



# Agritourism Study Montgomery County, MD

Agritourism Study Advisory Committee

November 28, 2018





# MEETING OVERVIEW

# AGENDA

1. Meeting Purpose
2. Brief Project Background
3. Comparative Review Summary
4. Code Assessment Findings
5. Discussion



- We hope to complete the presentation in full before facilitating a discussion.
- Please write down your questions and/or comments as we go along (unless they are clarifying questions related to what is said, or what is shown on the slide).

# PURPOSE OF THE MEETING

1. To **introduce** the findings of the consultants' research on:
  - Comparative review of peer communities
  - County Code Assessment
2. To answer **initial** questions you may have
3. To listen to your **initial** comments on the material presented

Note that there will be an **opportunity for detailed review** of the materials and written feedback after tonight's meeting.





# PROJECT BACKGROUND

# GUIDING PRINCIPLES

The following guiding principles for this study have been derived from the input of the ASAC, and have been used to guide the Code Assessment thus far:

1. Focus on impacts of activities more than regulating types of activities
2. Strengthen the requirements for a nexus to agriculture in the regulations
3. Strengthen and formalize cooperation between DPS and the County Office of Agriculture







# COMPARATIVE REVIEW SUMMARY

# PURPOSE & PROCESS

**Comparative review** of agricultural tourism and economic development efforts in other jurisdictions, both locally and nationally.

- **Initial background research** to understand agritourism regulatory issues and best practices.
- **Jurisdiction research and development of criteria** to select jurisdictions for further study.
- **Online research** of selected jurisdictions' policies, regulatory approaches; review of jurisdiction websites, news articles, and other available materials to understand agritourism activities in the selected jurisdictions.
- **Telephone interviews** with representatives of each jurisdiction.





# CRITERIA FOR SELECTING JURISDICTIONS

**Montgomery County is a unique context**, one that was not replicated exactly in any of our case study jurisdictions. To find comparable jurisdictions, we looked at:

## Tier 1 (Priority Criteria)

- Local / Regional Competitor
- Similar system of government (county level)
- Zoning ordinance that controls agritourism activities
- Similar development patterns (close to major metropolitan area, rural-urban interface, similar land values and development pressures)
- Similar demographics (affluence, customer base)

## Tier 2 (Other Criteria)

- Comparable or larger agritourism economy and number of agritourism operations
- Overall ag. profile (# farms, avg. farm size, top crops by acreage)
- Range of agritourism activities
- Prior efforts to revise or study agritourism regulations

