



**FREDERICK COUNTY GOVERNMENT**  
**DIVISION OF PLANNING & PERMITTING**

Jan H. Gardner  
 County Executive

Steven C. Horn, Division Director

**TO:** Frederick County Council

DS  
 JG

**THROUGH:** Jan H. Gardner, County Executive

**FROM:** Steven C. Horn, Director, Division of Planning and Permitting  
 Gary Hessong, Director, Department of Permits and Inspections

DS  
 SH  
 DS  
 GH

**DATE:** December 15, 2021

**SUBJECT:** Amendments to Chapter 1-6 of the Frederick County Code (Building Code)

**ISSUE:**

Should the County Council adopt amendments to Chapter 1-6 of the Frederick County Code (Building Code) to update and exempt certain Agricultural Buildings from the Building Code?

**BACKGROUND:**

The proposed amendments to the Building Code will add a definition of a Farm Stand and provide an exception for farm stands from the provisions of the code.

**ANALYSIS:**

Building Code sections 1-6-18A and 1-6-18B currently define an Agricultural Building as “*a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.*” The current exceptions adopted by these sections of the building code allow for agricultural buildings to be exempt from the building code and do not require the submission of a building permit application so long as the owner can demonstrate that the intended use of the building meets the definition.

The proposed amendments will provide clarification of the exception pursuant to the local amendments to both the International Building Code and International Residential Code by creating a definition of a Farm Stand. By adding the definition of a Farm Stand, farm owners will be able to construct, use and occupy a structure that does not exceed 600 square feet for the purposes of processing, treating and packing agricultural products, the majority of which must be produced on the farm. The Farm Stand definition also specifies that the structure may not be used as a place of human habitation or employment, nor used or occupied by the public.

With the new definition of a Farm Stand proposed in sections 1-6-18A and 1-6-18B, staff has also proposed an amendment to Building Code sections 105.2 and R105.2, *Work Exempt from Permit*, to state that Farm Stands which meet the outlined requirements will be exempt from obtaining a building permit. The provision does not exempt the owner from obtaining the require zoning certificate.

**RECOMMENDATION:**

The County Council should consider adopting the attached Bill (Attachment 1) to amend Chapter 1-6 of the Frederick County Code (Building Code) to exempt farm stands from obtaining permits.

**Approve?**    **Yes**   X                        **No** \_\_\_\_\_

DocuSigned by:  
*Jan Gardner*  
\_\_\_\_\_  
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**Jan H. Gardner, County Executive**  
**Frederick County, Maryland**

12/16/2021  
\_\_\_\_\_  
**Date**

**FINANCIAL IMPACT:** No

**ATTACHMENT(S):**

Attachment 1 – Proposed Bill



Bill No. \_\_\_\_\_  
 Concerning: Amending Chapter 1-6, Article II of the  
County Code (Building Code) to create a new excep-  
tion for, and to define, a Farm Stand  
 Introduced: \_\_\_\_\_  
 Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_  
 Enacted: \_\_\_\_\_  
 Effective: \_\_\_\_\_  
 Expires: \_\_\_\_\_  
 Frederick County Code, Chapter 1-6  
 Section(s) 18A and 18B

**COUNTY COUNCIL**  
**FOR FREDERICK COUNTY, MARYLAND**

By: Council Vice President Michael Blue and Council Member Jerry Donald on behalf of  
 County Executive Jan Gardner

**AN ACT** to: Amend Chapter 1-6, Article II of the Frederick County Code (Building Code) to create an  
 exception for, and to define, a Farm Stand.

Executive: \_\_\_\_\_ Date Received: \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

By amending:

Frederick County Code, Chapter, 1-6 Section(s) 18A and 18B

Other: \_\_\_\_\_

|                            |   |
|----------------------------|---|
| <b>Boldface</b>            | <i>Heading or defined term.</i>         |
| <u>Underlining</u>         | <i>Added to existing law.</i>           |
| [Single boldface brackets] | <i>Deleted from existing law.</i>       |
| * * *                      | <i>Existing law unaffected by bill.</i> |

Bill No. \_\_\_\_\_

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the Frederick County Code to amend Chapter 1-6, Article II (Building Code) to define, and to create an exception from Building Permit requirements for, a Farm Stand.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

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M.C. Keegan-Ayer, President  
County Council of Frederick County,  
Maryland

