



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only: Case No. ZRA-146 Date Filed: 8/13/13

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows:

To amend Section 103.0 : Definitions of the Zoning Regulations to establish new definitions for the terms "Farm Brewery" and "Farm Brewery - Class 1A"

To amend Section 104.0: RC (Rural Conservation) District to add "Farm Brewery - Class 1A" as a permitted accessory use under Section 104.C., subject to certain permit provisions.

To amend Section 105.0: RR (Rural Residential) District to add "Farm Brewery - Class 1A" as a permitted accessory use under Section 104.C., subject to certain permit provisions.

To amend Section 128.0.O in the Supplementary Zoning District Regulations to revise the Contents listing and the the current criteria and permit requirements for a "Farm Winery - Class 1A" in order to add the "Farm Brewery - Class 1A" use as similar accessory use to farming uses in the RC and RR Districts.

2. Petitioner's Name:

Marsha S. McLaughlin, Director, Department of Planning and Zoning Address 3430 Court House Drive, Ellicott City, Maryland 21043 Phone No. (W) 410-313-2350 (H) N/A Email Address mmclaughlin@howardcountymd.gov

3. Counsel for Petitioner Paul Johnson, Deputy County Solicitor

Counsel's Address 3430 Court House Drive, Ellicott City, Maryland 21043 Counsel's Phone No. 410-313-2101

Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed: The basic reasons for the requested amendments are to make it a uncomplicated permit process for farm breweries to open and operate as a new accessory farming use in Howard County, and thereby help promote the growing of crops such as corn, grains, hops or other brewing-related plants, and the production of malt and other brewing ingredients, as agricultural products adding to the marketing potential for Howard County farms and other local farms.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County: The proposed amendments are in general concurrence with the *PlanHoward 2030* Resource Conservation Policy No. 4.2 to “Refine the Rural Conservation (RC) and Rural Residential (RR) zoning regulations to provide greater flexibility for the agricultural community...” .The amendments also follow the Implementing Actions of this policy to “Examine and amend where appropriate the list of accessory and conditional uses in the RC and RR districts, and refine uses and standards for approval,” and “Review use designations (permitted by right, by permit, and conditional [use]) in each Rural West zoning district and determine whether amendments are needed to make some uses less or more restrictive.” Additional justification may be provided at the Planning Board meeting and County Council hearing for this Zoning Regulation Amendment proposal.

[You may attach a separate document to respond to Section 5. If so, this document shall be titled “Response to Section 5”]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of “...preserving and promoting the health, safety and welfare of the community.” Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. In terms of providing more opportunity for economic development in the agricultural and tourism sectors, these proposed amendments are in harmony with the intent “To provide a guide for public action in the orderly and efficient provision of public facilities and services, and for private enterprise in undertaking development, investment and other economic activity relating to uses of land and structures throughout the County.” By providing another agriculturally-related accessory use option for farms to operate successfully, the amendments are in harmony with the intent “To preserve agricultural land.”

[You may attach a separate document to respond to Section 6. If so, this document shall be titled “Response to Section 6.”]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) . There are public benefits because the proposed amendments would support the agricultural uses in the County by providing new opportunities for brewery-related farming operations and by expanding the potential types of crops and agricultural products for farms overall. There would be increased farm-operation economic development associated with the sale of the value-added brewery products, and increased County-wide economic development associated with tourism activities linked to farm brewery operations.

[You may attach a separate document to respond to Section 7. If so, this document shall be titled “Response to Section 7.”]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more

than one property, yes or no? Yes

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

The number of properties is greater than 12, because the proposed amendments for farm breweries as permitted accessory uses could apply to many existing farm properties in the RC and RR Districts.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. There are no other factors at this time, but more may be provided during the public meeting and public hearing processes for this Zoning Regulation amendment.

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in [[ Double Bold Brackets ]]. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

**After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.**

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.

9. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Marsha S. McLaughlin, Director  
Petitioner's name (Printed or typed)

*Marsha S. McLaughlin* 8/13/13  
Petitioner's Signature Date

\_\_\_\_\_  
Petitioner's name (Printed or typed)

\_\_\_\_\_  
Petitioner's Signature Date

*Paul T. Johnson* 8/13/13  
Counsel for Petitioner's Signature

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

**FEE**

The Petitioner agrees to pay all fees as follows:

Filing fee .....\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)  
Each additional hearing night..... \$510.00\*

The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

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For DPZ office use only:

Hearing Fee \$ \_\_\_\_\_

Receipt No. \_\_\_\_\_

**PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION**

**County Website: [www.howardcountymd.gov](http://www.howardcountymd.gov)**

Revised:5/08

T:\Shared\Public Service and Zoning\Applications\County Council\ZRA Application

## EXHIBIT 1 – PETITIONER’S PROPOSED TEXT

### Amendments to Section 103.0: Definitions:

**FARM BREWERY:** AN AGRICULTURAL PROCESSING FACILITY LOCATED ON A FARM WITH EQUIPMENT, COMPONENTS AND SUPPLIES FOR THE PROCESSING, PRODUCTION AND PACKAGING OF BEER, ALE, PORTER, STOUT AND SIMILAR MALT-BASED OR GRAIN-BASED BEVERAGES ON THE PREMISES. FARM BREWERY ACTIVITIES MAY INCLUDE ASSOCIATED COOKING, FERMENTING, BOTTLING, STORAGE, AGING, SHIPPING, RECEIVING, AND MAY ALSO INCLUDE ACCESSORY FACILITIES FOR LABORATORY WORK, MAINTENANCE, AND OFFICE FUNCTIONS.

**FARM BREWERY-CLASS 1A:** A FARM BREWERY WHICH INCLUDES PRODUCT TASTING, PRODUCT SALES, SITE TOURS, AND EDUCATIONAL PROGRAMS.

### Amendment to RC District Accessory Uses Section 104.0.C.15:

15. Farm Winery-Class 1A AND FARM BREWERY-CLASS 1A, subject to the requirements of Section 128.0.O.

### Amendment to RR District Accessory Uses Section 104.0.C.11:

11. Farm Winery-Class 1A AND FARM BREWERY-CLASS 1A, subject to the requirements of Section 128.0.O.

### Amendment to Section 128.0.: Supplementary Zoning District Regulations Contents:

- O. Farm Winery – Class 1A AND FARM BREWERY – CLASS 1A

### Amendments to Section 128.0.O:

- O. **Farm Winery – Class 1A AND FARM BREWERY – CLASS 1A**

1. A Farm Winery – Class 1A ~~[[is]]~~ OR A FARM BREWERY – CLASS 1A ARE permitted as an accessory use to farming in the RC and RR Districts, provided that ~~[[it]]~~ THE USE complies with the following criteria:
  - a. The use is located on a lot or parcel of at least 5 acres. This use is permitted on any such parcel, including parcels with agricultural preservation easements and preservation parcels, excluding cluster preservation parcels in the RR District existing on July 4, 2011 for which easements have not been donated to the Agricultural Land Preservation Program.
  - b. The lot or parcel upon which the ~~[[farm winery]]~~ USE is located shall have frontage on and direct access to:
    - (1) A road classified as an arterial or collector public road; or

- (2) A local road, provided that:
  - (a) Access to an arterial or collector public road right-of-way is not feasible;
  - (b) The access to the local road is safe based on road conditions and accident history;
  - (c) If the local road is internal to a residential cluster subdivision, the subject property adjoins an arterial or collector highway, the local road access point is within 400 feet of its intersection with the arterial or collector highway, and there are no intervening driveways between the arterial or collector highway and the access to the [[winery]] PROPERTY along the local road; and
  - (d) That the use of the local road for access to the [[winery]] PROPERTY will not unduly conflict with other uses that access the local road.
- c. The driveway providing access to the proposed site shall not be shared with other properties; however the Director of Planning and Zoning may waive this criteria if the petitioner provides affidavits from all persons who also share the driveway that they do not object to the use of the driveway for the [[Farm Winery]] USE. If the use of a shared driveway is allowed, the petitioner shall demonstrate that the use will not result in damage to or deterioration of the shared driveway or in increased hazards to other users of the driveway. The Director of Planning and Zoning shall prescribe appropriate conditions and safeguards to ensure the [[Farm Winery owner's]] PETITIONER'S responsibility for repair of any damage or deterioration of the shared driveway caused by the [[winery]] use.
- d. All [[winery related structures and uses]] STRUCTURES AND USES ASSOCIATED WITH THE PROPOSED USE, excluding cultivation areas, shall be at least 75 feet from all lot lines and where possible minimize the impact on surrounding properties.
- e. [[Planting of]] FOR A FARM WINERY CLASS 1A USE, at least two acres of grapes or other fruit on the property shall be initiated upon approval and successfully established within two years of approval. FOR A FARM BREWERY CLASS 1A USE, AT LEAST TWO ACRES OF A PRIMARY INGREDIENT USED IN THE BREWING OF MALT-BASED OR GRAIN-BASED BEVERAGES ON THE PREMISES SHALL BE INITIATED UPON APPROVAL AND SUCCESSFULLY ESTABLISHED WITHIN ONE YEAR OF APPROVAL.
- f. Appropriate screening of adjoining parcels shall be provided, which may include a solid fence, wall, landscaping or a combination that presents an attractive and effective buffer.
- g. The [[Farm Winery]] USE shall be consistent with and support the farm and its production, shall not interfere with the implementation of soil conservation and water quality best management practices, and shall not impact floodplains, wetlands, stream buffers, steep slopes or other environmental features on the farm winery property.
- h. The [[Farm Winery]] USE shall be compatible with the rural character of the farm and the surrounding area.