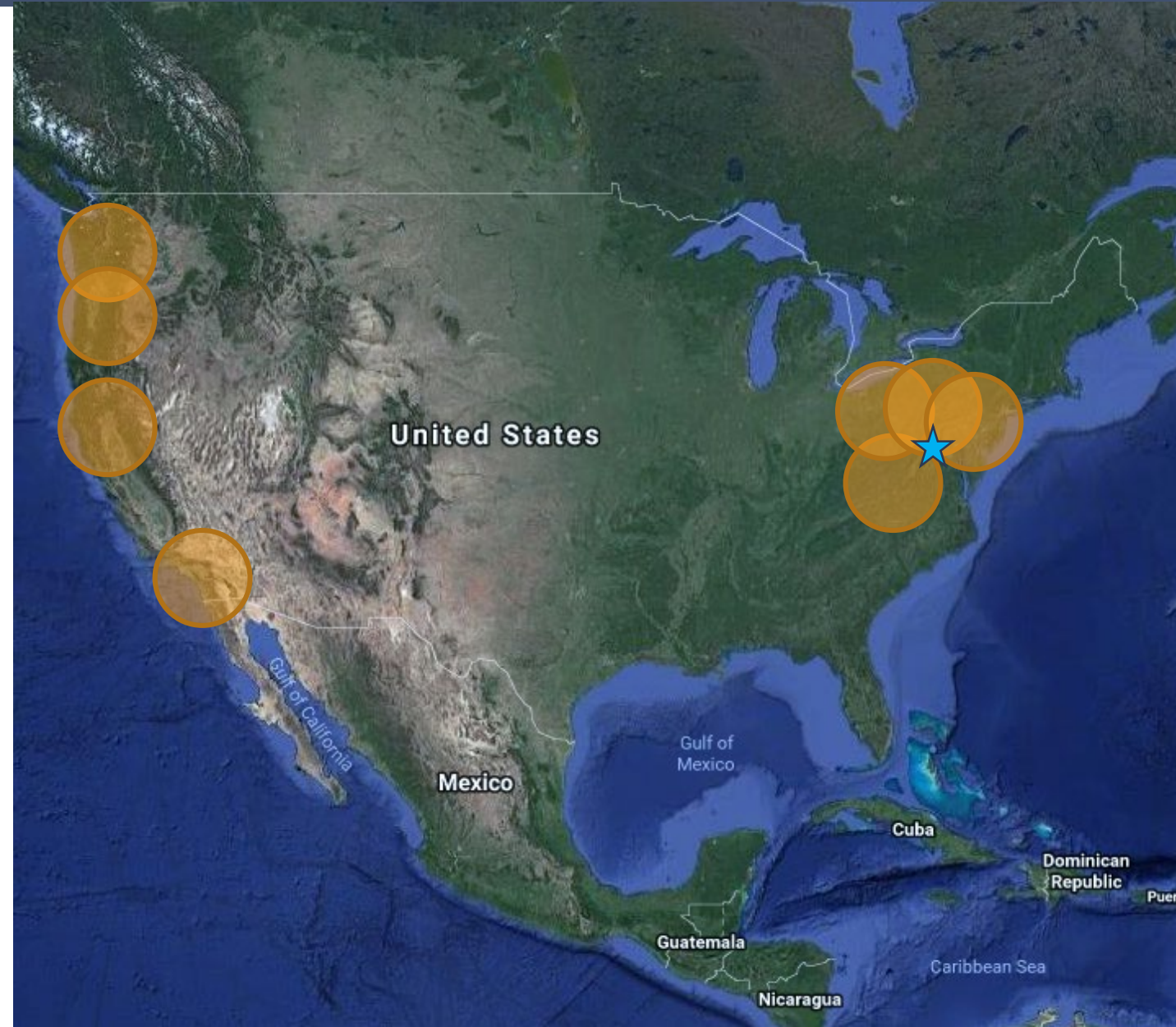
# COMPARATIVE REVIEW JURISDICTIONS

## Local/Regional

- Frederick County, MD
- Howard County, MD
- Loudoun County, VA
- Albemarle County, VA

## National

- Thurston County, WA
- Clackamas County, OR
- Sonoma County, CA
- San Diego County, CA





# COMMON THEMES HEARD DURING INTERVIEWS

- General goal to use agritourism as a preservation tool, as well as a support system and revenue source for farmers and other rural property owners
- Clarity in definitions and process is important
- Enforcement is generally complaint-driven
- Traffic and noise are the major impacts of concern
- Partnerships between zoning and agricultural county staff can streamline the permitting and enforcement processes

# AREAS WHERE THERE WAS LESS COMMONALITY

- Approach to events, especially weddings
- Number and nature of agritourism-related definitions
- Ways of establishing the nexus between agritourism and the farm/agriculture
- Extent to which impacts are observed/reported
- Clarity of communication with property owners/farmers about agritourism process and expectations
- Amount of internal county coordination between departments
- Influence of statewide policies and regulations on how localities regulate agritourism



# HIGHLIGHTS: FREDERICK COUNTY, MD

- **Agritourism Enterprises treated as a specific permitted use** (in addition to Agricultural Value-Added Processing, Farm Winery, etc.). **Agritourism activities must have a tie to education, recreation, or active involvement in the farm operation.**
- **Revised policy regarding tasting rooms last year.** (Any tasting room with a customer service area of <1500 sq. ft. just needs a building permit, no site plan.) **In process of addressing craft brewery regulations.**
- **Focus on “getting out of the way”** and being open to “new agriculture.”

Homegrown  
Frederick

Visit Our  
Farms

Buy  
Local

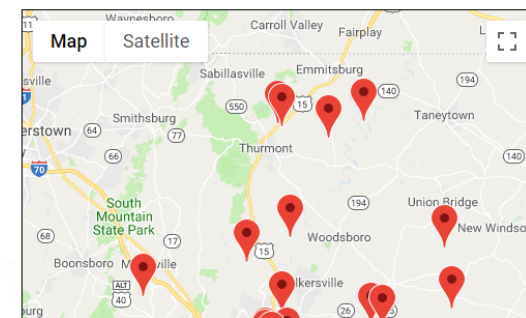
Farmers Market  
CSA

Find Local  
Products

Craft  
Beverages

Home / Farm Directory

## Visit Our Farms (Search)



Form fields for searching farms:

- Farm Name
- Street Address
- City
- Zip Code
- Radius from zip code (optional)
- Select a category (optional)

**“It’s a generational difference; people living in townhouses and condos want to get out for day trips. People don’t have the lifestyle that the previous generations had, and they want that experience.”**



