


Action

MEMORANDUM

September 28, 2018

TO: County Council

FROM: Jeffrey L. Zyontz,  Senior Legislative Analyst

SUBJECT: Zoning Text Amendment 18-03, Farm Alcohol Production

Purpose: Approve, disapprove, or amend the PHED Committee's recommendations to approve ZTA 18-03 with amendments

Expected Participants:

Gwen Wright, Director, Planning Department
Pam Dunn, Chief, Functional Planning and Policy, Planning Department
Greg Russ, Coordinator, Planning Department
Josh Penn, Coordinator, Planning Department
Richard Weaver, Chief, Area 3, Planning Department
Ehsan Motazed, Chief, Department of Permitting Services
Mark Beall, Manager, Department of Permitting Services

September 18 Council Worksession

The Council conducted a worksession on September 18, 2018. The Council discussed (without deciding) delaying action, the amendments proposed by Councilmember Riemer, the amendments proposed by the PHED Committee, and further amendments to have a tighter connection between farming and farm alcohol production, aspects of farm alcohol production being an accessory use, and event limitations.

New Recommendation by Council President Riemer

Council President Riemer is proposing amendments to the PHED Committee's recommendations:

- 1) Connection to on-site farming

The PHED Committee recommended an amendment to specifically state which alcohol producers' licenses must be approved and complied with and required that a majority of the ingredients used

in the alcohol production process be grown in the County or from regionally grown products, if available at competitive prices.

In addition to those requirements:

Wineries and cideries would be required to grow at least 5 acres of grapes or fruit on-site or on an abutting or confronting property; and have at least 20 acres of grapes or other fruit in cultivation on property they own, rent, or control; or source a majority of their grapes or other fruit from Maryland; and

Breweries and distillers would be required to grow at least one acre of products used in the production of alcohol.

2) Distinction between “normal and customary activities” and other activities

The Council President recommends that: 1) the ordinary customary operations of a farm alcohol producer’s tasting room is more clearly defined as including, but not limited to, tasting room operations and membership-related events; and 2) “festivals” be added to the list of the types of events that includes weddings and corporate events.

3) Events

Attendance limit

ZTA 18-03 as introduced allowed 9 events per year with more than 300 guests, with no limit on the number of events with less than 300 guests. The PHED Committee recommended lowering the trigger point for counting the number of events from 300 guests to 225.

Council President Riemer recommends allowing an unlimited number of people at “normal and customary” events (those associated with the producer’s membership friends or traditional farming or production-cycle festivals).

For events not related to farming (wedding, corporate retreats, birthday parties, general holidays or festivals), the number of guests would be limited to the occupancy permit limits (established by the Department of Permitting Services) in Use and Occupancy permits. Larger events would only be allowed with conditional use approval.

Frequency

Normal and customary events that require a ticket or cover charge would be limited to 5 per year. More such events could only be allowed with conditional use approval. There would not be a limit on the number of non-ticketed events or events without a cover charge.

The non-farm related events would be unlimited in terms of the number of events but are limited in the number of guests. The facility’s use and occupancy permit would determine the maximum number of guests.

Recordkeeping

The PHED recommendation did not include a requirement for a log of events. Councilmember Riemer would add that requirement.

4) Minimum site size

The PHED Committee recommendation did not include a requirement for a minimum lot size. Council President Riemer recommend a 25-acre minimum site size for breweries and distilleries in the AR zone, but no minimum size for wineries and cideries.

5) Long-range plan for the use of locally-sourced products

The PHED recommended a requirement for a long-range plan. The purpose of the plan is to increase the use of local Montgomery County agricultural products in the production process.

Councilmember Riemer would drop the “long-range” phrase and require a schedule for the use of local products.

6) Other Committee-recommended revisions unchanged by the Council President's recommendation

The Committee recommended requiring a Farm Alcohol Production use be accessory to the farm in the text of the zone¹ and to require compliance with specific state alcohol production licenses which, to some degree, limit the scale of production.²

The Committee was confident that ZTA 18-03 with its recommendations would not change the landscape of the Agricultural Reserve, given the market support for only a limited number of these facilities. The Council President is confident that his recommendations will reduce the unintended consequences of ZTA 18-03 further.

