

PROPOSED LEGISLATION

*AN ACT to amend and reenact Virginia Code §§ 3.2-6400 and 15.2-2288.6
and to establish a Farm Temporary Food Establishment Permit and a Farm Restaurant Permit
directly in the Code of Virginia, with limited administrative implementation by the Board of Health
relating to farm food service on agricultural property;
establishing a Farm Temporary Food Establishment Permit and a Farm Restaurant Permit.*

WHY THIS MATTERS

Farming alone does not pay for most small farms in Virginia. The cost of land, equipment, and labor routinely exceeds what raw agricultural products can be sold for at wholesale prices. Agritourism — inviting the public onto the land to experience it, and preparing and serving the very food grown there — is one of the few revenue models available to a small farm that can generate the cash flow needed to keep the farm operating at all. A farm that can serve a dinner using the vegetables it grew that morning and the chicken it raised that season is not circumventing food safety regulation. It is doing the most direct, traceable, and transparent version of food service that exists.

Under current Virginia law, there is no proportionate regulatory pathway designed for that farm to do this predictably and affordably on a recurring basis. A standalone Temporary Food Establishment permit exists under current law, but it is built around single occasional events, is subject to significant administrative burden for a farm hosting recurring gatherings, and its facility expectations are not calibrated to a working farm setting. The alternative — catering under an off-site licensed restaurant permit, or building and permitting a full commercial kitchen designed for restaurants on commercial property — is either unavailable to most farms or prohibitively expensive on land zoned for agriculture. The result is that farms attempting to serve the food they grow on a regular basis are regularly forced into costly, protracted disputes with regulators simply for doing what the Commonwealth's own agritourism and right-to-farm laws were written to encourage.

This proposal exists to close that gap directly. It gives farms two proportionate, code-compliant paths — a Farm TFE Permit for occasion-based events and a Farm Restaurant Permit for permanent operations — so that a farm can turn the food it grows into the revenue stream that keeps it growing food at all. This is not deregulation. Temperature control, handwashing, food handler certification, and every substantive food safety requirement of the Virginia Food Regulations still apply in full. Only the certificate of occupancy and off-site permit barriers — which govern where food may be prepared, not whether it is prepared safely — are addressed. What changes is that the pathway to compliance becomes achievable for a farm rather than designed only for a restaurant.

STATEMENT OF INTENT

The sourcing thresholds established in this Act are intended to ensure that the Farm TFE and Farm Restaurant classifications reflect genuine, substantial agricultural production, whether by the permit holder or by the local farming community the permit holder is directly part of — not to function as a loophole allowing any food service operation to qualify by claiming loose or indirect “local” sourcing. Where a specific application of “nearby agricultural property” or the sourcing threshold in Section 3 does not squarely resolve a particular case, the Board of Health and any reviewing authority shall interpret that provision consistently with this intent: to support working farms and the neighboring agricultural operations they directly source from, and not to extend these classifications to operations whose connection to actual on-farm production is attenuated, indirect, or nominal.

SYNOPSIS

This Act establishes a two-tier regulatory framework allowing Virginia farms engaged in agritourism to serve food grown on their own property. It builds directly on five existing frameworks in Virginia law: (1)

the Temporary Food Establishment provisions of the Virginia Food Regulations, 12VAC5-421-10; (2) the farm producer frameworks administered by VDACS; (3) the agricultural operations local regulation framework, Virginia Code § 15.2-2288.6, which already restricts localities from regulating agritourism activities and farm food preparation done in compliance with state law; (4) the farm winery, farm brewery, and craft distillery local regulation framework, Virginia Code §§ 15.2-2288.3, 15.2-2288.3:1, and 15.2-2288.3:2, which protects farm wineries, breweries, and distilleries from local overreach; and (5) the Agritourism Event Structure Framework, Virginia Code §§ 36-97, 36-98.4, and 36-99, which this Act complements without duplicating. The Farm Restaurant proposal is the food equivalent of what Virginia has already established for farm wineries and farm breweries. It does not create new policy. It applies existing policy consistently.

Tier 1 — The Farm TFE Permit allows farms to host discrete, occasion-based food service events — chef dinners, weddings, harvest gatherings — using food grown on-site, with a 150-guest cap per event and no annual limit on the number of events. A standalone TFE permit already exists under current law, but it is structured around single occasional events and imposes recurring administrative burden and facility expectations poorly suited to a working farm hosting regular gatherings. This Act creates a farm-specific TFE category calibrated to that reality.