SUMMERS FARM

# HIGHLIGHTS: HOWARD COUNTY, MD

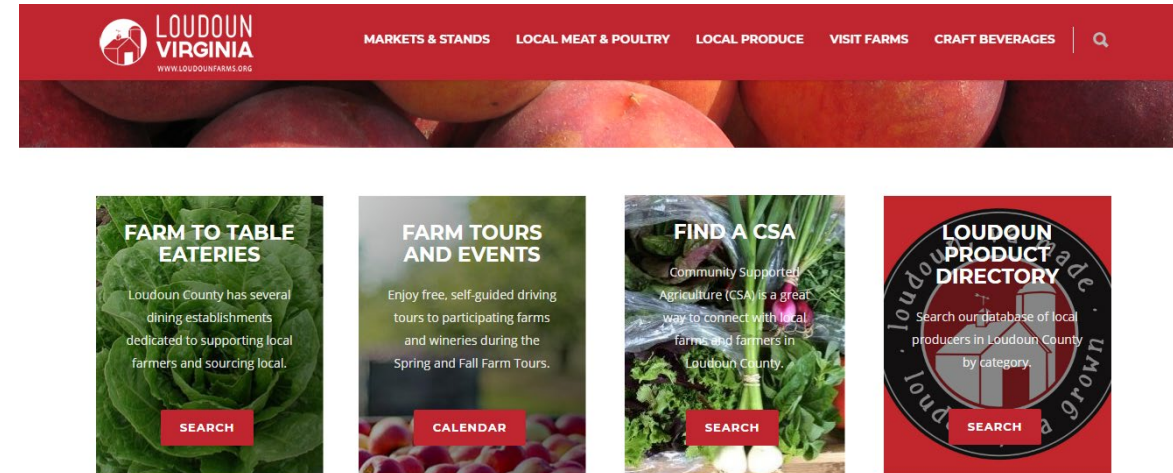
- Agritourism Enterprises are an accessory use to farming operations, and **must have a tie to education, recreation, or active involvement in the farm operation.**
- **Ag Ombudsman** runs four programs, coordinates between agencies, assists with legislation. **There is also a subcabinet of people under the County Executive (staff from Ec. Dev, Zoning, Extension, etc.) for coordination.**
- **Went through an agritourism analysis similar to Montgomery County,** and are now working on ordinance revisions. Partially driven by change in types of activities happening.





# HIGHLIGHTS: LOUDOUN COUNTY, VA

- Most agritourism activities fall under use category of, “Agriculture Support and Services Directly Related to On-going Agriculture, Horticulture and Animal Husbandry Activity, On-Site”, but **there are also allowed uses not directly related to agriculture.**
- VA code says **ag structures are exempt from the uniform building code, therefore farm beverage structures are as well.** (Gray area for some of the other agritourism businesses.)
- **Events (incl. weddings) considered usual and customary** at wineries and breweries. No limit for events at wineries and breweries.



# HIGHLIGHTS: ALBEMARLE COUNTY, VA

- **Must qualify as an ag operation and ag must be a primary use to be eligible to host events or activities** at an agricultural operation.
- **Have evaluated and revised programs multiple times, using stakeholder roundtables** (vs. committees). Revisions related to farm wineries/breweries/distilleries focus on allowing while addressing impacts.
- **As with Loudoun, events (incl. weddings) are considered usual and customary** at wineries and breweries.
- Several FAQ sheets available online to **clarify requirements and processes**.

## Suggested Travel Trails/Agritourism

### **Monticello Artisan Trail**

The Monticello Artisan Trail includes the beautiful landscapes of Nelson County and Albemarle County. Travel the Monticello Trail and discover the beauty of the mountains and valleys that local artisans call home. A wonderful place to explore with family and friends, it will surely create lasting memories.

### **Monticello Wine Trail**

Discover the Birthplace of American Wine. The Commonwealth of Virginia is the 5th largest producer of wine in the United States, with the Monticello Wine Trail as its crown-jewel, truly fulfilling Jefferson's vision of winemaking in Virginia. The Monticello Wine Trail remains the wine world's best kept secret, where

boutique wineries produce small quantities of high-quality wines, shared with family, friends and visitors.

### **Brew Ridge Trail**

Popular craft breweries are creating phenomenal product in scenic locations, of course, Albemarle County is one! Many other craft breweries and distilleries can be found on the Brew Ridge Trail.

### **Monticello Golf Trail**

Green Golfing takes on a whole new meaning with the addition of the World's First Green Golf Trail, the Monticello Golf Trail, you can enjoy the game and maintain your commitment to environmental sustainability.



PIPPIN HILL FARM



# HIGHLIGHTS: SAN DIEGO COUNTY, CA

- **Revised agritourism regulations** in 2014 to reduce barriers to agritourism; **added winery regulations** in 2017.
- Agritourism seen as means of **protecting agricultural land** from intense development pressures; also means of providing **alternate sources of income**.
- **More prescriptive and restrictive** regulations for events than other counties (e.g., no weddings; non-profit events only; no amplified sound; no mazes, pony rides or petting zoos)
- **Tiered winery ordinance** based on size.