Staff recommendation

Defer action

Staff recommends deferring action of ZTA 18-03 until receipt of the Planning Board study of agricultural tourism. The study was approved by the Council in the Department's work program. The Planning Department has not completed this work. Recommendations are expected by January 2019.

¹ An accessory use is defined (in part) under Section 59.3.7.4.B as follows:

Accessory Use means a use that is incidental and subordinate to the principal use of a lot or site or the principal building and located on the same lot or site as the principal use or building.

DPS Staff submitted the following process when asked how the department would go about determining that a use was accessory to farming:

The applicant will need to submit a business program for all current farming activities occurring on site as well as proposed accessory uses. Their business program should be as detailed as possible to include the type of farming activities and how much area is covered with these activities. It should also be very detailed in the type(s) of accessory uses that are proposed, how much area it will cover, will it be utilizing existing structure or proposed structure or temporary tents as well as an estimate as to how many and how often the accessory events will be taking place. Applicant must also submit to the DPS ZSPE a site plan showing the existing farming activities that are taking place on the site. The site plan should also show the proposed accessory uses to the farming and proposed parking.

DPS ZSPE Process:

1. ZSPE will review the business program and site plan that was submitted to DPS. Zoning may request additional information or clarification from the applicant if needed.
2. ZSPE will research the property on the Zoning Map and the State Tax Records to determine the zone and what the property is access as, i.e. Residential, Commercial, Exempt, or Agricultural.
3. ZSPE may contact the Montgomery County Office of Agriculture if they need help determining what is currently taking place on the site as far as the farming activities as well and to see if the applicant has approach them about the propose accessory uses. The Office of Agriculture will have its own internal processes which may include working with the Maryland Soil Conservation District.
4. ZSPE will also coordinate internally at DPS with other sections if other permits are needed such as Commercial Building, Sediment Control, ROW, and Well & Septic.
5. Once ZSPE has completed all the research, they will go over all the information to make sure they are in agreement with the accessory use.
6. If all requirements are met, ZSPE will issue a letter to the applicant letting them know their accessory use is approved or not.

² The concern for the scale of operations in the Agricultural Reserve is at least in part addressed by limiting Farm Alcohol Production to specific state licenses (Class 1 for distilleries, Class 4 for wineries and Class 8 for breweries). The Farm Brewery License is limited to 15,000 barrels of beer a year. Existing facilities in the County are using these licenses.

The study is examining various aspects of agritourism, including events held on farms, wineries, breweries, produce stands and farm-to-table offerings, to understand the land use regulations associated with these activities. It intends to examine applicable sections of the County's Zoning Ordinance and its subdivision regulations to determine if modifications in policy are needed to provide clarity and direction for property owners. The Planning Department established the Montgomery County Agritourism Study Advisory Committee (ASAC), composed of representatives drawn from County agencies, local farms, and civic groups, to help make recommendations.³

Allowing the Planning Board study to develop recommendations may result in more consensus and a more comprehensive approach to the issues surrounding agricultural tourism.

If the Council takes action on ZTA 18-03:

Connection to on-site farming and the long-term plan for the use of local products

Staff would revise the changes for wineries and cideries recommended by Council President Riemer regarding the requirement on-site fruit growing. Council President Riemer would allow rented property abutting the site of the alcohol production to qualify for the 5-acre minimum ground under fruit production. Staff recommends retaining the current requirement for wineries; 5 acres of on-site fruit growing is currently required.

Events

Staff recommends the revisions proposed by Council President Riemer, with a revision to the size of non-farm events to conform to the occupancy capacity of the tasting room. (As proposed, separate wedding rooms would be allowed.)