Tier 2 — The Farm Restaurant Permit establishes a permanent food service classification for farms, with requirements proportionate to agricultural operations. An amendment to § 15.2-2288.6 explicitly protects Farm Restaurants from local government requirements that would not apply to comparable non-farm food service operations.

EXISTING FRAMEWORK THIS ACT BUILDS UPON

This Act does not create new regulatory authority. It expands five frameworks already in Virginia law:

1. Virginia Food Regulations — 12VAC5-421-10 (Temporary Food Establishments)

Current law defines a Temporary Food Establishment as a standalone permit available to any applicant for events operating no more than 14 consecutive days in conjunction with a single occasion, and defines “occasional” as not more than one time per week and not in excess of two days duration. Current law and VDH policy (PIM #07-01) additionally provide that existing permanent permit holders need no separate TFE permit for their events. Neither provision was built for a farm hosting recurring, reservation-based gatherings over an extended season. This Act creates a Farm TFE category calibrated to that use case, with a guest cap and occasion definition in place of the administrative burden of repeat single-event applications.

2. VDACS Farm Producer Framework

Farms licensed by VDACS as agricultural producers already have regulatory recognition for the production and direct sale of food grown on their property. The Farm TFE and Farm Restaurant permits align food service regulation with this existing agricultural production recognition, creating a coherent regulatory identity for farms that grow and serve their own food.

3. Agricultural Operations Local Regulation — Virginia Code § 15.2-2288.6

Current law already restricts localities from requiring a special exception, special use permit, or administrative permit for agritourism activities and for the preparation, processing, or sale of food products at an agricultural operation in compliance with state law, unless there is a substantial impact on public health, safety, or general welfare. This Act clarifies that Farm TFE and Farm Restaurant permits satisfy that state-law compliance standard and extends that protection explicitly to permanent farm food service operations, closing the gap that has allowed localities to require commercial zoning, conditional use permits, and certificate of occupancy processes for farm food service that comparable non-farm venues do not face.

4. Farm Winery, Farm Brewery, and Craft Distillery Local Regulation — Virginia Code §§ 15.2-2288.3, 15.2-2288.3:1, and 15.2-2288.3:2

Virginia's General Assembly has already established, three separate times, the principle that farms and licensed producers selling agricultural products on agricultural land deserve protection from local government overreach. § 15.2-2288.3 (2006) provides that usual and customary activities at farm wineries shall be permitted without local regulation unless there is a substantial impact on public health, safety, or welfare. § 15.2-2288.3:1 extends identical protections to farm breweries, and § 15.2-2288.3:2 extends the same protection to licensed distilleries. The Farm Restaurant proposal is the food equivalent of what those three statutes established for wine, beer, and spirits — applying a principle the General Assembly has already endorsed three times to a farm that grows and serves food rather than ferments or distills it.

This proposal does not create new local protection under § 15.2-2288.6 — it creates the VDH permit pathway that makes proportionate compliance with state food safety law achievable for farms, which is the missing piece that has prevented § 15.2-2288.6 from being fully operative for farm food service.

5. Agritourism Event Structure Framework — Virginia Code §§ 36-97, 36-98.4, and 36-99

Since 2018, Virginia has separately studied the question of fire and life safety standards for farm buildings used to host public events, resulting in the Agritourism Event Structure Technical Advisory Committee established by SB 400 (2022) and continued by SB 1305 (2023). A 2018 Virginia Tech and Virginia Cooperative Extension stakeholder review had already recommended a substantive safety standard for such buildings, including fire alarm systems, emergency lighting, panic hardware, accessible restrooms, potable water, emergency vehicle access, and an occupancy tier of 50 to 300 persons, but those recommendations were never enacted. The committee's 2023 findings acknowledge that no mechanism currently exists for determining occupancy limits or issuing a certificate of occupancy for USBC-exempt farm buildings, and the Chair of the Virginia Fire Services Board formally objected that the committee's eventual non-binding guidance was inadequate for genuine life safety. The Committee has held no meetings since October 2023 and, despite this formal objection, has not reconvened. This Act does not attempt to resolve that separate, dormant building-code question. It addresses only the VDH food-service classification that caused the enforcement action underlying this proposal, and its occupant load and fire marshal consultation provisions in Section 3 are deliberately built on the Statewide Fire Prevention Code framework the Technical Advisory Committee itself identified as the appropriate ongoing-enforcement vehicle, so that this Act complements rather than duplicates or conflicts with that separate process.