# HIGHLIGHTS: THURSTON COUNTY, WA

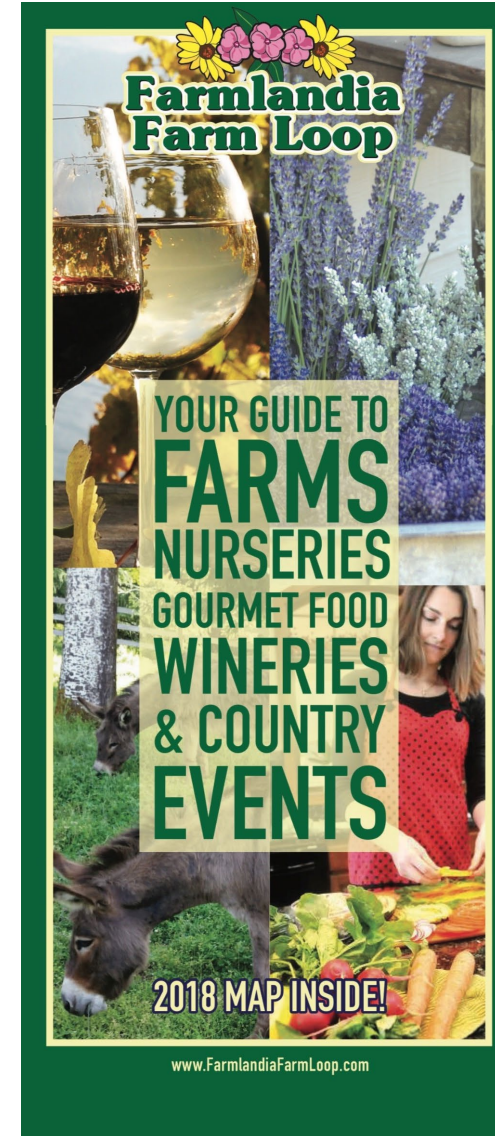
- Adopted **Agritourism Overlay District** in 2011; encompasses approximately 10 rural zoning districts.
- Focus has been on creating economic opportunities for farmers.
- Overlay focused on reducing regulations and streamlining process within the overlay district (selling point when building support for new district)
- Established **Bountiful Byway** agritourism trail, managed and promoted through MOU with local Visitors and Convention Bureau.





# HIGHLIGHTS: CLACKAMAS COUNTY, OR

- Code dictated to a large extent by Oregon statewide planning and Exclusive Farm Use regulations
- **Agritourism is a permitted commercial use** in the Exclusive Farm Use zone, as long as it is connected to agriculture.
- Agritourism **events strictly “incidental and subordinate” to agriculture**; can occur to a limited extent without land use approval
- **“25% Rule”** – incidental and non-farm uses can account for 25% of total income
- Part of **Oregon Farm Loop program**, managed by a nonprofit organization.





# HIGHLIGHTS: SONOMA COUNTY, CA

- “Wineries are king” but has **diversified agritourism economy** with established Farm Trails initiative managed by nonprofit org.
- Regulates agritourism uses but “agritourism” is not specifically called out or defined in the code.
- Has **Ag Ombudsman** (County employee housed at UC Extension) to help people navigate the process and coordinate with Planning staff.
- **Permitting process “too cumbersome”** and “expensive for small-scale operations.”
- County now trying to **rein in winery events.**

A promotional poster for the 'Weekend Along the Farm Trails' event. The background features a collage of fresh produce including pumpkins, corn, and carrots. In the top left corner is the 'SONOMA COUNTY FARM TRAILS' logo. In the top right, an orange banner reads 'RSVP Required'. The main text in the center reads 'Weekend Along the Farm Trails' in a large, bold, red font. Below this, it says 'Visit Sonoma County Farms for two days! Meet your farmers and buy directly from the source. Enjoy tours, tastings & educational activities...'. A green rounded rectangle contains the dates 'October 13 & 14, 2018'. At the bottom, it says 'Go to farmtrails.org for tour details and tickets.' In the bottom left corner, there is a small circular logo for 'AMERICAN AGCREDIT MONEY FOR AGRICULTURE'.





# CODE ASSESSMENT FINDINGS

# ASSESSMENT APPROACH

The Code Assessment was conducted according to the following approach:

1. Organized according to the current Code (Article, Division, Section, etc.)
2. Assessed in terms of Issues and Opportunities for each Section
3. This presentation is a partial summary – see full Assessment for more details
4. Will pull in ideas from Peer Community Research and input from this meeting to propose Recommendations after the meeting





# Zoning Ordinance Assessment



# USES AND STANDARDS (ARTICLE 59-3)

## Agritourism-Related Uses Allowed in the AR District

- Agricultural Auction Facility – C
- Agricultural Processing – C
- Community Garden – L
- Equestrian Facility – L/C
- Farm Supply, Machinery Sales, Storage, and Service – C
- Farming – P
- Nursery (Retail or Wholesale) – C
- Slaughterhouse – C
- Winery – L/C (*REVISED UNDER ZTA 18-03*)
- Farm Market (on-site) – L
- Seasonal Outdoor Sales – L
- Short-Term Residential Rental – L
- Bed and Breakfast – L
- Shooting Range (Outdoor) – C
- Rural Country Market – C
- Wildlife, Game Preserve, and Other Conservation Areas – P
- Accessory Structures – L
- Accessory Use - P

Note that P means Permitted, L means Limited and C means Conditional



# DEFINITIONS (ARTICLE 59-1)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<p><b>Sec. 1.4.2.</b></p> <p><b><u>Agriculture</u></b></p>	<p><i>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.</i></p>	<ul style="list-style-type: none"> <li>ASAC has generally supported current definition of Agriculture</li> <li>There is no definition of agritourism per se in the county code. It's generally addressed under the definition of "accessory agricultural education and tourism activities" under Farming.</li> </ul>	<ul style="list-style-type: none"> <li>There is an opportunity to more <b>clearly define <u>agritourism</u></b> in Division 1.4. This can serve as a standard definition that can be referenced in the Use Table and under the definition of permitted farming uses.</li> </ul>