- i. A Farm Winery may produce, serve and sell food to complement wine tasting in accordance with Article 2B of Maryland State Code.
  - j. [[Any accessory retail sales within the Farm Winery, other than the wine and similar fermented beverages produced at the Farm Winery, are limited to items promoting the same Farm Winery, such as glassware, clothing, and wine-related items such as wine openers. A Farm Winery may sell plants and/or produce grown on-site.]] IN ADDITION TO THE BEVERAGES PRODUCED BY THE USE, THE RETAIL SALE OF PROMOTIONAL ITEMS IDENTIFYING THE SAME WINERY OR BREWERY, SUCH AS GLASSWARE, CLOTHING, BOTTLE OPENERS OR SIMILAR ITEMS, IS PERMITTED AS AN ACCESSORY USE. PLANTS OR PRODUCE GROWN ON-SITE MAY ALSO BE SOLD.
  - k. [[Farm Winery v]] Visitor hours shall be restricted to between 10:00 a.m. and 7:00 p.m., Sunday through Thursday; and 10:00 a.m. and 10:00 p.m., Friday and Saturday. DPZ may reduce the hours for visitors, but shall not increase them. The hours for winery processing and production operations are not limited.
  - l. At any one time, the number of visitors to the winery OR BREWERY shall not exceed 50 visitors.
2. [[The owner of a Farm Winery – Class 1A shall obtain approval of the use by a permit to be issued by DPZ.]] A ZONING PERMIT IS REQUIRED FOR THE USE. As part of the approval process, the owner shall submit a site layout, which includes acreage, screening, parking, and building locations. [[The owner shall also provide documentation to DPZ proving compliance with Section 128.0.O.]] If approved, AFTER THE REQUIRED TWO-YEAR OR ONE-YEAR TIME PERIOD, AS APPLICABLE, the owner shall provide documentation to DPZ proving compliance with THE PLANTING REQUIREMENTS IN Section 128.0.O.1.E and that it remains in compliance with all the other approval criteria. Thereafter, permit renewal is not required unless a violation occurs. It is the responsibility of the [[Farm Winery]] WINERY OR BREWERY owner to obtain any other required Federal, State and County approvals required prior to operating the use.



## EXHIBIT 2 –PROPOSED TEXT IF ADOPTED

### Amendments to Section 103.0: Definitions:

**Farm Brewery:** An agricultural processing facility located on a farm with equipment, components and supplies for the processing, production and packaging of beer, ale, porter, stout and similar malt-based or grain-based beverages on the premises. Farm brewery activities may include associated cooking, fermenting, bottling, storage, aging, shipping, receiving, and may also include accessory facilities for laboratory work, maintenance, and office functions.

**Farm Brewery-Class 1A:** A Farm Brewery which includes product tasting, product sales, site tours, and educational programs.