Reference Links — Read the Underlying Law Directly

The links below go directly to the official Code of Virginia and Virginia Administrative Code text on the Virginia General Assembly's own website.

12VAC5-421 — Virginia Food Regulations (VDH) —

<https://law.lis.virginia.gov/admincode/title12/agency5/chapter421/>

§ 3.2-300 — Definition of agricultural operation — <https://law.lis.virginia.gov/vacode/title3.2/chapter3/section3.2-300/>

§ 3.2-6400 — Agritourism definitions — <https://law.lis.virginia.gov/vacode/title3.2/chapter64/section3.2-6400/>

§ 15.2-2288.6 — Agricultural operations; local regulation of certain activities — <https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2288.6/>

§ 15.2-2288.3 — Farm winery local regulation — <https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2288.3/>

§ 15.2-2288.3:1 — Farm brewery local regulation — <https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2288.3.1/>

§ 15.2-2288.3:2 — Craft distillery local regulation — <https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2288.3.2/>

12VAC5-610 — Sewage Handling and Disposal Regulations (VDH) — <https://law.lis.virginia.gov/admincode/title12/agency5/chapter610/>

12VAC5-613 — Regulations for Alternative Onsite Sewage Systems (VDH) —

<https://law.lis.virginia.gov/admincode/title12/agency5/chapter613/>

12VAC5-610-980 — Portable toilet standards for mass gatherings (VDH) —

<https://law.lis.virginia.gov/admincode/title12/agency5/chapter610/section980/>

§ 36-97 — Definition of farm building or structure — <https://law.lis.virginia.gov/vacode/title36/chapter6/section36-97/>

§ 36-98.4 — Agritourism Event Structure Technical Advisory Committee —

<https://law.lis.virginia.gov/vacode/title36/chapter6/section36-98.4/>

§ 36-99 — Minimum safety requirements for farm buildings open to the public —

<https://law.lis.virginia.gov/vacode/title36/chapter6/section36-99/>

§ 3.2-6401 — Agritourism liability limited; assumption of risk —

<https://law.lis.virginia.gov/vacode/title3.2/chapter64/section3.2-6401/>

§ 3.2-6402 — Agritourism warning notice required —

<https://law.lis.virginia.gov/vacode/title3.2/chapter64/section3.2-6402/>

SECTION 1. AMENDMENTS TO VIRGINIA CODE § 3.2-6400 (DEFINITIONS)

Amend § 3.2-6400 to add the following definitions after the existing definition of “agritourism activity”:

“Farm Temporary Food Establishment” means a discrete, invitation-based or reservation-based food service occasion — including but not limited to a farm dinner experience, chef’s table event, wedding, private celebration, or harvest gathering — operated by a farm owner or operator on agricultural property that prepares and serves food primarily grown, raised, or produced on the same property or on nearby agricultural property, as defined herein, in connection with agritourism activities, that does not exceed 150 guests per occasion, and that operates under an annual Farm TFE Permit issued by the Virginia Department of Health. Walk-in, open-ended, or ongoing food service does not qualify as a Farm Temporary Food Establishment.

“Farm Restaurant” means a permitted food establishment operated by a farm owner or operator on agricultural property that prepares and serves food primarily grown, raised, or produced on the same property or on nearby agricultural property, as defined herein, in connection with agritourism activities, and that holds a Farm Restaurant Permit issued by the Virginia Department of Health.

“Nearby agricultural property” means either: (i) agricultural property on which an agricultural operation, as defined in § 3.2-300, is conducted by the same applicant, and which is contiguous with or immediately adjoining the permitted property; or (ii) agricultural property on which an agricultural operation, as defined in § 3.2-300, is conducted by a different farm operator, located within the same county or city as the permitted property, from which the applicant directly purchases food for use under a Farm TFE or Farm Restaurant Permit.