The following are the event provisions for wineries in the current code:

- a. In the AR zone:
A maximum of 9 days of events that require an entrance ticket or a cover charge is allowed each calendar year. Additional events require conditional use approval by the Hearing Examiner under Section 7.3.1.
- b. In the R and RC zone, a maximum of 2 special events such as a wedding, festival, or other similar event are allowed each calendar year. Additional events require conditional use approval by the Hearing Examiner under Section 7.3.1.

There are no crowd size limits in the current code and no limits to the number of non-ticketed events. There is a limit of 9 per year on the total number of ticketed events, without regard to whether it is an "ordinary and customary" event or an "other" event. As proposed by Council President Riemer, "ordinary and customary events" would be limited to 5 per year without conditional use approval. "Other" events would be prohibited from ticket or cover charge events unless given conditional use approval.

³ The Committee membership represents County stakeholders and helps ensure a balanced discourse and study on the provision of Agritourism in the County. The membership of the Committee can be found on the Planning Department's website: <http://montgomeryplanning.org/wp-content/uploads/2018/06/Final-Advisory-Committee-List.pdf>

Minimum lot size

As proposed by the Council President, only breweries and distilleries would have a minimum site size for a farm alcohol production use. Staff recommends a minimum 25-acre lot size for all farm alcohol production uses. The size of the site goes to ensure that the use is accessory to farming activities. More than 85% of the area of agriculturally-assessed land is in parcels of 25 acres or greater. Almost 40% of those parcels are that size. Is that not sufficient to accommodate the demand for such facilities?

Maximum size tasting room

As proposed by the Council President, there is no specific limit to the size of tasting rooms (although it would be limited in practice by the septic capacity of the site). At least until the Planning Board's Agricultural Tourism study is completed, Staff recommends requiring the new Farm Alcohol Production use to be a conditional use when the tasting room is designed for 85 or more participants.

New Issues

Expanding the scope of zones

After the public hearing, a resident with an interest in RE-1 property that is being farmed is interested in having the benefit of ZTA 18-03's provisions apply to the RE-1 zone. The claim is that allowing farm alcohol production would be an incentive to keep the land in farming and that the approval of ZTA 18-03 would change DPS's current interpretation of where breweries are allowed as an accessory use to farming.

ZTA 18-03 impacts the AR zone and Rural Residential zones (R, RC and RNC). Those zones, and only those zones, are allowed wineries. ZTA 18-03 for farm alcohol production deletes the winery provisions but allows the use in the family zones as wineries. Staff does not recommend expanding the scope of ZTA 18-03. DPS should explain if its current interpretation of where breweries can go would be changed by ZTA 18-03.

Notice of a possible Court Challenge to ZTA 18-03

A group of civic organization officers⁴ sent the Council a letter stating that they intend to challenge ZTA 18-03 in court:

We have consulted legal counsel to determine if the conflict between ZTA 18-03 and the Ag Reserve Master Plan and Montgomery County zoning ordinance is so pronounced that the Council would be violating State and County law by enacting the ZTA. We understand that is the case, and we therefore will have no choice but to take legal action to seek an injunction prohibiting the implementation of ZTA 18-03, if it is enacted as now drafted.

⁴ Caroline Taylor, Executive Director Montgomery Countryside Alliance; Lauren Greenberger, President, Sugarloaf Citizens Association; Sylvia Tognetti, President, Friends of Ten Mile Creek and Little Seneca Reservoir; Ginny Barnes, Vice Chair, Conservation Montgomery; and Ginny Barnes, President West Montgomery Citizens Association.

If the Council wishes to discuss this matter, Staff would ask to do that in closed session.

Background (the same as reported in the September 18 memorandum to Council)

Zoning Text Amendment (ZTA) 18-03, lead sponsor Council President Riemer, co-sponsors Councilmembers Leventhal, Katz, Floreen, Navarro, and Hucker, was introduced on April 10, 2018. ZTA 18-03 would allow Farm Alcohol Production in Agricultural and Rural Residential zones under certain circumstances.