## EXAMPLE: THURSTON COUNTY, WA

- "Agritourism" means an enterprise generally **located at a working farm**, ranch, or other agricultural operation or facility, which is conducted for the enjoyment and education of visitors, guests or clients, and that **generates income for the owner/operator**. Agritourism is also the **act of visiting a working farm/ranch** or any agricultural or horticultural operation for the purposes of enjoyment, education or active involvement in the activities of the farm/ranch or agricultural operation that also **adds to the economic viability of the agricultural operation**. **Agriculture or agricultural production must be the primary use of the land** except as otherwise provided, pursuant to the standards and criteria established by Chapter 20.08G, Agritourism Overlay District (AOD). Uses permitted by that chapter are generally defined as agritourism uses within the AOD."



# USES AND STANDARDS (ARTICLE 59-3)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<p><b>Sec. 3.1.6.</b> <b>Use Table</b></p> <p><b><u>Agricultural Processing</u></b></p>	<p><i>Agricultural Processing means any operation that transforms, packages, sorts, or grades farm products into goods that are used for intermediate or final consumption, including goods for non-food use, such as the products of forestry. Agricultural Processing includes milk plant, grain elevator, and mulch or compost production and manufacturing, but does not include Slaughterhouse.</i></p> <p><i>Where Agricultural Processing is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:</i></p> <ol style="list-style-type: none"> <li><i>1. The minimum lot area is 10 acres.</i></li> <li><i>2. The minimum setback for an Agricultural Processing structure from any lot line is 75 feet.</i></li> <li><i>3. The lot must front on and have access to a road built to primary residential road or higher standards unless processing materials are produced on-site.</i></li> <li><i>4. If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required</i></li> </ol>	<ul style="list-style-type: none"> <li>• This use is particularly important for the evolving rural economy</li> <li>• Use Standard 3 would preclude this use on Rustic Roads unless processing materials are produced on site.</li> </ul>	<p>There is an opportunity to <b>tighten the definition</b> of this dynamic use by strengthening the relationship to farming and the farm economy in the definition portion.</p> <p>There is an opportunity to clarify Use <b>Standard 3.</b> so that it <b>is more performance-based.</b> Standards could be developed that addressed the amount of vehicular traffic generated by the use rather than whether the processing is done on-site or not.</p>

## EXAMPLE: ALBEMARLE COUNTY, VA

- For most types of events, **50 or fewer visitor vehicle trips per day (“VTPD”) is a key trigger** – requires zoning clearance rather than by-right. If more than 200 people will attend, need a special use permit no matter how many VTPD are expected.



# USES AND STANDARDS (ARTICLE 59-3)

## Equestrian Facilities

Site Requirements	Hours of Operation		Number of Participants and Spectators			
	Su-Th	Fr-Sa	Event	Informal Event	Minor Event	Major Event
			0-25	26-50	51-150	151-300
Up to 17.9 acres	6am-9pm	6am-10pm	Unlimited on any day	None	None	None
18 - 24.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	None	None
25 - 74.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	Maximum of 7 per year	None
75+ acres and direct access to a roadway with an arterial or higher classification	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	Maximum of 7 per year	Maximum of 3 per year lasting up to 3 consecutive days each

Table of provisions for permitted events in the current ordinance

# USES AND STANDARDS (ARTICLE 59-3)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<p><b>Sec. 3.1.6.</b> <b>Use Table</b></p> <p><b><u>Equestrian Facilities</u></b></p>	<p><i>Equestrian Facilities</i></p> <p><i>2.b.i. - In the AR, R, RC, and RNC zones: The Equestrian Facility <b>must not adversely affect abutting land uses or the surrounding road network.</b></i></p> <p><i>1. f. - Any outdoor arena lighting must direct light downward using full cutoff fixtures; producing any glare or direct light onto nearby properties is prohibited. Illumination is prohibited after 10:00 p.m. on Friday or Saturday, and after 9:00 p.m. on Sunday through Thursday.</i></p>	<p>While the use standards in general are strong, some issues were identified as potential opportunities for enhancement, particularly relating to roadway classifications, lighting and unclear language in the conditional use standards.</p>	<p>The <b>language under 2.b.</b> above is unnecessarily vague for use in a zoning code and references wording such as “<i>must not adversely affect abutting land uses or the surrounding road network.</i>” This language <b>could be revised to focus on specific measurable impacts</b> to allow staff less leeway in subjective interpretation of the standards.</p>



