winery, Brewery, Events, Commercial: Winery Shop
"Ag barn"/ building		11,550	2015	Brewery/Music	Comm: Winery Shop/Banquet Hall / LM Inspec - electrical for Ag Building
"Ag barn"/ building	Storage Warehouse	2,800	2015	Brewery/Events	Structure Occupancy: Winery, Brewery, Events / LM inspec grading only.
"Ag barn"/ building / Events	Light Utility Build, Storage Warehouse	9,600	2015	Brewery/Music	Winery Shop, Banquet Hall (LM Inspec: Jun 2024 Fire Mar)
"Ag barn"/ building	Banquet Hall	6,950	2017	Events/Weddings/B&B	Structure Occupancy: Winery, Brewery, Events, Banquet Hall / LM inspec grading. "assembly use", "no data - legacy"
B&B (2017)	4 Residences+ Pavillion	7,275	2018	B&B / Brewery	Structure Occupancy: Winery, Brewery, Events / LM inspec for food truck
"Ag barn"/ building		8,740	2018	Brewery/Events	Structure Occupancy: Winery, Brewery, Events, Commercial: Winery Shop
Zoning only/ Country Inn	Micro house (7)	?	?	Rentals/AirBnB	Occupancy: "Misc Improvements" (Residences)

<sup>8</sup> List includes actual business structures with business names removed. Names available by request only.

**Conservation Farm Plan**  
**Loudoun Soil and Water Conservation District**

I, \_\_\_\_\_ intend to maintain my land in a planned program of soil and water management and conservation as per the Virginia Land Use Assessment Law.

Best Management Practices (specific examples on following pages) shall be utilized to improve water quality and reduce soil erosion.

Soil fertility shall be maintained by the application of nutrients both organic and inorganic at the rates recommended by a soil test through Virginia Cooperative Extension Service or another reputable provider.

Care should be taken to control invasive plants. A list of Virginia Invasive plants can be found at <http://www.dcr.virginia.gov/natural-heritage/document/nh-invasive-plant-list-2014.pdf> Control measures can include chemical, cultural, or mechanical measures.

This plan describes my intentions to maintain the fields contained in parcel PIN number \_\_\_\_\_ as outlined on the attached maps.

Total acreage: \_\_\_\_\_

I submit the attached conservation plan to the Loudoun Soil and Water Conservation District for their approval. I understand that this planned program of land management and conservation practices is in compliance with the Virginia Land Use Assessment Law.

Cooperator (Landowner)

\_\_\_\_\_ Date: \_\_\_\_\_

Loudoun Soil and Water Conservation District

\_\_\_\_\_ Date: \_\_\_\_\_