Currently, wineries are specifically allowed in Agricultural and Rural Residential zones. ZTA 18-03 would incorporate many of the standards that were applicable to wineries and apply those standards and others to breweries, cideries, and distilleries. In addition to the manufacture of alcoholic beverages, ZTA 18-03 would allow tasting rooms and, to the extent allowed by the state manufacturing license, the sale of food. It would also allow up to nine events a year with 300 or more participants. A larger number of events could only be allowed if the use is approved as a conditional use.

On April 27, 2018, in the memorandum to the Planning Board, Planning staff had no objection to the intent of ZTA 18-03 but thought more conversation was warranted on the issue of events. Planning staff noted that Equestrian Facilities had regulated events in terms of the number of participants, the hours of operation, and the number of events, based on the parcel size. On May 14, 2018, the Planning Board agreed with Planning staff's comments.

The public hearing on ZTA 18-03 was held on May 15, 2018. There were 11 speakers, including the Planning Board representative.

Doug Lechliden, speaking on behalf of the Agricultural Advisory Committee, and Ed Boyce, founder of Black Ankle Vineyards, spoke in favor of ZTA 18-03 but expressed a concern that potential amendments to the ZTA may make it too restrictive on how the alcohol producer must use on-site agricultural products; in their opinion, the winery standard of 5 acres of fruit production would not work for breweries. Robert Butz also spoke in support of ZTA 18-03. In his opinion, it will promote a vibrant and successful Agricultural Reserve. Bob Sissle (speaking for the Montgomery Agricultural Producers), Drew Baker (founder of Old Westminster Winery), Jessica Snyder (Waredaca Brewing Company), and Phil Mooth (Brookfield Beer Farm) all supported ZTA 18-03 as a means of favoring the agricultural use of land and agritourism.

Caroline Taylor, speaking on behalf of 11 civic groups and 11 individuals, wanted the ZTA to assure master plan consistency and to mitigate impacts with a clear set of standards. Jim Brown, Sugarloaf Board member, recommended that the Council think about the safety aspects of more tasting room participants driving on rural roads.⁵ He recommended distinguishing the approval process for large "beer halls" (300 participants) and smaller-scale tasting rooms. Tom Hertzog opposed ZTA 18-03. In his opinion, because it removes alcohol production from the requirement for a conditional use, the marketing for tasting rooms would change the character of the Agricultural Reserve.

⁵ "Every society, all government, and every kind of civil compact therefore, is or ought to be, calculated for the general good and safety of the community." George Mason.

This Packet Contains
ZTA 18-03 as recommended by Council President Riemer

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Zoning Text Amendment No.: 18-03
Concerning: Farm Alcohol Production
– Standards

Draft No. & Date: 6 – 9/27/18

Introduced: April 10, 2018

Public Hearing: May 15, 2018

Adopted:

Effective:

Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Riemer and Councilmember Rice
Co-sponsors: Councilmembers Leventhal, Katz, Floreen, Navarro, and Hucker

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- add Farm Alcohol Production as a use allowed in certain zones; and
- establish the standards for Farm Alcohol Production

By amending the following sections of the Montgomery County Zoning Ordinance,
Chapter 59 of the Montgomery County Code:

Division 1.4.	“Defined Terms”
Section 1.4.2.	“Specific Terms and Phrases Defined”
Division 3.1.	“Use Table”
Section 3.1.6.	“Use Table”
Division 3.2.	“Agricultural Uses”
Section 3.2.10.	“Winery”
Section 3.2.11.	“Accessory Agricultural Uses”
Section 3.2.12	“Temporary Agricultural Uses”
Division 8.2.	“Residential Floating Zones”
Section 8.2.3.	“Use Table for the RT and R-H Zones”

EXPLANATION: *Boldface indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 18-03 was introduced on April 10, 2018. ZTA 18-03 would allow Farm Alcohol Production in Agricultural and Rural Residential zones under certain circumstances.

Currently, wineries are specifically allowed in Agricultural and Rural Residential zones. ZTA 18-03 would incorporate many of the standards that were applicable to wineries and apply those standards and others to breweries, cideries, and distilleries. In addition to the manufacture of alcoholic beverages, ZTA 18-03 would allow tasting rooms and, to the extent allowed by the state manufacturing license, the sale of food. It would also allow up to nine events a year with 300 or more participants. A larger number of events could only be allowed if the use is approved as a conditional use.