# USES AND STANDARDS (ARTICLE 59-3)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<b>Sec. 3.1.6.</b> <b>Use Table</b>  <b><u>Farming</u></b>	<p><i>Farming includes the following accessory uses:</i></p> <p>A. <i>Accessory agricultural processing and storage of products grown or raised on-site or on property owned, rented, or controlled by the farmer.</i></p> <p>B. <i>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.</i></p> <p>C. <i>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.</i></p>	<ul style="list-style-type: none"><li>• The definition of farming also references agriculture, and agricultural processing, which are defined in Article 59-1. under the definitions section and could be confusing from a regulatory standpoint.</li><li>• Off-site products can be sold on a farm, although the definition of ‘temporarily’ should be clarified. There is potential redundancy with the definition of “Farm Market, On-site.”</li></ul>	<ul style="list-style-type: none"><li>• The <b>definitions</b> of farming and agricultural processing in this section could be compared with those in Article 59-1 and <b>refined to eliminate any redundancies</b></li><li>• The definition of “<b>temporary</b>” storage of off-site horticultural products <b>could be clarified</b>.</li><li>• Opportunity to <b>limit the type or quantity of goods grown off-site</b> that are sold on a farm <b>and eliminate the “temporary” provision</b>, which is hard to enforce.</li></ul>

# USES AND STANDARDS (ARTICLE 59-3)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<p><b>Sec. 3.1.6.</b> <b>Use Table</b></p> <p><b><u>Farming</u></b></p>	<p><i>Farming includes the following accessory uses:</i></p> <p><b><i>F. Accessory agricultural education and tourism activities</i></b> 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, hay rides, and educational tours, classes, and workshops.</p> <p><b><i>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.</i></b></p>	<ul style="list-style-type: none"> <li>• With new farming practices, the need for farm structures is declining and the limitation of agritourism structures to only 10% of the total agricultural structures on the property may result in allowable footprints that are too small practically to allow these uses.</li> <li>• This standard may encourage the building of unneeded agricultural structures on a farm, solely to increase the baseline of agricultural structures under roof that would then increase the allowable footprints of agritourism structures.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Loosen the 10% standard for footprint of agricultural structures that may be devoted to agritourism</b> in order to better align with the modern agritourism economy and needs for support structures.</li> </ul>



# EXAMPLE: LOUDOUN COUNTY, VA

- Farm Based Tourism.

(a) The size of structures used for the farm based tourism use shall not exceed the following gross floor areas (total all structures):

Use	Lot Area (Minimum)	Size of Structures (Maximum)
Level I—small scale	5 acres, up to 40 acres	Up to 5,000 square feet
Level II—medium scale	>40 acres, up to 80 acres	> 5,000 square feet, up to 7,500 square feet
Level III—large scale	>80 acres	> 7,500 square feet, up to 10,500 square feet

- Wine Tasting Rooms and Accessory Food Sales. Facilities for wine tasting rooms and accessory food sales (including a kitchen) shall not exceed 49 percent of the total gross floor area of all structures at the commercial winery.
- Craft Beverage Manufacturing. Facilities for **tasting rooms and accessory food service shall not exceed the lesser of (i) 49 percent of the total gross floor area or (ii) 5,000 square feet.**
- Farm Markets. Retail sales areas within structures shall not exceed, in the aggregate, **10,000 square feet of floor area or a Floor Area Ratio of .02,** whichever is greater.

# USES AND STANDARDS (ARTICLE 59-3)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<b>Sec. 3.1.6.</b> <b>Use Table</b>  <u>Winery</u>		TBD	TBD

**Use eliminated and Use Standards modified by  
Zoning Text Amendment 18-03**



# USES AND STANDARDS (ARTICLE 59-3)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<b>Sec. 3.1.6.</b> <b>Use Table</b>  <b><u>Farm Market, On Site</u></b>	<p><i>Farm Market, On-site means the display and retail sale of agricultural products produced on the farm where the farm market is located, or agricultural products produced on another farm under the control of the owner or operator of that farm market.</i></p> <p><i>A maximum of 25% of the Farm Market, On-site display and sales area may be used for agricultural products not produced on a farm under the control of the owner or operator of the Farm Market, On-site</i></p>	<ul style="list-style-type: none"><li>The Use Standard limitation (a.iii.) of a maximum of 25% of the display and sales area being devoted to off-site grown products is a type of standard that helps reinforce the connection to locally grown products. It also discourages farmers markets from becoming large retail outlets for farm-related products that are commercially produced elsewhere. But it may offer opportunities for greater flexibility.</li></ul>	<p>There is an opportunity to provide <b>more flexibility for the 25% maximum display area standard in cases where the products are grown within a certain radius of the farm</b> (50 mile or 100 mile) or where the products are grown elsewhere in the county or just in the Ag Reserve. In these cases, potentially more than 25% of the display area could be used for these types of locally grown products that would help <b>reinforce a “buy local” brand for the county</b>. This flexibility could be incorporated as a new set of standards for conditional uses.</p>

## EXAMPLE: LOUDOUN COUNTY, VA

- A minimum of twenty five percent (25%) of the products offered for sale at the Farm Market (off-site production) must be produced in Loudoun County. An annual report verifying this percentage shall be submitted to the Zoning Administrator on request.



