



Zoning Text Amendment (ZTA) No. 18-03, Farm Alcohol Production – Standards

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Completed: 04/26/18

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Description

Zoning Text Amendment (ZTA) 18-03 would add Farm Alcohol Production as an accessory use allowed in the Agricultural and Rural Residential zones; and establish the standards for Farm Alcohol Production.

Summary

**Staff has no objection with the overall intent of ZTA No. 18-03, to add Farm Alcohol Production as a use allowed in certain zones; and establish the standards for Farm Alcohol Production. However, Staff is concerned with the overly broad allowance for the number of events accessory to the production of alcohol where 300 or fewer participants are anticipated. Staff believes that additional discussion is necessary to address this issue. Staff suggests reviewing the breakdown of events for Equestrian Facilities (Section 3.2.4.B) as a starting point for discussion. The requirements for an Equestrian Facility provide a table that specifies restrictions for equestrian events based on parcel size, hours of operation, and number of participants. It would be helpful if this type of table could be adapted and incorporated into the limited use standards for farm alcohol production.**

Background/Analysis

Currently, wineries are allowed as a limited use in Agricultural and most Rural Residential zones (allowed only as a conditional use in the RNC zone). 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 and combine these uses into one accessory agricultural use category called Farm Alcohol Production. 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 more than 300 people. A larger number of events could only be allowed if the use is approved as a conditional use.

As proposed, ZTA 18-03 does the following:

- Establishes a new accessory agricultural use called "Farm Alcohol Production" with standards for the use and the accessory activities allowed. "Farm Alcohol Production" is defined as the *transformation of agricultural products into alcoholic beverages. Farm Alcohol Production includes wineries, cideries, breweries, or distilleries on farms. Farm Alcohol Production may*

*include other activities unrelated to the production and sale of alcohol or farming under certain circumstances (as described in the use standards). (Lines 57-63)*

- Farm Alcohol Production would be a limited/conditional use in the AR, R, RC, and RNC zones and must be accessory to farming or another allowed principal use in the zone. A farm alcohol producer would have to source some ingredients grown on-site for use in production **although the standards do not specify how much** (Currently, a winery must harvest a minimum of 5 acres of fruit onsite). Farm Alcohol Production would be allowed to have an on-site tasting room which would be required to comply with the food, hours of operation, production limits, and other requirements stipulated in their state manufacturing license. *(Line 20- Use Table, Lines 64-78)*
- ZTA 18-03 specifies the scope and number of events and activities allowed for a farm alcohol producer. As stated by the sponsors of the ZTA, these events and related activities are critical to the viability and profitability of a farm alcohol producer, while also recognizing that these events and activities have impacts on the infrastructure and surrounding communities. ZTA 18-03 attempts to balance these priorities as follows:
  - The current Zoning Ordinance restricts wineries to 9 public ticketed events a year in the AR zone and to 2 events of any kind in the R or RC zones, although in practice, wineries in the AR zone can have unlimited events and activities (weddings, for example) of any size if they are private and no tickets are sold. The current Zoning Ordinance is not clear about the kind and size of events breweries, cideries, and distilleries can have. *(Lines 31-44)*
  - ZTA 18-03 would allow two categories of events and activities. First, events and activities that are "normal and customary" to the regular operations of a winery, cidery, brewery and distillery are allowed without restriction. According to the sponsors of the ZTA, this would include activities like tasting room operations, product-release parties, tours, and seasonally-themed festivals. The common thread for these events and activities is that they are part of the standard business practice for a winery, brewery, cidery, or distillery. Establishing what is considered "normal and customary" would be determined by the Department of Permitting Services. *(Lines 79-81)*
  - Second, ZTA 18-03 would also allow farm alcohol producers to have accessory events, (weddings and corporate retreats, etc., for example). These events and activities are not directly related to the production of and sale of alcohol. As introduced, where 300 or fewer participants are anticipated, an unlimited number of these events is allowed. Where more than 300 participants are anticipated, a farm alcohol producer could have a maximum of nine accessory events a year. For both categories of events and activities, the ZTA requires onsite parking and adherence to the noise ordinance and all building, life safety, fire, and sanitation code requirements. ***Staff is concerned with the overly broad allowance for the number of events accessory to the production of alcohol where 300 or fewer participants are anticipated. Staff believes that additional discussion is necessary to address this issue. Staff suggests reviewing the breakdown of events for Equestrian Facilities (Section 3.2.4.B) as a starting point for discussion. The requirements for an Equestrian Facility provide a table that specifies restrictions***

*for equestrian events based on parcel size, hours of operation, and number of participants. It would be helpful if this type of table could be adapted and incorporated into the limited use standards for farm alcohol production. (Attachment 2)*

**Attachments**

1. ZTA No. 18-03 as introduced
2. Equestrian Facility Table

# ATTACHMENT 1

Zoning Text Amendment No.: 18-03  
Concerning: Farm Alcohol Production  
– Standards  
Draft No. & Date: 2 – 3/27/18  
Introduced: April 10, 2018  
Public Hearing:  
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**

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

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**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.

### 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:

1           **Sec. 1. Division 1.4 is amended as follows:**

2   **Division 1.4. Defined Terms**

3   **Section 1.4.2. Specific Terms and Phrases Defined**

4   \*   \*   \*

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

6   \*   \*   \*

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

8   **Farm Alcohol Production:** See Section 3.2.10.B.1

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

10   \*   \*   \*

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

12   \*   \*   \*

13   **[Winery:** See Section 3.2.10.A]

14   \*   \*   \*

15           **Sec. 2. Division 3.1 is amended as follows:**

16   **Division 3.1. Use Table**

17   \*   \*   \*

18   **Section 3.1.6. Use Table**

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

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential			Residential												Commercial/ Residential			Employment				Industrial			
						Residential Detached						Residential Townhouse			Residential Multi-Unit													
			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	I M
AGRICULTURAL																												
* * *																												
[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	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	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	L
* * *																												

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

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

23   **Division 3.2. Agricultural Uses**

24   \*   \*   \*

25   **[Section 3.2.10. Winery**

26   A.   Defined

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

31   B.   Use Standards

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

34           a.   In the AR zone:

35                   i.   A maximum of 9 days of events that require an entrance  
36                   ticket or a cover charge is allowed each calendar year.  
37                   Additional events require conditional use approval by the  
38                   Hearing Examiner under Section 7.3.1.

