



Gregory J. Swain, County Attorney

MEMORANDUM

To: Council Members, Anne Arundel County Council

From: Kelly Phillips Kenney, Supervising County Attorney /s/

Through: Gregory J. Swain, County Attorney /s/

Date: September 8, 2020

Subject: Bill No. 68-20, Zoning – Admission and Amusement Tax – Farm Alcohol Production

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Bill No. 68-20.

Background. This Bill is a result of a number of recommendations of the Anne Arundel County Agricultural, Farming and Agritourism Commission. This particular Bill combines existing farm alcohol uses (farm breweries and wineries) into one use category of “farm alcohol production facility,” which also encompasses farm distilleries.

Purpose. The purpose of the Bill is to eliminate the separate uses of breweries and wineries on farms and to create a new broader category of “farm alcohol production facility”, to be allowed as a conditional use on farms. The Bill also removes wineries from the list of uses allowed in the Critical Area RCA.

SECTION 1. of the Bill sets forth the sections that will be repealed: the definition of “brewery, farm”; § 18-10-122, which sets forth the conditions for the same; and § 18-10-160, which sets forth the conditional use requirements for wineries on farms. Both of these uses will be encompassed in the new category of “farm alcohol production.” “Wineries” remain as permitted uses on sites other than farms in the W2 and W3 zones.

SECTION 2. sets forth the renumbering that will occur as a result of the deletion and addition of the sections in the Bill. The following changes are made in **SECTION 3.** of the Bill.

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

Sections **4-5-101(a)** and **(d)** are revised to replace the terms “farm brewery” and “winery” with “farm alcohol production facility” in the category of uses that are exempt from the admission and amusement tax on properties with a principal use of farming. This merely updates the terms as revised in the Zoning Code as described below, and makes no change with regard to the scope of the tax or the exemption.

Section **18-1-101(51)** is new and defines the new term “farm alcohol production facility” as a facility that is used for “agricultural alcohol production” as defined in State law that is located on a farm that qualifies for an agricultural use assessment pursuant to § 8-209 of the Tax-Property Article of the State Code or that is covered by a current and active soil conservation and water quality plan approved by the Soil Conservation District. The definition in § 4-214(a)(1) of the Land Use Article goes into effect on October 1, 2020, and is defined as an activity that:

- (i) is carried out by a license holder, as defined in § 1-101 of the Alcoholic Beverages Article;
- (ii) occurs on agricultural land; and
- (iii) is related to the manufacture, packaging, storage, promotion, or sale of alcoholic beverages that use ingredients produced on the agricultural land or any associated agricultural land.

“Agricultural alcohol production” also includes the use of an area to provide tasting of alcoholic beverages or accommodate the license holder’s customers. Md. Code Ann., Tax-Prop., § 4-214(a)(2).

The parking chart in § **18-3-104** is revised to set forth the parking requirements for a “farm alcohol production facility” as 1 space per 5 attendees for outdoor events; 1 space for every 1,000 square feet of building area; and 1 space for every two employees. The parking requirements shall not include areas dedicated to agricultural production unrelated to the farm alcohol production facility.

The residential use chart in § **18-4-106** is revised to remove “Brewery, farm” and “Wineries”. The new use of “farm alcohol production facility” is added as a conditional use in the RA, RLD, and R1 zones.

Section **18-10-123** is new and sets forth the conditions for the use of “farm alcohol production facility”. The facility shall be located on a farm of at least 10 acres and be operated by the farm owner or farm manager. Paragraph **(2)** requires that the farm upon which the facility is located produce at least one acre of grain, hops, fruit or other ingredient, excluding water, to produce alcohol. For a facility that produces mead, at least one acre of land shall be used to nourish a colony of bees.

Paragraph **(3)** establishes the building setback requirements as 100 feet for any building used in connection with farm alcohol production, except as provided in paragraphs (i) or (ii). Paragraph **(3)(i)** provides that the setback may be reduced to 50 feet for existing structures if the Planning and Zoning Officer finds that the reduced setback is compatible with surrounding uses. Paragraph **(3)(ii)** provides that for a farm bounded by a road, the minimum setback from the lot

line to new structure adjacent to the road may be reduced to 50 feet if the Planning and Zoning Officer finds that the reduced setback is compatible with surrounding uses.

Paragraph (4) restricts the floor area for tastings and sale of alcohol and accessory food or beverages shall not exceed the floor area being used for production and storage of alcohol.

Paragraph (5) requires that the facility front a public road and that access to the facility shall be directly on the public road and no point of vehicular access may be closer than 40 feet to the lot line of a residentially zoned property that is not a part of the farm alcohol production facility. Access to the site through a private road may be approved by the Planning and Zoning Officer where no direct access from a public road is feasible with conditions: (i) maintenance of the private road shall be subject to a shared maintenance agreement, with proportional maintenance responsibilities assumed by the owner of the farm alcohol production facility; and (ii) if there is more than one property owner who has a right to use the private road, the owner of the farm alcohol production facility shall provide affidavits of support from each owner, in a form to be approved by the Planning and Zoning Officer.

Paragraph (6) requires that a facility located on a scenic and historic road shall comply with § 17-6-504 and mitigate any adverse visual impact to abutting property not owned by the farm operator. Lastly, paragraph (7) requires that parking areas be clearly marked through physical means such as timbers, fences or stakes, and shall be arranged to avoid traffic congestion on public roads and no parking shall be allowed on public or private rights-of-way.

In § 18-13-206, “wineries” is removed from the list of uses allowed in the Critical Area RCA since the use is being removed from residential zones. It is likely that at some point, after approval by the Critical Area Commission, another Bill may add “farm alcohol production facility” as an allowable use in the RCA.

SECTION 4. (uncodified) provides that the bill takes effect 45 days from the date it becomes law.

The Office of Law is available to answer any additional questions regarding this Bill.

Thank you.

cc: Honorable Stuart Pittman, County Executive
Matthew Power, Chief Administrative Officer
Dr. Kai Boggess-de Bruin, Chief of Staff
Peter Baron, Legislative Liaison
Steve Kaii-Ziegler, Planning and Zoning Officer
Lori Rhodes, Assistant Planning and Zoning Officer