# USES AND STANDARDS (ARTICLE 59-3)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<p><b>Sec. 3.1.6.</b> <b>Use Table</b></p> <p><b><u>Rural</u></b> <b><u>Country</u></b> <b><u>Market</u></b></p>	<p><i>Rural Country Market means the display and retail sale in a rural or residential area of agricultural products and farm food products certified as non-potentially hazardous by the Department of Health and Human Services. A Rural Country Market includes the display and sale of non-edible farm products only if the products are grown and processed on farms in the State of Maryland. Rural Country Market does not include the sale or storage of bread, cheese, or other foodstuffs produced in a commercial kitchen, or an eating and drinking establishments (see Section 3.5.3, Eating and Drinking).</i></p>	<ul style="list-style-type: none"><li>• The primary difference between this use and the Farm Market, On-site use is that there is no requirement under this use for the products to be grown on property owned or controlled by the farmer.</li><li>• It is notable that a locally grown requirement is also included under the standards for this use, that non-edible products must be grown in Maryland</li><li>• This use precludes the sale of foodstuffs produced in commercial kitchens or eating establishments. These types of sales are conditionally permitted in AR zones under Section 3.5.3, Country Inns, which are not permitted in the AR zone.</li></ul>	<ul style="list-style-type: none"><li>• There is an opportunity to <b>clearly define “locally grown”</b> more comprehensively in Article 59.1; Division 1.4; Defined Terms, so that it is clear when used here, as well as in the new provisions of ZTA 18-03.</li></ul>

## EXAMPLE: HOWARD COUNTY, MD

- Food Hub: A centrally located facility that facilitates the collection, storage, processing, distribution and/or marketing of **locally produced** food products.
- **Local: Within 100 miles** of a specific point or property, as used in the context of farming.



# USES AND STANDARDS (ARTICLE 59-3)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<b>Sec. 3.1.6.</b> <b>Use Table</b>  <b><u>Bed and Breakfast</u></b>	<p><i>Bed and Breakfast means a detached house with rooms for rent and where breakfast is customarily served to guests.</i></p> <p><i>In the AR zone, this use may be prohibited if not accessory to Farming under Section 3.1.5, Transferable Development Rights.</i></p>	<ul style="list-style-type: none"><li>• The definition of “accessory to Farming” is not clear.</li></ul>	<ul style="list-style-type: none"><li>• It would be helpful to <b>clarify the definition of “accessory to Farming.”</b></li></ul>

## EXAMPLE: CLACKAMAS COUNTY, OR

- Income threshold: Per state law, incidental and non-farm uses can account for 25% of income.



# USES AND STANDARDS (ARTICLE 59-3)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<p><b>Sec. 3.1.6.</b> <b>Use Table</b></p> <p><b><u>Solar Collection System</u></b></p>	<p><i>B. Use Standards</i> <i>Where a Solar Collection System is allowed as a limited use, it must satisfy the following standards:</i></p> <p><i>5. The following standards apply to a freestanding Solar Collection System:</i></p> <p><i>a. In the Agricultural, Rural Residential, Residential, Commercial/ Residential, and Employment zones, it is allowed only as an accessory use where the system produces a maximum of 120% of on-site energy consumption and must satisfy the same development standards as an accessory structure;</i></p> <p><i>c. Signs are prohibited, except for a flush-mounted sign identifying the manufacturer of the system.</i></p> <p><i>d. The Solar Collection System must be removed within 12 months of the date when the use is discontinued or abandoned by the system owner or operator, or upon termination of the useful life of the system. The Solar Collection System will be presumed to be discontinued or abandoned if no electricity is generated by the system for a period of 12 continuous months.</i></p>	<ul style="list-style-type: none"> <li>• State and local model ordinances for addressing this use abound and can be used as examples of policy approaches to address and mitigate the impacts from solar collection.</li> <li>• A key feature of Montgomery County’s ordinance is the requirement for solar collection uses to be accessory uses as defined in Section 3.1.3.</li> <li>• It is also useful to note that the definition groups together solar collection for heating and cooling that may be done for the individual home with any solar collection that may be for energy generation.</li> </ul>	<ul style="list-style-type: none"> <li>• While it is clear that Montgomery County’s code does not envision large utility-scale solar facilities in the Agricultural Reserve, there may be an opportunity for <b>slightly more permissive regulatory approaches</b> to solar collection while safeguarding the rural landscape from adverse impacts.</li> <li>• Recommend that solar installations still be limited in site area, for example, to <b>no more than 5-10 acres</b>, and that they be controlled through <b>conditional use processes</b> to mitigate any adverse impacts.</li> </ul>

## EXAMPLE: FREDERICK COUNTY, MD

- Commercial solar not allowed in ag zone
- Solar Facility, Accessory, is a permitted use in all zoning districts.
- Solar Facility, **Community Energy Generating System is an accessory use in all zoning districts** and the facility may be located on a different parcel of land than that of the subscribers. A zoning certificate must be obtained prior to construction or installation of the facility.