**Exhibit 1**

**§ 1-6-18A. LOCAL AMENDMENTS TO INTERNATIONAL BUILDING CODE.**

The International Building Code, 2018 Edition as adopted by the State of Maryland in the Maryland Building Performance Standards (COMAR 05.02.07) is hereby amended as described and shown below:

Subsection 101.2 is hereby amended by adding the following exceptions:

Exception 4[2]: Agricultural Buildings and Farm Stands. The provisions of this code shall not apply to the construction, alteration, addition, repair, removal, demolition, use, location or maintenance of agricultural buildings and farm stands. This provision does not exempt the owner from obtaining required zoning certificates, electrical or plumbing permits, nor from complying with all other applicable local, state and federal regulations, laws, and ordinances.

An "agricultural building" for purposes of this subsection means a building or structure utilized for agricultural activity as defined in the International Building Code:

"Agricultural Building. A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public."

A "farm stand" for purposes of this subsection means:

"Farm Stand": A structure that does not exceed 600 square feet which may be used to process, treat, or package agricultural products, the majority of which are produced on the farm. A Farm Stand may not be used as a place of human habitation or employment, nor used or occupied by the public.

\*\*\*\*\*

Subsection 105.2 is hereby modified to read as follows:

105.2 Work exempt from permit.

Building:

1. One-story detached accessory structures with eave heights less than 10 feet, used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 150 square feet.

2. Fences - delete "not over 7 feet high".

[Items 3 – 13 unchanged]

14. Farm Stands (as defined in Subsection 101.2)

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Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

\*\*\* - indicates existing law unaffected by bill.

\*\*\*\*\*

**§ 1-6-18B. LOCAL AMENDMENTS TO INTERNATIONAL RESIDENTIAL CODE.**

The county hereby adopts the International Residential Code, 2018 Edition including the amendments adopted by the State of Maryland in the Maryland Building Performance Standards (COMAR 05.02.07) with the amendments described and shown below.

Subsection R105.2, Work exempt from a permit - Building Subparagraph 10 is amended as follows:

Replace 200 sq. ft. with 150 sq. ft.

[Items 2-10 unchanged]

11. Farm Stands

Subsection R105.2 is hereby amended to add the following exceptions:

R105.2 (11) Agricultural Buildings and Farm Stands. The provisions of this code shall not apply to the construction, alteration, addition, repair, removal, demolition, use, location or maintenance of agricultural buildings and farm stands. This provision does not exempt the owner from obtaining required zoning certificates, electrical or plumbing permits, nor from complying with all other applicable local, state and federal regulations, laws, and ordinances.

An "agricultural building" for purposes of this subsection means a building or structure utilized for agricultural activity as defined in the International Building Code:

"Agricultural Building. A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public."

A "farm stand" for purposes of this subsection means:

"Farm Stand": A structure that does not exceed 600 square feet which may be used to process, treat, or package agricultural products, the majority of which are produced on the farm. A Farm Stand may not be used as a place of human habitation or employment, nor used or occupied by the public.

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Underlining indicates matter added to existing law.

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**FREDERICK COUNTY GOVERNMENT**  
**DIVISION OF PLANNING & PERMITTING**

Jan H. Gardner  
 County Executive

Steven C. Horn, Division Director

**TO:** Frederick County Council

DS  
 JG

**THROUGH:** Jan H. Gardner, County Executive

DS  
 SH

**FROM:** Steven C. Horn, Planning & Permitting Director  
 Michael Wilkins, Development Review and Planning Department Director

DS  
 MW

**DATE:** December 15, 2021

**SUBJECT:** Amendments to Chapter 1-19 of the Frederick County Code (Zoning Ordinance)

**ISSUE:**

Should the County Council adopt amendments to Chapter 1-19 of the Frederick County Code (Zoning Ordinance) to update certain definitions related to agricultural uses?

**BACKGROUND:**

The proposed amendments to the Zoning Ordinance will update certain definitions to remove outdated references to State law and to change qualifying criteria.

**ANALYSIS:**

**The following changes to the Zoning Ordinance are proposed:**

1-21-5 - Definitions

- **FARM BREWERY.** An establishment for the manufacture of malt liquors, such as beer and ale, using hops or grains such as barley, wheat, and oats and produced on the farm on which the farm brewery is located. A farm brewery must have a valid class 5 Maryland brewery license, ~~may not brew more than 15,000 barrels of malt beverages per year,~~ and at least a majority of one of the hops or one of the primary grains must be produced on the farm.