SECTION 2. AMENDMENT TO VIRGINIA CODE § 15.2-2288.6 (AGRICULTURAL OPERATIONS LOCAL REGULATION)

Amend § 15.2-2288.6 by adding the following subsections after the existing text. NOTE: § 15.2-2288.6 already restricts local regulation of agritourism activities and of food preparation in compliance with state law. This amendment clarifies that Farm TFE and Farm Restaurant permits satisfy that compliance standard, and extends to farm food service the same explicit local protection that Virginia Code § 15.2-2288.3 provides for farm wineries and § 15.2-2288.3:1 provides for farm breweries.

A.

Usual and customary Farm Restaurant and Farm Temporary Food Establishment activities and events shall be permitted on agricultural property without local regulation, unless a locality demonstrates a substantial

impact on the health, safety, or general welfare of the public, consistent with the standard established for farm wineries under Virginia Code § 15.2-2288.3.

B. No locality shall require a Farm Restaurant permitted under Virginia Department of Health regulations to:

1. Obtain a commercial or mixed-use zoning designation or reclassification as a condition of operating on agricultural property;
2. Obtain a conditional use permit, special use permit, or similar local approval that would not be required of a comparable food service operation on non-agricultural commercial property; or
3. Meet any local requirement imposed specifically because the food service operation is located on agricultural property, if that requirement exceeds what would be imposed on a comparable non-farm food service operation.

C. Nothing in subsection B shall be construed to:

1. Limit the authority of a locality to require compliance with applicable septic system capacity, wastewater disposal, or private well regulations administered by the local health department, or to require reasonable site plan review for traffic, parking, and access sufficient to protect public safety, provided such requirements are applied on the same basis as they would be applied to a comparable non-farm use of similar scale; provided further that a locality shall not require installation of a conventional onsite sewage system, a permanent restroom facility, or an alternative onsite sewage system for a Farm TFE event where portable toilet facilities meeting the mass gathering standards of 12VAC5-610-980 are provided, or, for permanent Farm Restaurant operations, where a composting toilet or biodigester system approved under 12VAC5-613 (Regulations for Alternative Onsite Sewage Systems) is sized appropriately for the scale and frequency of activity and satisfies applicable Virginia Department of Health regulations under 12VAC5-610 and 12VAC5-613; provided further that, consistent with the assumption of inherent risk already established for agritourism visitors under Virginia Code § 3.2-6401, and in recognition that entering an agricultural property is itself part of the agritourism experience and is distinct from entering a commercial property, a locality retains authority to require a reasonable traffic and parking management plan and adequate lighting for pedestrian safety, but shall not require a Farm TFE or Farm Restaurant operation to install paved or hard-surfaced commercial parking facilities or driveways, or permanent commercial-grade exterior lighting fixtures or illumination levels, where a grass, gravel, or otherwise unpaved parking area, driveway, or access road and temporary or portable lighting, including string lighting, adequately serve the safety needs of the scale and frequency of activity conducted, provided that any such unpaved driveway or access road remains passable and load-bearing for emergency vehicle access;
2. Limit the authority of a locality to enforce generally applicable health, safety, and building code requirements that apply equally to farm and non-farm food service operations;
3. Limit the authority of the local Building Department to determine certificate of occupancy requirements for structures used as Farm Restaurants in accordance with applicable building codes and agricultural exemption provisions; or
4. Exempt a Farm Restaurant from compliance with the Virginia Food Regulations, 12VAC5-421, or any requirement of a Farm Restaurant Permit issued thereunder.

D.

A Farm Temporary Food Establishment operating under a valid Farm TFE Permit issued pursuant to Virginia Department of Health regulations is an agritourism activity within the meaning of this chapter and is entitled to the protections of subsection A with respect to any locality requirement that exceeds what would be imposed on comparable non-farm food service operations.

SECTION 3. ESTABLISHMENT OF FARM TFE AND FARM RESTAURANT PERMITS

The following permit categories are established directly by statute, consistent with counsel's recommendation that the General Assembly set the substantive terms of these permits in the Code of Virginia itself, rather than delegating that authority to the Board of Health. The Board's role is limited to administrative implementation, defined narrowly in Section 3-D below.

