

April 7, 2023

Georjan D. Overman, Director
Loudoun Local Business League
Via email: georjan.overman@gmail.com

Dear Ms. Overman:

The purpose of this letter is to ensure you and your colleagues have accurate information regarding the zoning requirements for wineries and breweries in the current Zoning Ordinance (Revised 1993 Zoning Ordinance) and the draft Zoning Ordinance under review by the Commission.

Current Zoning Ordinance (Revised 1993)

- Farm Wineries (winery) and Limited Breweries (brewery) are currently subject to Alcoholic Beverage Control (ABC) regulations and applicable federal laws. These two uses are farms first and wineries/breweries second, which means that these businesses can:
 - Produce and harvest fruit, grains, hops and other agricultural products
 - Produce and manufacture wine or beer
 - Offer for sale, taste and consumption of wine or beer on premises during regular business hours
 - Directly sell and ship wine or beer
 - Store and warehouse wine or beer
 - Host educational activities and events
- The County does not limit activities or events that are directly associated with a winery and brewery, such as the uses listed above, as they are usual and customary to the winery or brewery.
- The County considers weddings or other events that are not directly related to the winery and brewery uses as needing a temporary special event permit or to obtain approval of a banquet/event use.
- *Zoning Administrator's Interpretation:* While the Code of Virginia provides for "usual and customary activities and events" at a winery or brewery, the County's Zoning Administrator has consistently interpreted (advisory opinions and zoning determinations) and administered the Zoning Ordinance with wineries and breweries being separate uses from a restaurant or banquet/event facility. A restaurant and/or banquet/event facility have potentially different impacts on the public than a brewery or winery and therefore require a different level of review from the Health Department, Fire Marshal, Planning and Zoning, and Building and Development to ensure the health, safety, and welfare of guests at the restaurant, banquet/event facility, and surrounding rural properties.
 - Wineries and breweries are not commercial/full-service kitchens, restaurants, or catering operations. However, owners/operators may choose to apply for a separate restaurant use if allowed in the zoning district.
 - Wineries and breweries are not banquet/event facilities. If a brewery or winery would like to have events such as weddings or receptions, they can either apply for a temporary special event permit for occasional events or apply for approval of a banquet/event facility for an unlimited number of special events.

- If existing Virginia Farm Wineries or Limited Breweries have added a restaurant and/or banquet facility to their property without required County approvals, they do not comply with the current Zoning Ordinance (Revised 1993 Zoning Ordinance) and may be subject to enforcement action if a complaint is received. Wineries and breweries may apply to establish these additional uses as they are permitted in AR-1 and AR-2.

Draft Zoning Ordinance (Zoning Ordinance Rewrite)

The draft Zoning Ordinance carries forward all the above current requirements. Staff has not recommended to the Planning Commission (Commission) that additional requirements be imposed upon breweries and wineries.

Planning Commission Review

The Uses Subcommittee is currently discussing these topics and has expressed concerns regarding impacts associated with breweries, wineries, restaurants, and banquet facilities. In response to the Subcommittee, staff will be presenting the following revisions for the Subcommittee's consideration on April 11 and April 25:

- Codify the longstanding Zoning Administrator's interpretation (see above) in the current Zoning Ordinance into the draft Zoning Ordinance for clarification.
- Require the zoning permit application to identify the agricultural products being used in the winery or brewery (what products and where on the site) to demonstrate conformance with the Code of Virginia.

Catering in Western Loudoun

The current Zoning Ordinance allows catering in western Loudoun as a home occupation or a small business ("business service occupation").

The draft Zoning Ordinance allows catering in western Loudoun as a home occupation or a small business ("small business, agricultural and rural").

Food Preparation

The draft Zoning Ordinance includes a new use called food preparation. The purpose was to separate general manufacturing, which is industrial use, into two categories: general manufacturing and food preparation. Food Preparation is a principal use that allows nonindustrial scale food preparation in additional commercial and mixed-use zoning districts. Food preparation is a business that prepares food in their tenant space, and the food is then served off-site at another location (catering). The Frontier Kitchen in Chantilly is an example of food preparation. It offers a shared commercial kitchen where individuals can prepare food and cater off-site events. Chefscape in Leesburg has two principal uses: food preparation and a restaurant.

The food preparation principal use would not affect the ability for other principal uses, such as breweries and wineries, to have accessory food sales. Accessory food sales refer to selling pre-packaged food products (prepackaged pizza, sandwiches, hot dogs, cheese, nuts, etc.) for onsite consumption. This differs from a restaurant, the sale of food items cooked and served onsite.

The Subcommittee directed staff to explore allowing food preparation in the rural zoning districts. That could result in businesses such as Chefscape and Frontier Kitchen in the Agricultural Rural (AR-1 and AR-2) zoning districts. The Subcommittee plans to discuss food preparation further at the April 25, 2023 subcommittee meeting.

Agriculture Processing and Commercial Slaughterhouse

In the current Zoning Ordinance, agriculture processing is addressed in two ways:

- Agricultural processing facilities, such as abattoir, cannery, grain mill and the like, are listed as principal uses, allowed by Special Exception approval, only in the A-3 and A-10 zoning districts.
- Agricultural processing—defined as “*The processing, preparation, and/or manufacturing of agricultural products, including but not limited to changes to the physical state or form of the agricultural product, as an accessory use to an agricultural use. A minimum of 51% of the agricultural products used for the processing, preparation, and/or manufacturing shall be derived from the agricultural use*”—is permitted by-right in the AR and Joint Land Management Area (JLMA) zoning districts and as a special exception use in the Transition Residential (TR-10 and TR-3) zoning districts.

In the draft Zoning Ordinance, the two uses (agricultural processing facilities and agricultural processing) have been consolidated into one use on the Chapter 3 Uses tables. The use permissions (where they are allowed by-right or special exception, are not proposed to change. Use specific standards will still apply to agricultural processing, except in the A-3 and A-10 districts where the use is by special exception only.

In the current Zoning Ordinance, a *stand-alone* commercial slaughterhouse is permitted by special exception in the A-3 and A-10 zoning districts.

In the draft Zoning Ordinance, a *stand-alone* commercial slaughterhouse is permitted by special exception in the A-3, A-10, and General Industry (GI) zoning districts.

Resource

Multiple departments (Planning & Zoning, Building & Development, Economic Development, Health Department, Fire Marshal) worked together in 2019 to develop the attached informational materials to assist rural property owners in navigating the process for establishing a Virginia Farm Winery or Limited Brewery.

If you would like to follow the process, the Planning Commission Uses Subcommittee is scheduled to meet on April 11, 2023 at 1:00 p.m. in the Board Room on the first floor of the Government Center. The planned focus of discussion on April 11 is what the County can regulate related to breweries and wineries. At the April 25, 2023 Subcommittee meeting, the Subcommittee plans to discuss their recommendations regarding breweries and wineries.

Please let me know if you have any questions.

Kind regards,



Judi Birkitt, AICP, CZA
Deputy Director
Department of Planning and Zoning

Enclosures