

# PRINCE GEORGE'S COUNTY COUNCIL

## COMMITTEE REPORT

2021 Legislative Session

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**Reference No.:** CB-013-2021

**Draft No.:** 2

**Committee:** COMMITTEE OF THE WHOLE

**Date:** 03/18/2021

**Action:** FAV (A)

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### REPORT:

Committee Vote: Favorable as amended, 8-0 (In favor: Council Members Hawkins, Anderson-Walker, Davis, Dernoga, Glaros, Streeter, Taveras and Turner)

The Planning, Housing and Economic Development (PHED) Committee Director provided an overview of the legislation and informed the Committee of written comments received on referral. This legislation amends the Zoning Ordinance to define a new use, Farm brewery, and to allow the use in the O-S (Open Space) Zone, consistent with provisions of the Alcoholic Beverages Article of State law and subject to certain specified requirements.

Council Member Turner, the bill's sponsor, informed the Committee that CB-13-2021 is companion to 2009 legislation enacted by the Council to allow farm wineries in Prince George's County. Mr. Turner commented on the success of wineries in the County and the intent of this legislation to build on that use with the addition of farm breweries.

The Planning Board submitted a March 11, 2021 letter to Council Chair Hawkins in support of CB-13-2021 with the following amendments:

On Page 5, line 31, remove the comma behind the word "less" and place the comma behind the word "smaller". The revised language would read: "Smaller, less attended facilities, such as but not limited to tastings, private parties, brewery tour meetings or picnics are permitted with limitation on the number of events."

Delete the language on page 6, lines 6 through 8, that reads: "Adequate parking for visitors for the Farm brewery shall be provided on the premises. No visitor parking shall be allowed on public or private rights-of-way." The Planning Board recommends replacing the language with amendments in Sections 27-568 and 27-582. The Planning Board also recommends adding the Part 12 (Signs) regulations to the bill.

The Planning Board believes that CB-13-2021 is a good bill for agritourism efforts for county farms who meet the qualifications, and who do not want to utilize a farm winery.

The Zoning Hearing Examiner submitted a March 16, 2021 memorandum to the PHED

Committee Director offering the following comments and suggested amendments, primarily technical in nature:

- (1) The term “Farm Brewery” should be capped throughout the bill or be in lower case everywhere except on page 1 lines 2 and 3, and on page 2, line 13 (Farm Brewery or farm brewery, but not Farm brewery). I understand that past legislation has capitalized the first letter in a two-word definition and not the second, but there doesn’t appear to be any justification for changing the longstanding practice of using capital letters for the first letter of each word.
- (2) Initial research reveals that the Alcoholic Beverages Article of the Maryland Annotated Code also refers to a Farm Brewery license as a Class 8 license. That license may have to be referenced in the legislation on page 2, line 13 and it will have to be reviewed in conjunction with the special events noted on Page 5, lines 27-31 and Page 6, lines 1-3. Additionally, on Page 2, line 14, strike “State” and insert “Maryland Annotated” prior to Code.
- (3) On page 5, lines 9-10 should strike reference to “County” alcohol laws.
- (4) On page 5, line 17 permits a “commercial restaurant” by special exception and requires that it be compatible with the “rural character” of the farm. The Zoning Ordinance does not define “commercial restaurant” but does define an “eating or drinking establishment”; accordingly, that definition should be referenced. The use table should also be revised to permit the use by SE if there is a Farm Brewery on the site, and the Council should add further clarification for what is needed to determine compatibility with the farm. First, there is no reference to the existence of a “farm” in the definition of the new use or in the new Section 27-445.20. Once this issue is resolved, the Council should also clarify whether the compatibility should be with the Farm Brewery or the farm.
- (5) Page 6, line 4, includes a minimum setback for “newly constructed buildings.” It may be easier to determine which buildings are at issue if the language is revised to “any building for which a permit was issued subsequent to \_\_\_\_\_.” It is also confusing to determine what “other uses and structures” are subject to the Landscape Manual, as noted on lines 6-7. Assuming these are other existing uses and structures they have already been subjected to law applicable prior to the enactment of the instant legislation. If this language also refers to uses or structures subsequent to the enactment of the bill, why aren’t ALL such uses/structures subject to the Landscape Manual? Finally, some reference to the parking regulations should be included in the bill as allowing “adequate parking for visitors” grants too much unfettered discretion to the permit issuer to decide on parking.
- (6) The language in Paragraph 19, line 16, raises the same issue noted above in that there is currently no requirement in this bill for there to be a farm on site. Once that is addressed, how would compatibility with the rural character of the farm and surrounding area be determined at permit time?