The following permit categories are hereby established in the Code of Virginia, consistent with the definitions established in Section 1 of this Act:

A. Farm Temporary Food Establishment Permit

The Board shall establish a Farm TFE Permit with the following minimum provisions:

1. Eligibility. The applicant must own or actively operate an agricultural operation, as defined in § 3.2-300, in Virginia and must be engaged in the growing, raising, or producing of food on that property. A minimum of 51 percent, by weight, of all food served across all Farm TFE events held under the permit during the calendar year, excluding de minimis ingredients such as salt, common seasonings and spices, cooking oils, and water, must be grown, raised, or produced on the permitted property or on nearby agricultural property. This threshold is calculated on an annual basis to account for seasonal variation in on-farm production.
2. Annual permit. The Farm TFE Permit is issued annually by the local health district and authorizes the holder to conduct Farm TFE events on the permitted property under a single annual permit, in place of the repeat single-event applications otherwise required under the standard TFE process. There is no annual limit on the number of Farm TFE events a permit holder may conduct, provided each event satisfies the occasion definition and guest cap in provisions 3 and 4.

Legislative note on event limits: the occasion definition and guest cap are the primary regulatory controls, not an annual event count. A farm holding a chef dinner every Saturday is not the equivalent of a restaurant — it is a series of discrete curated occasions. The General Assembly may establish an annual event floor for reporting purposes if preferred, but is not recommended to set a ceiling.

3. Occasion definition. Each Farm TFE event must be a discrete, invitation-based or reservation-based occasion. Walk-in, open-ended, or ongoing food service does not qualify as a Farm TFE event and requires a Farm Restaurant Permit. Examples of qualifying events include: chef dinner experiences, farm-to-table dinners, private chef's table events, weddings, private celebrations, harvest dinners, and similar curated farm occasions.
4. Guest cap. Each Farm TFE event is limited to 150 guests per occasion. For any structure or space in which an event anticipating more than 49 guests will be held, the permit holder shall obtain a written occupant load consultation from the local fire marshal under the Statewide Fire Prevention Code, and the event guest count shall not exceed the lesser of 150 or the fire marshal's occupant load determination for that specific structure or space. This consultation is a one-time, per-structure determination that remains valid for all subsequent Farm TFE events held in the same structure or space, and need not be repeated for each event, provided the structure or space has not undergone a material physical alteration affecting occupant load since the determination was made. Events exceeding 150 guests require a Farm Restaurant Permit or must be structured as catering under a valid catering operation permit held by the farm operator. Nothing in this subdivision authorizes an operator to exceed a lawful occupant load determination for the space in which an event is held. For purposes of this subdivision, "guests" excludes staff, vendors, entertainers, and other persons working the event, consistent with the standard already applied to farm winery events under Virginia law.

4-A. Verification. Compliance with the sourcing threshold in subdivision 1 shall be verified through the participatory verification framework established in Section 3-C, in lieu of routine record-keeping. The permit holder is not required to maintain harvest logs or purchase documentation absent a specific

complaint or the absence of a completed verification within the preceding permit year, as provided in Section 3-C.

5. Notification. The permit holder shall notify the local health district not fewer than 72 hours before each Farm TFE event. Notification shall include the date, nature of the event, anticipated guest count, and menu. This is a notification requirement, not an approval requirement. Consistent with VDH Policy PIM #07-01, existing permit holders need only notify the local health department and post their permit at each event.

6. Food handler certification. At least one certified food handler as defined under 12VAC5-421 must be present during food preparation and service at each Farm TFE event.

6-A. Signage. Where the permitted property already displays, or is required to display, the notice required under Virginia Code § 3.2-6402, that existing entrance sign shall be modified to add, alongside the required § 3.2-6402 notice, the following statement: “This property also operates under a Farm Temporary Food Establishment Permit issued under Virginia’s Farm Restaurant Act.” The added statement shall be in black letters at least one inch in height, consistent with the lettering standard already required for the § 3.2-6402 notice, and shall not replace, obscure, or reduce the legibility of the existing required notice. A separate entrance sign is not required where the existing § 3.2-6402 sign is so modified. In addition, at or near the location where food is served, the permit holder shall post a sign no smaller than 11 by 17 inches, with legible lettering, reading: “This food was grown and prepared on a living, working farm, under a Farm Temporary Food Establishment Permit issued under Virginia’s Farm Restaurant Act — the most direct and traceable path food can take to your plate. In the spirit of Virginia’s Agritourism Act, you are entering a working agricultural property, not a commercial one, and you assume the inherent risks of that experience.” The required language in this subdivision is a floor, not a ceiling: a permit holder remains free to include additional signage, language, or branding beyond what is required, provided the required language remains fully present and legible.