The changes to **Farm Brewery** are limited to striking language that is duplicative or inconsistent with State Law. Past amendments to the Maryland Alcohol Article have changed the class titles and Staff finds that continuing to include such specific information from State Law in this definition is not necessary.

- **FARM DISTILLERY.** An establishment for the manufacture of distilled spirits produced on the farm on which the farm distillery is located. A farm distillery must have a valid distillery license issued by the state of Maryland, ~~may not distill more than 100,000 gallons of spirits per year,~~ and at least 1 of the grains/fruits used in the distilled product must be produced on the farm.

The changes to **Farm Distillery** are limited to striking language that is duplicative or inconsistent with State Law. Past amendments to the Maryland Alcohol Article have changed the class titles and Staff finds that continuing to include such specific information from State Law in this definition is not necessary.

- **FARM WINERY.** The use of the property for the processing of fruit for the production of wine or juice on a producing vineyard, orchard or similar growing area, or a farm. A farm winery must have a minimum of 10 acres, a valid ~~Class IV~~ Maryland wine license and must grow 1 acre of fruit for every 2,000 gallons of wine or juice produced. For purposes of this use, the term "farm" includes contiguous and noncontiguous parcels within the county in active agricultural production which are owned or leased by the processor.

The changes to **Farm Winery** are limited striking language that is duplicative or inconsistent with State requirements. Past amendments to the Maryland Alcohol Article have changed the class titles and Staff finds that continuing to include such specific information from State Law in this definition is not necessary.

- **AGRICULTURAL VALUE ADDED PROCESSING.** Treatment that changes the form of a product grown on a farm in order to increase its market value with a minimum of 51% of the processed product being produced on the farm. For purposes of this use, the term "farm" includes contiguous and noncontiguous parcels within the county in active agricultural production which are owned or leased by the processor. **Agricultural Value Added Processing operations must be located on a parcel of land that is a minimum of 10 acres in size.**

This changes the minimum property size from 25 acres to 10 acres for **Agricultural Value Added Processing**. This will permit owners of smaller parcels to “change the form” of the produce they grow. Example: making and preserving jams and jellies from berries grown on the owner’s property.

- **ROADSIDE STAND, COMMERCIAL.** A use, which may incorporate a structure, that offers for sale agricultural products, the majority of which are produced by the owner within the county and within the immediate neighborhood of the location of the use. This use does not include seasonal pumpkin patches, "pick your own" or "cut your own" produce or other agritourism enterprise activities conducted on a farm related to agriculture and accessory to the primary agriculture operation on the farm. The holder of a Class 8 farm brewery license under the Annotated Code of Maryland may sell and deliver beer in accordance with the terms and approvals of that license as an accessory use to the commercial roadside stand. ~~Outdoor events or promotional activities permitted under a Class 8 farm brewery license shall require a temporary outdoor activity permit,~~



~~except in the residential zoning districts wherein temporary use permits shall not be issued~~

The change to Roadside stand, commercial is limited to the removal of the outdoor events or promotional activities language. This language is no longer necessary as these events are covered under the Agritourism Enterprise-Farm Based Craft Beverage Promotional Events use. This language should have been removed when the Agritourism Enterprise-Farm Based Craft Beverage Promotional Events use was established.

- **ROADSIDE STAND, LIMITED.** The use of no more than 1,500 square feet devoted to product sales, which may incorporate a structure, for the sale of agricultural products the majority of which are produced by the owner within the county and within the immediate neighborhood of the location of the use. ~~on-site.~~ This use does not include seasonal pumpkin patches, "pick your own" or "cut your own" produce or other agritourism enterprise activities conducted on a farm related to agriculture and accessory to the primary agriculture operation on the farm.

The change to Roadside stand, Limited will allow a farmer to operate a roadside stand separate from the property or properties where the products are grown. This is consistent with the Roadside Stand, Commercial definition.

**RECOMMENDATION:**

The County Council should consider adopting the attached Bill (Attachment 1) to amend Chapter 1-19 of the Frederick County Code (Zoning Ordinance) to amend the identified definitions.