On April 27, 2018, in the memorandum to the Planning Board, Planning staff had no objection to the intent of ZTA 18-03 but thought more conversation was warranted on the issue of events. Planning staff noted that Equestrian Facilities had regulated events in terms of the number of participants, the hours of operation, and the number of events, based on the parcel size. On May 14, 2018, the Planning Board agreed with Planning staff's comments.

The Council's public hearing was conducted on May 15, 2018. Doug Lechliden, speaking on behalf of the Agricultural Advisory Committee, and Ed Boyce, founder of Black Ankle Vineyards, spoke in favor of ZTA 18-03 but expressed a concern that potential amendments to the ZTA may make it too restrictive on how the alcohol producer must use on-site agricultural products; in their opinion, the winery standard of 5 acres of fruit production would not work for breweries. Robert Butz also spoke in support of ZTA 18-03. In his opinion, it will promote a vibrant and successful Agricultural Reserve. Bob Sissle (speaking for the Montgomery Agricultural Producers), Drew Baker (founder of Old Westminster Winery), Jessica Snyder (Waredaca Brewing Company), and Phil Mooth (Brookfield Beer Farm) all supported ZTA 18-03 as a means of favoring the agricultural use of land and agritourism.

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tasting room participants driving on rural roads. He recommended distinguishing the approval process for large “beer halls” (300 participants) and smaller-scale tasting rooms. Tom Hertzog opposed ZTA 18-03. In his opinion, because it removes alcohol production from the requirement for a conditional use, the marketing for tasting rooms would change the character of the Agricultural Reserve.

The Council referred the text amendment to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on July 23, 2018. The Committee recommended approving ZTA 18-03 with amendments.

The Committee (3-0) reaffirmed its recommendation from July 9, 2018 and recommended adding the following provisions that state:

- 1) the use must be accessory to the farm on which the alcohol production facility is located;
- 2) the specific alcohol producers’ licenses must be approved and complied with;
- 3) the majority of the ingredients used in the alcohol production process must be grown in the County or from regionally-grown products, if available at competitive prices; and
- 4) a long-range plan to increase the use of local Montgomery County agricultural products in the production process must be submitted to the Department of Permitting Services.

The Council revised the recommendations of the Committee by further limiting events, requiring that agricultural products grown on site be used in the alcohol production process, requiring a minimum site size for breweries and distilleries and a schedule to increase the use of products grown on site.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 18-03 will be approved as introduced.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Division 1.4 is amended as follows:

Division 1.4. Defined Terms

Section 1.4.2. Specific Terms and Phrases Defined

* * *

Agricultural Vending: See Section [3.2.12.A.1] 3.2.11.A.1

* * *

Farm Airstrip, Helistop: See Section [3.2.11.A.1] 3.2.10.A.1

Farm Alcohol Production: See Section 3.2.10.B.1

Farm Market, On-site: See Section [3.2.11.B.1] 3.2.10.C.1

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Regionally-Grown Products: Grains, fruits, vegetables, flowers, or honey harvested within the 5-state area of Maryland, Virginia, West Virginia, Delaware, and Pennsylvania and the city of Washington, DC.

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Seasonal Outdoor Sales: See Section [3.2.12.B.1] 3.2.11.B.1

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[Winery: See Section 3.2.10.A]

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Sec. 2. Division 3.1 is amended as follows:

Division 3.1. Use Table

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Section 3.1.6. Use Table

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	Ag	Residential															Commercial/Residential			Employment				Industrial		
			Rural Residential										Residential Detached			Residential Townhouse											
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL
AGRICULTURAL																											
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[Winery]	[3.2.10]	[L/C]	[L/C]	[L/C]	[C]																						
Accessory Agricultural Uses	[3.2.11] 3.2.10																										
Farm Airstrip, Helistop	[3.2.11.A] 3.2.10.A	C		C																							
Farm Alcohol Production	3.2.10.B	L/C	L/C	L/C	L/C																						
Farm Market, On-site	[3.2.11.B] 3.2.10.C	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Temporary Agricultural Uses	[3.2.12] 3.2.11																										
Agricultural Vending	[3.2.12.A] 3.2.11.A					L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Seasonal Outdoor Sales	[3.2.12.B] 3.2.11.B	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
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25 Key: P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

26 **Sec. 3. Division 3.2 is amended as follows:**

27 **Division 3.2. Agricultural Uses**

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29 **[Section 3.2.10. Winery**

30 A. Defined

31 Winery means any structure and land for processing grapes or other fruit
32 into wine for sale on-site or through wholesale or retail outlets where a
33 minimum of 5 acres of grapes or other fruit must be grown on the same
34 parcel or lot as the processing facility.

35 B. Use Standards

36 1. Where a Winery is allowed as a limited use, it must satisfy the
37 following standards:

38 a. In the AR zone:

39 i. A maximum of 9 days of events that require an entrance
40 ticket or a cover charge is allowed each calendar year.

41 Additional events require conditional use approval by the
42 Hearing Examiner under Section 7.3.1.

43 ii. The maximum lighting level at any lot line is 0.1
44 footcandle.

45 b. In the R and RC zone, a maximum of 2 special events such as a
46 wedding, festival, or other similar event are allowed each
47 calendar year. Additional events require conditional use
48 approval by the Hearing Examiner under Section 7.3.1.

49 2. Where a Winery is allowed as a conditional use, it may be permitted
50 by the Hearing Examiner under Section 7.3.1, Conditional Use, and
51 the following standards:

52 a. The minimum lot area is 10 acres.

- 53 b. The minimum setback for any structure from any lot line is 75
54 feet, except that the minimum front setback may be reduced to
55 50 feet if the Hearing Examiner finds the reduced setback is
56 compatible with abutting and confronting agricultural uses.
57 c. The lot must front on and have access to a road built to primary
58 residential or higher standards.]

59 **Section [3.2.11] 3.2.10. Accessory Agricultural Uses**

60 * * *

61 **B. Farm Alcohol Production**

62 **1. Defined**

63 Farm Alcohol Production means the transformation of agricultural
64 products into alcoholic beverages. Farm Alcohol Production includes
65 wineries, cideries, breweries, or distilleries on farms. Farm Alcohol
66 Production may include other activities unrelated to the production
67 and sale of alcohol or farming under certain circumstances.

68 **2. Use Standards**

69 a. Where Farm Alcohol Production is allowed as a limited use, it
70 must satisfy the following standards:

71 i. The production capacity and associated activities of the
72 alcoholic beverage must comply with the license issued
73 by the State of Maryland Comptroller's Office.

74 (a) A brewery must have a Class 8 Farm Brewery
75 License;

76 (b) A winery must have a Class 4 Limited Winery
77 License; and

78 (c) A distillery must have a Class 1 Distillery License.

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- ii. Some ingredients used in the production process must be grown ~~[[on-site]]~~ on site.
- iii. Wineries and cideries must have at least 5 acres of fruit used in alcohol production grown on site or on abutting or confronting property rented by the producer, and:
 - (a) have at least 20 acres of grapes or other fruit in cultivation on property they own, rent, or control;
 - or
 - (b) source a majority of their grapes or other fruit from Maryland.
- iv. Breweries and distilleries must source a majority of their ingredients, if available at competitive prices, from Regionally-Grown Products. At least 1.0 acre of ingredients must be grown on site for use in the alcohol production process.
- v. A plan with a schedule to increase the use of local Montgomery County agricultural products in the production process must be submitted to the Department of Permitting Services.
- ~~[[iii]]~~vi. The underlying land must be classified as agricultural by the State Department of Assessments and Taxation and the facility must be an accessory use of the farm.
- ~~[[iv]]~~vii. Subject to all licensing requirements, the facility may:
 - (a) operate an on-site tasting room for its products; and

106 (b) prepare and sell food to the extent allowed
107 by the State alcohol manufacturing license.