7. Fee. The annual Farm TFE Permit fee shall be equal to the standard annual Temporary Food Establishment permit fee established under 12VAC5-421 and charged by the local health district, and shall not exceed that fee. Should the standard Temporary Food Establishment permit fee change, the Farm TFE Permit fee shall change correspondingly without further legislative action.

8. Certificate of occupancy. A Farm TFE Permit holder is not required to obtain a certificate of occupancy solely on the basis of conducting food service under this permit. This is consistent with the existing Temporary Food Establishment framework under 12VAC5-421 and VDH Policy PIM #07-01. Nothing in this subdivision limits the authority of the local Building Department or fire marshal to enforce generally applicable occupancy load, egress, fire code, and structural safety requirements that apply to any gathering of a comparable size on the property, regardless of whether food is served. The determination of whether a structure used for Farm TFE events qualifies for the agricultural use exemption under the Virginia Uniform Statewide Building Code shall be made by the local Building Department using its existing agricultural exemption criteria. VDH's Farm TFE classification does not itself trigger a certificate of occupancy requirement, nor does it substitute for or override the Building Department's independent agricultural exemption determination.

9. Food safety. All food prepared and served under a Farm TFE Permit shall comply with applicable food temperature, handling, and storage requirements under 12VAC5-421. Adequate handwashing facilities, permanent or temporary, must be available at the service location during each event.

9-A. Sanitation facilities. Portable toilet facilities meeting the mass gathering standards of 12VAC5-610-980, including the applicable ratio of facilities to guests, satisfy the sanitation requirement for a Farm TFE event. A permit holder is not required to install a permanent restroom facility, conventional onsite sewage system, or alternative onsite sewage system solely to satisfy this permit, though such facilities remain a compliant option at the operator's discretion.

10. Enforcement. The local health district may suspend or revoke a Farm TFE Permit for repeated or uncorrected violations of the guest cap, occasion definition, sourcing threshold, or applicable food safety requirements, following notice and an opportunity to cure consistent with standard VDH permit enforcement procedures.

B. Farm Restaurant Permit

The Board shall establish a Farm Restaurant Permit with the following minimum provisions:

1. Eligibility. The applicant must own or actively operate an agricultural operation, as defined in § 3.2-300, in Virginia, must be engaged in the growing, raising, or producing of food on that property, and must serve food primarily grown on the same property or on nearby agricultural property. A minimum of 51 percent, by weight, of all food served during the calendar year, excluding de minimis ingredients such as salt, common seasonings and spices, cooking oils, and water, must originate from the permitted property or from nearby agricultural property. This threshold is calculated on an annual basis to account for seasonal variation in on-farm production.

2. Permit requirements. Requirements for a Farm Restaurant Permit shall be proportionate to the scale and agricultural character of the operation, and shall not apply the full requirements applicable to commercial restaurants on commercial property where those requirements are inconsistent with agricultural farm operations. Consistent with Section 3-D, this proportionality standard is established directly by this Act; the Board's role is limited to the administrative mechanics of applying it, in consultation with the Virginia Department of Agriculture and Consumer Services.

3. Inspection. The local health district shall inspect Farm Restaurant facilities prior to permit issuance and on a schedule consistent with the risk level of the operation, appropriate to agricultural facilities. Consistent with Section 3-D, this standard is established directly by this Act; the Board's role is limited to the administrative scheduling and procedural mechanics of conducting such inspections.

3-A. Fee. The annual Farm Restaurant Permit fee shall be equal to the standard annual restaurant permit fee established under 12VAC5-421 and charged by the local health district for a comparable food establishment, and shall not exceed that fee. Should the standard restaurant permit fee change, the Farm Restaurant Permit fee shall change correspondingly without further legislative action.

4. Certificate of occupancy. The requirement for a certificate of occupancy for structures used as Farm Restaurants shall be determined by the local Building Department in accordance with applicable building codes and shall not be determined by the Virginia Department of Health. Existing agricultural structures used for Farm Restaurant operations shall be assessed for CO requirements based on their construction and use in accordance with building code agricultural exemption provisions.