### Amendment to RC District Accessory Uses Section 104.0.C.15:

15. Farm Winery-Class 1A and Farm Brewery-Class 1A, subject to the requirements of Section 128.0.O.

### Amendment to RR District Accessory Uses Section 104.0.C.11:

11. Farm Winery-Class 1A and Farm Brewery-Class 1A, subject to the requirements of Section 128.0.O.

### Amendments to Section 128.0.: Supplementary Zoning District Regulations Contents:

- O. Farm Winery – Class 1A and Farm Brewery – Class 1A

### Amendments to Section 128.0.O:

- O. **Farm Winery – Class 1A and Farm Brewery – CLASS 1A**

1. A Farm Winery – Class 1A or a Farm Brewery – Class 1A are permitted as an accessory use to farming in the RC and RR Districts, provided that the use complies with the following criteria:
  - a. The use is located on a lot or parcel of at least 5 acres. This use is permitted on any such parcel, including parcels with agricultural preservation easements and preservation parcels, excluding cluster preservation parcels in the RR District existing on July 4, 2011 for which easements have not been donated to the Agricultural Land Preservation Program.
  - b. The lot or parcel upon which the use is located shall have frontage on and direct access to:
    - (1) A road classified as an arterial or collector public road; or
    - (2) A local road, provided that:

- (a) Access to an arterial or collector public road right-of-way is not feasible;
  - (b) The access to the local road is safe based on road conditions and accident history;
  - (c) If the local road is internal to a residential cluster subdivision, the subject property adjoins an arterial or collector highway, the local road access point is within 400 feet of its intersection with the arterial or collector highway, and there are no intervening driveways between the arterial or collector highway and the access to the property along the local road; and
  - (d) That the use of the local road for access to the property will not unduly conflict with other uses that access the local road.
- c. The driveway providing access to the proposed site shall not be shared with other properties; however the Director of Planning and Zoning may waive this criteria if the petitioner provides affidavits from all persons who also share the driveway that they do not object to the use of the driveway for the use. If the use of a shared driveway is allowed, the petitioner shall demonstrate that the use will not result in damage to or deterioration of the shared driveway or in increased hazards to other users of the driveway. The Director of Planning and Zoning shall prescribe appropriate conditions and safeguards to ensure the petitioner's responsibility for repair of any damage or deterioration of the shared driveway caused by the use.
- d. All structures and uses associated with the proposed use, excluding cultivation areas, shall be at least 75 feet from all lot lines and where possible minimize the impact on surrounding properties.
- e. For a Farm Winery Class 1A use, at least two acres of grapes or other fruit on the property shall be initiated upon approval and successfully established within two years of approval. For a Farm Brewery Class 1A use, at least two acres of a primary ingredient used in the brewing of malt-based or grain-based beverages on the premises shall be initiated upon approval and successfully established within one year of approval.
- f. Appropriate screening of adjoining parcels shall be provided, which may include a solid fence, wall, landscaping or a combination that presents an attractive and effective buffer.
- g. The use shall be consistent with and support the farm and its production, shall not interfere with the implementation of soil conservation and water quality best management practices, and shall not impact floodplains, wetlands, stream buffers, steep slopes or other environmental features on the farm winery property.
- h. The use shall be compatible with the rural character of the farm and the surrounding area.
- i. A Farm Winery may produce, serve and sell food to complement wine tasting in accordance with Article 2B of Maryland State Code.

- j. In addition to the beverages produced by the use, the retail sale of promotional items identifying the same winery or brewery, such as glassware, clothing, bottle openers or similar items, is permitted as an accessory use. plants or produce grown on-site may also be sold.
  - k. Visitor hours shall be restricted to between 10:00 a.m. and 7:00 p.m., Sunday through Thursday; and 10:00 a.m. and 10:00 p.m., Friday and Saturday. DPZ may reduce the hours for visitors, but shall not increase them. The hours for winery processing and production operations are not limited.
  - l. At any one time, the number of visitors to the winery or brewery shall not exceed 50 visitors.
2. A Zoning Permit is required for the use. As part of the approval process, the owner shall submit a site layout, which includes acreage, screening, parking, and building locations. If approved, after the required two-year or one-year time period, as applicable, the owner shall provide documentation to DPZ proving compliance with the planting requirements in Section 128.0.O.1.e and that it remains in compliance with all the other approval criteria. Thereafter, permit renewal is not required unless a violation occurs. It is the responsibility of the winery or brewery owner to obtain any other required Federal, State and County approvals required prior to operating the use.

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