108 ~~[[v]]~~viii. Events and activities that are normal and
109 customary to the regular operations of a winery, cidery,
110 brewery, and distillery, including membership-related
111 events and traditional festivals related to agriculture or
112 the business of alcohol production, are allowed without a
113 limitation on the number of guests. A maximum of 5
114 days of events that require an entrance ticket or a cover
115 charge is allowed each calendar year.

116 ~~[[vi]]~~ix. Weddings, corporate retreats, and other events
117 accessory to the production of alcohol are allowed if the
118 number of guests is equal to or lower than the capacity
119 allowed by the Department of Permitting Service's Use
120 and Occupancy Permit for on-site buildings:

121 (a) ~~[[A maximum number of 9 events or activities~~
122 ~~with more than 300 participants is allowed in a~~
123 ~~calendar year. Additional events with more than~~
124 ~~300 participants require conditional use approval~~
125 ~~by the Hearing Examiner under Section 7.3.1.~~
126 ~~Except as provided in Subsection (b), the~~
127 ~~maximum number of participants at any event is~~
128 ~~150. The total maximum number of days of events~~
129 ~~in a calendar year is 50 including larger events~~
130 ~~allowed under subsection (b).]]~~

131 ~~[[b) All parking must be accommodated on site.]]~~

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~~[[c)]~~ Noise levels must satisfy Chapter 31B standards.]]

A written log of all events must be kept by the holder of the alcohol production license. That log must be available for inspection by the Department of Permitting Services.

(b) As a conditional use under Section 7.3.1, the Hearing Examiner may approve additional days of large public events and events with greater numbers of participants for either normal and customary events or other accessory events.

~~[[vii]]~~x. If any structure is used for activities under subsection [[iv, v, or vi]] vii, viii, or ix, the structure must satisfy all building, life safety, fire, and sanitation code requirements.

xi. Illumination at the property line must be limited to 0.1 footcandles or less.

xii. All parking must be accommodated on site.

xiii. Noise levels must satisfy Chapter 31B standards.

xiv. In the AR zone, the minimum site area for breweries and distilleries is 25 acres.

b. Where Farm Alcohol Production is allowed as a conditional use, it must satisfy the standards under Section 7.3.1.

C. Farm Market, On-site

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Section [3.2.12] 3.2.11. Temporary Agricultural Uses

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B. Seasonal Outdoor Sales

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160 2. Use Standards

161 Where Seasonal Outdoor Sales is allowed as a limited use, it must
 162 satisfy the following standards:

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164 d. Evergreen trees may only be sold beginning the first Saturday
 165 following Thanksgiving Day through December 24th, and are
 166 exempt from Section [3.2.12.B.2.b] 3.2.11.B.2.b and Section
 167 [3.2.12.B.2.e.ii] 3.2.11.B.2.e.ii.

168 * * *

169 **Sec. 4. Division 8.2 is amended as follows:**

170 **Division 8.2. Residential Floating Zones**

171 **Section 8.2.3. Use Table for the RT and R-H Zones**

172 A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.

173 B. The following Use Table identifies uses allowed in each zone. Uses may be
 174 modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	RT-6.0	RT-8.0	RT-10.0	RT-12.5	RT-15.0	R-H
AGRICULTURAL							
* * *							
Temporary Agricultural Uses	[3.2.12] <u>3.2.11</u>						
Seasonal Outdoor Sales	[3.2.12.B] <u>3.2.11.B</u>	p ¹	p ¹	p ¹	p ¹	p ¹	

175 **Key:** P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not

176 Allowed

177 1 Limited to the sale of Christmas trees between December 5 and December 25.

178 * * *

179 **Sec. 5. Effective date.** This ordinance becomes effective 20 days after the
180 date of Council adoption.

181

182 This is a correct copy of Council action.

183

184

185 _____
Megan Davey Limarzi, Esq.

186 Clerk of the Council