5. Signage. Where the permitted property already displays, or is required to display, the notice required under Virginia Code § 3.2-6402, that existing entrance sign shall be modified to add, alongside the required § 3.2-6402 notice, the following statement: "This property also operates under a Farm Restaurant Permit issued under Virginia's Farm Restaurant Act." The added statement shall be in black letters at least one inch in height, consistent with the lettering standard already required for the § 3.2-6402 notice, and shall not replace, obscure, or reduce the legibility of the existing required notice. A separate entrance sign is not required where the existing § 3.2-6402 sign is so modified. In addition, at or near the location where food is served, the permit holder shall post a sign no smaller than 11 by 17 inches, with legible lettering, reading: "This food was grown and prepared on a living, working farm, under a Farm Restaurant Permit issued under Virginia's Farm Restaurant Act — the most direct and traceable path food can take to your plate. In the spirit of Virginia's Agritourism Act, you are entering a working agricultural property, not a commercial one, and you assume the inherent risks of that experience." The required language in this subdivision is a floor, not a ceiling: a permit holder remains free to include additional signage, language, or branding beyond what is required, provided the required language remains fully present and legible.

6. Relationship to Farm TFE. A Farm TFE Permit holder may apply for a Farm Restaurant Permit to operate permanent, walk-in, or non-occasion-based food service that exceeds the scope of the Farm TFE occasion definition or the 150-guest cap. The Farm TFE Permit may continue during the Farm Restaurant permitting process.

C. Participatory Verification Framework

Consistent with the intent of this Act to minimize administrative burden while maintaining genuine accountability, compliance with the sourcing thresholds in subdivisions 3A.1 and 3B.1 shall be verified primarily through a participatory verification framework, modeled on the Participatory Guarantee System used by established agricultural certification programs such as Certified Naturally Grown, rather than through routine documentary record-keeping. This framework applies solely to verification of the sourcing threshold. It does not apply to, limit, or substitute for food safety inspection. Every Farm TFE and Farm Restaurant permit holder remains fully subject to inspection and enforcement by the Virginia Department of Health under 12VAC5-421, exactly as any other permitted food establishment in Virginia.

1. Verification method. Verification shall consist of a periodic on-farm visit conducted by another Farm TFE or Farm Restaurant permit holder, a Virginia Cooperative Extension agent, or another qualified party recognized by VDACS, who shall attest to the permit holder's compliance with the applicable sourcing threshold. Verification visits shall occur on a rotating, non-reciprocal basis where practicable, such that a permit holder is not verified by the same party in consecutive years.
2. Frequency. A verification visit shall occur at least once during each permit year. For a first-time applicant, an initial verification visit shall occur within the growing season following the date of application.
3. Effect of verification. A completed verification satisfies the record-keeping requirement in subdivision 3A(4-A) and, for the Farm TFE Permit, serves as the basis for annual permit renewal in lieu of independent re-verification by the local health district. Verification does not replace the local health district's authority to enforce food safety requirements under subdivision 3A(9) or the general enforcement authority in subdivision 3A(10).
4. Absence of verification. Where no verification has occurred within the preceding permit year, or where a specific complaint regarding sourcing compliance is filed, the permit holder shall be required to provide documentary records, including harvest or production logs and invoices for ingredients not grown, raised, or produced on the permitted property, sufficient to demonstrate compliance with the applicable sourcing threshold.
5. Transparency. The Board of Health shall maintain a public registry of Farm TFE and Farm Restaurant permit holders, consistent with the transparency practices of established participatory guarantee programs. VDACS shall provide the Board of Health with verification dates for each permit holder under this framework, for inclusion in that registry.

D. Limited Administrative Role of the Board of Health

The permit categories, eligibility criteria, sourcing thresholds, guest caps, fees, verification framework, and all other substantive terms established in subsections A, B, and C of this Section are enacted directly by this Act and are not subject to alteration through regulatory action. The Board of Health shall promulgate regulations solely to implement the administrative mechanics of these permits — including application forms, submission procedures, inspection scheduling, and recordkeeping formats — and shall have no authority through such regulations to add, remove, or modify any eligibility requirement, threshold, cap, fee structure, or other substantive term established by this Act. Any regulation purporting to alter a substantive term established by this Act shall be void.