Approve?    Yes     X                                      No                   

DocuSigned by:

*Jan Gardner*

12/16/2021

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**Jan H. Gardner, County Executive  
Frederick County, Maryland**

**Date**

**FINANCIAL IMPACT:** No

**ATTACHMENT(S):**

Attachment 1 – Proposed Bill



Bill No. \_\_\_\_\_  
 Concerning: Amending Chapter 1-19 of the County  
Code (Zoning Ordinance) to update certain  
definitions related to agricultural uses  
 Introduced: \_\_\_\_\_  
 Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_  
 Enacted: \_\_\_\_\_  
 Effective: \_\_\_\_\_  
 Expires: \_\_\_\_\_  
 Frederick County Code, Chapter 1-19  
 Section(s) 11.100

**COUNTY COUNCIL**  
**FOR FREDERICK COUNTY, MARYLAND**

By: Council Vice President Michael Blue and Council Member Jerry Donald on behalf of  
 County Executive Jan Gardner

**AN ACT** to: Amend Chapter 1-19 of the Frederick County Code (Zoning Ordinance) to update certain  
 definitions related to agricultural uses.

Executive: \_\_\_\_\_ Date Received: \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

By amending:

Frederick County Code, Chapter, 1-19 Section(s) 11.100

Other: \_\_\_\_\_

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|----------------------------|---|
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| * * *                      | <i>Existing law unaffected by bill.</i> |

Bill No. \_\_\_\_\_

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the Frederick County Code to amend Chapter 1-19 of the Frederick County Code (Zoning) to update certain definitions related to agricultural uses to remove outdated references to State law and to change qualifying criteria.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

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M.C. Keegan-Ayer, President  
County Council of Frederick County,  
Maryland

**Exhibit 1****1-19-11.100. DEFINITIONS.**

***FARM BREWERY.*** An establishment for the manufacture of malt liquors, such as beer and ale, using hops or grains such as barley, wheat, and oats and produced on the farm on which the farm brewery is located. A farm brewery must have a valid [class 5] Maryland brewery license, [may not brew more than 15,000 barrels of malt beverages per year,] and at least a majority of the hops or one of the primary grains must be produced on the farm.

***FARM DISTILLERY.*** An establishment for the manufacture of distilled spirits produced on the farm on which the farm distillery is located. A farm distillery must have a valid distillery license issued by the state of Maryland, [may not distill more than 100,000 gallons of spirits per year,] and at least 1 of the grains/fruits used in the distilled product must be produced on the farm.

***FARM WINERY.*** The use of the property for the processing of fruit for the production of wine or juice on a producing vineyard, orchard or similar growing area, or a farm. A farm winery must have a minimum of 10 acres, a valid [Class IV] Maryland wine license and must grow 1 acre of fruit for every 2,000 gallons of wine or juice produced. For purposes of this use, the term "farm" includes contiguous and noncontiguous parcels within the county in active agricultural production which are owned or leased by the processor.

***AGRICULTURAL VALUE ADDED PROCESSING.*** Treatment that changes the form of a product grown on a farm in order to increase its market value with a minimum of 51% of the processed product being produced on the farm. For purposes of this use, the term "farm" includes contiguous and noncontiguous parcels within the county in active agricultural production which are owned or leased by the processor. Agricultural Value Added Processing operations must be located on a parcel of land that is a minimum of 10 acres in size.

***ROADSIDE STAND, COMMERCIAL.*** A use, which may incorporate a structure, that offers for sale agricultural products, the majority of which are produced by the owner within the county and within the immediate neighborhood of the location of the use. This use does not include seasonal pumpkin patches, "pick your own" or "cut your own" produce or other agritourism enterprise activities conducted on a farm related to agriculture and accessory to the primary agriculture operation on the farm. The holder of a Class 8 farm brewery license under the Annotated Code of Maryland may sell and deliver beer in accordance with the terms and approvals of that license as an accessory use to the commercial roadside stand. [Outdoor events or promotional activities permitted under a Class 8 farm brewery license shall require a temporary outdoor activity permit, except in the residential zoning districts wherein temporary use permits shall not be issued]

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[Single boldface brackets] indicates matter deleted from existing law.

\*\*\* - indicates existing law unaffected by bill.

***ROADSIDE STAND, LIMITED.*** The use of no more than 1,500 square feet devoted to product sales, which may incorporate a structure, for the sale of agricultural products the majority of which are produced by the owner within the county and within the immediate neighborhood of the location of the use. [on site.] This use does not include seasonal pumpkin patches, "pick your own" or "cut your own" produce or other agritourism enterprise activities conducted on a farm related to agriculture and accessory to the primary agriculture operation on the farm.

DRAFT

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