39                   ii.   The maximum lighting level at any lot line is 0.1  
40                   footcandle.

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

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

48           a.   The minimum lot area is 10 acres.



- 49           b.     The minimum setback for any structure from any lot line is 75
- 50                     feet, except that the minimum front setback may be reduced to
- 51                     50 feet if the Hearing Examiner finds the reduced setback is
- 52                     compatible with abutting and confronting agricultural uses.
- 53           c.     The lot must front on and have access to a road built to primary
- 54                     residential or higher standards.]

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

56     \*    \*    \*

57     B.     Farm Alcohol Production

58           1.     Defined

59                     Farm Alcohol Production means the transformation of agricultural

60                     products into alcoholic beverages. Farm Alcohol Production includes

61                     wineries, cideries, breweries, or distilleries on farms. Farm Alcohol

62                     Production may include other activities unrelated to the production

63                     and sale of alcohol or farming under certain circumstances.

64           2.     Use Standards

- 65           a.     Where Farm Alcohol Production is allowed as a limited use, it
- 66                     must satisfy the following standards:
  - 67                     i.     The production capacity and associated activities of the
  - 68                             alcoholic beverage must comply with the license issued
  - 69                             by the State of Maryland Comptroller's Office.
  - 70                     ii.    Some ingredients used in the production process must be
  - 71                             grown on-site.
  - 72                     iii.   The underlying land must be classified as agricultural by
  - 73                             the State Department of Assessments and Taxation.
  - 74                     iv.    Subject to all licensing requirements, the facility may:

- 75 (a) operate an on-site tasting room for its products;
- 76 and
- 77 (b) prepare and sell food to the extent allowed by the
- 78 State alcohol manufacturing license.
- 79 v. Events and activities that are normal and customary to
- 80 the regular operations of a winery, cidery, brewery, and
- 81 distillery are allowed.
- 82 vi. Weddings, corporate retreats, and other events accessory
- 83 to the production of alcohol are allowed:
- 84 (a) A maximum number of 9 events or activities with
- 85 more than 300 participants is allowed in a calendar
- 86 year. Additional events with more than 300
- 87 participants require conditional use approval by the
- 88 Hearing Examiner under Section 7.3.1.
- 89 (b) All parking must be accommodated on site.
- 90 (c) Noise levels must satisfy Chapter 31B standards.
- 91 vii. If any structure is used for activities under subsection iv,
- 92 v, or vi, the structure must satisfy all building, life safety,
- 93 fire, and sanitation code requirements.
- 94 b. Where Farm Alcohol Production is allowed as a conditional
- 95 use, it must satisfy the standards under Section 7.3.1.

C. Farm Market, On-site

\* \* \*

**Section [3.2.12] 3.2.11. Temporary Agricultural Uses**

\* \* \*

B. Seasonal Outdoor Sales

\* \* \*

102 2. Use Standards

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

105 \* \* \*

106 d. Evergreen trees may only be sold beginning the first Saturday  
 107 following Thanksgiving Day through December 24<sup>th</sup>, and are  
 108 exempt from Section [3.2.12.B.2.b] 3.2.11.B.2.b and Section  
 109 [3.2.12.B.2.e.ii] 3.2.11.B.2.e.ii.

110 \* \* \*

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

112 **Division 8.2. Residential Floating Zones**

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

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

115 B. The following Use Table identifies uses allowed in each zone. Uses may be  
 116 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>	p1	p1	p1	p1	p1	

117 **Key:** P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not  
 118 Allowed

119 **1** Limited to the sale of Christmas trees between December 5 and December 25.

120 \* \* \*

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

123

124 This is a correct copy of Council action.

125

126 \_\_\_\_\_

127 Megan Davey Limarzi, Esq.  
128 Clerk of the Council

**Section 3.2.4. Equestrian Facility**

g. Equestrian events are restricted as follows:

Site Requirements	Hours of Operation		Number of Participants and Spectators			
	Su-Th	Fr-Sa	Event	Informal Event	Minor Event	Major Event
			0-25	26-50	51-150	151-300
Up to 17.9 acres	6am-9pm	6am-10pm	Unlimited on any day	None	None	None
18 - 24.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	None	None
25 - 74.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	Maximum of 7 per year	None
75+ acres and direct access to a roadway with an arterial or higher classification	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	Maximum of 7 per year	Maximum of 3 per year lasting up to 3 consecutive days each

h. A permit must be obtained from DPS for each event involving between 151 and 300 participants and spectators, per day. The applicant must specify the nature of the event, the anticipated attendance of spectators and participants, the number of days the event will take place, the hours during which the event will take place, the area to be used for parking, any traffic control measures intended to be put in place, and any other information determined by DPS to be relevant to the issuance of the permit. A fee for issuance of the permit may be set by DPS.

i. An Equestrian Facility conditional use application may be filed with the Hearing Examiner to deviate from any limited use standard regarding: number of participants and spectators; number of events each year; event acreage; or hours of operation. An Equestrian Facility conditional use approval must be renewed every 5 years. Before the conditional use is renewed the Hearing Examiner must evaluate the effectiveness of the terms and conditions of the original approval.