The Office of Law reviewed CB-13-2021 as it was presented on March 2, 2021 along with Proposed DR-2, that was presented to the Committee of the Whole on March 18, 2021 and finds Proposed DR-2 to be in proper legislative form with no legal impediments to its enactment.

The Council’s Zoning and Legislative Counsel summarized changes in a Proposed DR-2 prepared at the bill sponsor’s request to address the Planning Board and ZHE comments. The

revisions in Proposed DR-2 are as follows:

(87.1.01) **Farm brewery.** A facility that has been approved for a Class ~~B~~ 8 farm brewery license pursuant to the Alcoholic Beverages Article of the State Code that produces not more than 15,000 barrels of beer per year.

**Sec. 27-445.20. Farm brewery.**

(a) General Requirements. A Farm brewery is permitted subject to the following:

(1) A Farm brewery shall be located on a parcel of land of at least four (4) acres in size. The Farm brewery shall be operated in accordance with all local, state, and federal laws.

(2) Sampling and the sale for on- and off-site consumption of beer and associated products produced on the premises shall be permitted in accordance with State ~~and County~~ alcohol laws and regulations.

(4) Snack foods or prepackaged foods like sandwiches, soups, or salads, and ~~non-alcoholic~~ OTHER beverages that are consumed on the premises are allowed, however, food or beverage stores are not permitted as an accessory use to a Farm brewery.

(5) ~~A commercial restaurant~~ AN EATING AND DRINKING ESTABLISHMENT may be permitted by special exception SUBJECT TO SECTION 27-317 OF THIS SUBTITLE, and shall be compatible with the rural character of ~~the farm and~~ the surrounding area.

(7) The minimum setback from any lot line for any newly-constructed buildings or storage facilities used in conjunction with the manufacturing of beer shall be fifty (50) feet. ~~All other uses and structures are subject to the requirements of the Landscape Manual.~~

(8) Adequate parking for visitors to the Farm brewery shall be provided on the premises IN ACCORDANCE WITH SECTIONS 27-568 AND 27-582 OF THIS SUBTITLE. No visitors parking shall be allowed on public or private rights-of-way.

(9) SIGNAGE FOR THE USE SHALL CONFORM WITH THE REQUIREMENTS OF PART 12 OF THIS SUBTITLE.

(10) The use shall not be permitted on a lot or open space within a subdivision defined as a parcel of land under which there is a governance structure and regulations (i.e., a homeowners' association and recorded covenants).

~~(10)~~ (11) The Farm brewery shall not interfere with the implementation of soil conservation and water quality best management practices. The Farm brewery shall minimize impacts to sensitive natural resources on the farm, such as floodplains, wetlands or stream buffers. The

Farm brewery shall be operated in accordance with all local, state, and federal laws, and shall be compatible with the rural character of the ~~farm and the~~ surrounding area.

Chad Williams, Planning Department representative, addressed the Committee suggesting further revisions to the legislation concerning the technical edit for the misplaced comma on page 6, line 1, as well as in lines 8 and 9 to provide specific parking regulations or amend the referenced sections of the Zoning Ordinance to include the new farm brewery use with specific parking ratio requirements.

The Zoning Hearing Examiner addressed the Committee noting her agreement with Mr. Williams on amending the parking regulation tables and suggested that the requirement for a special exception for an eating or drinking establishment on page 5, lines 17-19 be listed in the use table.

Terry Bell, County Council Liaison, informed the Committee that the County Executive is in support of CB-13-2021.

The following individuals testified in support of CB-13-2021: Steven Darcey of the Soil Conservation District; Matthew Tedesco, representing Ecoasis; and Janna Howley, Chief Operating Officer of Grow & Fortify. Ms. Howley also submitted a March 17, 2021 letter in support of the legislation with one proposed change as follows:

Under Division 5. Additional Requirements for Specific Uses, Section (a)(2) refers to “products produced on the premises.” A Class 8 Farm Brewery licensee is permitted to have some beer made at another location through a contract brewing agreement; therefore, that beer would not be produced on the premises. We would propose that this language be changed to “products produced by the licensee.” This covers the entire range of products and is consistent with the language used by many other counties, and farm alcohol producer language that the state adopted in 2020.

Council Member Turner suggested further review of Mr. Williams’ parking regulations language and Ms. Howley’s recommended change as possible amendments prior to introduction of the legislation.

On a motion by Council Member Turner, seconded by Council Member Dernoga, the Committee voted favorable, 8-0, on CB-13-2021 Proposed DR-2.