

## Farm Alcohol Production (FAP) Facilities - Lessons Learned

- Before starting a farm brewery, winery, cidery, or other FAP facility, you will need to work with the Office of Agriculture (OAG), to submit an [Application for Farm Alcohol Production](#), which must be approved by the OAG and the Department of Permitting Services (DPS).
- A business plan should also be submitted showing how the alcohol operation will act as an accessory use to farming under Section [59.3.2.6](#) of the County Code (see below).
- The County Code requires that a portion of the ingredients used for FAP be grown on-site. The OAG recommends that producers plant the crops to be used for ingredients as soon as possible.
- Please review the requirements for FAP in Section [59.3.2.10.B](#) of the County Code (see below).
- The septic capacity should be the first item researched and confirmed when searching for a property. An approved percolation (perc) test for a 6-bedroom house is not sufficient to support the production of alcohol and other associated demands. Please see this [listing of agricultural related service providers](#), including excavators for water table and perc testing.
- Since October 2020, existing agricultural buildings can be converted to an agritourism use, including a tasting room, without a building permit as long as the maximum occupancy is less than 100 (see [HB805](#)).
- Constructing a new building for agritourism requires a building permit, which makes the approval process lengthier and more expensive. However, since August 2021, new agritourism buildings are exempt from the plat and subdivision requirements (see [SRA 21-01](#)).
- For unimproved properties, the DPS and OAG we will need to evaluate how accessory agricultural uses and structures can be permitted when no other primary structures exist.
- A review of road classifications will be needed, including ingress/egress onto County and State roads – traffic studies, road dedication, and evaluation of rustic roads will be done. FAP businesses that have occupancies of more than 99 people will be reviewed more stringently than venues with smaller occupancies.
- For land disturbances for new agricultural buildings, producers must submit a [request for technical assistance](#) to the Montgomery Soil Conservation District (MSCD). The MSCD may be able to provide oversight on erosion and sediment control, and perhaps also stormwater management, depending on the size of disturbance and the linkage to farming.
- For properties enrolled in an agricultural preservation easement, the applicant must meet with the Agricultural Land Preservation Advisory Board (APAB) to get approval for the use and discuss other requirements of the easement. The OAG staffs the APAB and can arrange this meeting.
- The wash water generated in the tasting room and production facility may not be disposed of via the septic system. It must be either exported from the property or land-applied to crops. In order to land-apply the wastewater, the producer must first obtain a [Nutrient Management Plan](#) (NMP) that provides recommendations for wastewater applications. Our agricultural agency partner, University of MD Extension, offers free NMP-writing services to producers.
- Other considerations for waste/wash water include the installation of a separate holding tank for this type of liquid. The holding tank must be approved and verified by the Maryland Department of Environment.

## **Montgomery County Code Chapter 59**

### **Section 3.2.6. Farming**

#### **Defined**

Farming means the practice of agriculture on a property, and any associated buildings. Agriculture means the business, science, and art of cultivating and managing the soil; composting, growing, harvesting, and selling crops, and the products of forestry, horticulture, and hydroponics; breeding, raising, managing, or selling livestock, including horses, poultry, fish, game, and fur-bearing animals; dairying, beekeeping, and similar activities; and equestrian events and activities. Agriculture includes processing on the farm of an agricultural product to prepare the product for market and may cause a change in the natural form or state of the product. Farming includes the following accessory uses:

- A. Accessory agricultural processing and storage of products grown or raised on-site or on property owned, rented, or controlled by the farmer. Accessory agricultural processing includes a milk plant, grain elevator, on-farm animal slaughtering, and mulch or compost production and manufacturing.
- B. The sale of products of agriculture and agricultural processing, if products are produced on-site or on property owned, rented, or controlled by the farmer.
- C. The sale of horticultural products grown off-site but kept on the farm temporarily on a maximum of 2 acres or 20% of the site, whichever is less.
- D. The delivery and installation of horticultural products grown on the farm.
- E. The production and manufacturing of mulch or compost where up to 20% of the materials used in accessory processing can come from off-site sources.
- F. Accessory agricultural education and tourism activities conducted as a part of a farm's regular operations, with emphasis on hands-on experiences and events that foster increased knowledge of agriculture, including cultivation methods, animal care, water conservation, Maryland's farming history, the importance of eating healthy, and locally grown foods. Allowed activities include corn mazes, hayrides, and educational tours, classes, and workshops. The maximum footprint for any structure and the total footprint of all structures primarily used for education or tourism is limited to 10% of the total footprint square footage of all structures on the site used for agriculture. The property must have DPS approved sanitation facilities for this accessory use.

#### **Section 59.3.2.10.B Farm Alcohol Production**

##### **1. Defined**

Farm Alcohol Production means 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.

##### **2. Use Standards**

- a. Where Farm Alcohol Production is allowed as a limited use, it must satisfy the following standards:
  - i. The production capacity and associated activities of the alcoholic beverage must comply with the license issued by the State of Maryland Comptroller's Office.
    - (a) A brewery must have a Class 8 Farm Brewery License;
    - (b) A winery must have a Class 4 Limited Winery License; and
    - (c) A distillery must have a Class 1 Distillery License.
  - ii. Some ingredients used in the production process must be grown 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.
  - 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.
  - vii. Subject to all licensing requirements, the facility may:
    - (a) operate an on-site tasting room for its products; and
    - (b) prepare and sell food to the extent allowed by the State alcohol manufacturing license.
  - viii. Events and activities that are normal and customary to the regular operations of a winery, cidery, brewery, and distillery, including membership-related events and traditional festivals related to agriculture or the business of alcohol production, are allowed without a limitation on the number of guests. A maximum of 5 days of events that require an entrance ticket or a cover charge is allowed each calendar year.
  - ix. Weddings, corporate retreats, and other events accessory to the production of alcohol are allowed:
    - (a) Except as allowed under subsection (c), the maximum number of participants at any event is 225. There is no limit on the number of events with 100 participants or fewer. The total maximum number of days of events in a calendar year is 50 for events with more than 100 participants.
    - (b) 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.
    - (c) 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.
  - x. If any structure is used for activities under subsection 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. Any new building or surface parking area used for Farm Alcohol Production and related events must be located at least 100 feet from an existing dwelling unit on an abutting property.
  - xv. In the AR zone, except for sites where the property owner obtained a Maryland alcohol producer's license before October 2, 2018, the minimum site area for breweries and distilleries is 25 acres.
  - xvi. In the RE-1 and RE-2 zones, for breweries, distilleries, and wineries:
    - (a) the minimum site area is 25 acres;
    - (b) the site must be located in an area classified as sewer category 6 in the Ten Year Comprehensive Water Supply and Sewerage Systems Plan; and
    - (c) access must be directly from a roadway classified in the approved Master Plan of Highways and Transitways as a primary residential or higher roadway.
- b. Where Farm Alcohol Production is allowed as a conditional use, it must satisfy the standards under Section [7.3.1](#).