E. Application Processing and Appeals

1. Processing deadlines. The local health district shall approve or deny a complete Farm TFE Permit application within 45 days of receipt, and a complete Farm Restaurant Permit application within 60 days of receipt. If the district fails to act within the applicable deadline, the application shall be deemed approved, and the district shall issue the permit without further condition. Any denial shall be in writing and shall identify the specific provision of this Act, or the specific food safety requirement of 12VAC5-421, on which the denial rests. A denial that does not cite a specific written provision is void.

2. Appeals. An applicant or permit holder may appeal a denial, suspension, revocation, or adverse interpretation under this Act to the State Health Commissioner within 30 days of the decision. The Commissioner shall issue a written decision within 45 days of receiving the appeal. The Commissioner's review shall not be limited to the local district's stated rationale, and the burden shall rest on the district to demonstrate that its decision rests on a specific written provision of this Act or of 12VAC5-421. Nothing in this subdivision limits any right of judicial review otherwise available under Virginia law.

SECTION 4. IMPLEMENTATION

A. The Board of Health shall initiate rule-making to implement Section 3 of this Act within 90 days of the effective date of this Act and shall complete such rule-making within 18 months of the effective date.

A-1. The Farm Temporary Food Establishment Permit provisions of this Act shall expire five years from the effective date of implementing regulations unless reenacted by the General Assembly. Not later than one year before expiration, the Board of Health shall report to the General Assembly's Agriculture, Conservation and Natural Resources Committee and Local Government Committee on the implementation of the Farm TFE Permit, including data on the number of permits issued, events held, inspections conducted, and violations noted.

B. In developing Farm TFE and Farm Restaurant regulations, the Board of Health shall consult with the Virginia Department of Agriculture and Consumer Services, the Secretary of Agriculture and Forestry, and representatives of Virginia farm operators engaged in agritourism.

C. The Board of Health shall incorporate the Farm TFE and Farm Restaurant frameworks into the stakeholder process for the Virginia Farm & Forest Prosperity Plan, signed into law June 10, 2026, to ensure alignment with the Commonwealth's agricultural policy goals.

D. VDACS shall publish and maintain a combined reference template showing the notice required under Virginia Code § 3.2-6402 together with the entrance signage language required under Section 3A(6-A) and Section 3B(5) of this Act, formatted for direct use by permit holders. VDACS shall update this template promptly upon any amendment to § 3.2-6402 or to this Act. This template is a compliance convenience only; the requirements of § 3.2-6402 and this Act, not the template itself, remain the controlling legal standard.

E. Transition. A farm lawfully conducting food service on the effective date of this Act under an existing Temporary Food Establishment permit, catering operation permit, restaurant permit, or combination thereof may apply for a Farm TFE Permit or Farm Restaurant Permit and shall be entitled to continue operating under its existing permits, without interruption or additional condition, while its application under this Act is pending.

SECTION 5. CONSTRUCTION AND SEVERABILITY

A. Nothing in this Act modifies, limits, or otherwise affects any requirement of Title 4.1 of the Code of Virginia or the regulations of the Virginia Alcoholic Beverage Control Authority. The service of alcoholic beverages at any Farm TFE event or Farm Restaurant remains subject to all otherwise applicable licensing requirements.

B. If any provision of this Act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this Act, and the application of its provisions to other persons or circumstances, shall not be affected.

SECTION 6. EFFECTIVE DATE

Sections 1 and 2 of this Act are effective upon passage. The substantive terms of Section 3 — including the permit categories, eligibility criteria, sourcing thresholds, guest caps, fees, signage requirements, and verification framework established in subsections A, B, and C — are effective upon passage and are not contingent on completion of the Board of Health’s rule-making process. The administrative mechanics established under Section 3-D take effect upon completion of the Board of Health’s rule-making process as provided in Section 4-A. Section 4 is effective upon passage.

Prepared by: Ian Newell, Owner — The Living Project, LLC d/b/a Celeste Farms

Presented to: Governor Abigail Spanberger; Secretary of Agriculture and Forestry Katie Frazier; Senator Dave Marsden; Senator Lamont Bagby; Senator Schuyler VanValkenburg; Senator Lashrecse Aird

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