# Subdivision & Building Code Assessment



# SUBDIVISION ORDINANCE (CHAPTER 50; ARTICLE 1)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<p><b>Chapter 50; Article 1; SECTION 3.3. <u>Exemptions to the requirement s of this Chapter</u></b></p>	<p><i>B. Recordation of a plat before issuance of a building permit is not required for:</i></p> <p>4. <i>Property for Single-Unit Living:</i></p> <p>a. <i>An unplatted parcel or a part of a previously platted lot, proposed for single-unit living, which has not changed in size or shape since June 1, 1958, if a description and location of the property and proposed structure are submitted to the Planning Department, before issuance of a building permit, sufficient to:</i></p> <p>i. <i>locate the property on the tax maps of Montgomery County;</i></p> <p>ii. <i>show that the approval of the building permit application would not result in obstructing the future opening, extension, or widening of any necessary road, or otherwise jeopardize any planned public facility;</i></p> <p>iii. <i>show that the property and use comply with the zoning ordinance, and show the setbacks and any other information needed to check compliance with regulations, including provisions for water and sanitary service, and establishment of a building restriction line along any existing or proposed road sufficient to provide for future expansion or opening of such road to its ultimate width; and</i></p> <p>iv. <i>show that the approval of the permit would not adversely affect the General Plan.</i></p>	<ul style="list-style-type: none"> <li>• This provision in the Subdivision Ordinance allows “single unit living” to be built (or rebuilt) on certain types of unplatted parcels without requiring the recordation of a plat.</li> <li>• However, Section 50.6 of the Code that defines the procedures for an “ADMINISTRATIVE SUBDIVISION PLAN” also allows provisions for subdivision of up to 5 lots for detached houses in the AR zone</li> <li>• The provision for a simplified Administrative Review for up to 5 lots in the AR zone is a very simple process in comparison to a Preliminary Plan requirement and allows staff review without having to go before the Planning Board.</li> </ul>	<ul style="list-style-type: none"> <li>• There is an opportunity to simplify and make the procedures more uniform in the Subdivision Ordinance by modifying Section 3.3 so that unplatted parcels are <b>still exempt from preliminary plan requirements but are required to go through an Administrative Review process to obtain building permits</b> for single unit living.</li> <li>• This will standardize all residential development in the AR zone to at least have this basic level of Administrative review and to have the lots recorded into the County’s Land Records.</li> </ul>

# BUILDING CODE (CHAPTER 50; ARTICLE 1)

SECTION	TEXT	ISSUES	OPPORTUNITIES
<p><b>Chapter 8 Buildings; Article 1. General requirements;</b></p> <p><b><u>Section 8-1. Scope and applicability</u></b></p>	<p><i>(d) Exemptions. All buildings or structures must be constructed, extended, repaired, removed or altered under a permit that satisfies this Chapter, except for:</i></p> <p><i>(1) ordinary repairs as defined in Section 8-3;</i></p> <p><i>(2) a building or structure used exclusively for agricultural purposes on land used exclusively for agriculture; however, a permit under this Chapter is required for:</i></p> <p><i>(A) a building or structure used for a purpose that is not exclusively agricultural, including conditional uses, even though located on otherwise agricultural land;</i></p> <p><i>(B) an equestrian facility, building, or structure intended for use by participants or spectators at an equestrian event;</i></p>	<ul style="list-style-type: none"><li>• This provision in the Code exempts buildings used exclusively for agricultural purposes from the requirements of a building permit. However, Conditional Uses and equestrian facilities are excluded from this exemption.</li><li>• A key aspect of this provision is the definition of agricultural use, discussed above in the Zoning Ordinance Assessment. The current definition is broad enough to include many aspects of agritourism. It is also recommended in this document that this definition be amended to more specifically define agritourism uses.</li></ul>	<ul style="list-style-type: none"><li>• There is an opportunity to clarify how this provision is interpreted by <b>refining the definition of agritourism-related uses</b> as discussed above.</li><li>• It may be useful to <b>clarify the specific uses that should <u>not</u> be exempted from building permits</b>. For example, equestrian facilities used by spectators such as grandstands and bleachers. For all other agritourism uses, however, it should be made clear that they are exempt from building permit requirements.</li></ul>

## EXAMPLE: FREDERICK COUNTY, MD

- For tasting room in a winery, etc, changed the policy last year:
- It used to be a requirement to go through the building permit process and create a site plan (\$30k, etc). Now, any tasting room that has a **customer service area of less than 1500 square feet (allowing it to avoid a sprinkler legislation) just needs a building permit, no site plan.**





## State Alcohol Licensing & Assessment of ZTA 18-03



# STATE ALCOHOL LICENSING AND REQUIREMENTS

## Agritourism-Related Uses Allowed in the AR District

- Manufacturing and wholesaling of alcoholic beverages in Maryland is regulated by the state's Comptroller through the issuance of permits.
- Retail operations are regulated at the local level through either a control or a licensing model.
- Under the control model the government controls the retail (and in some instances wholesale) selling of alcoholic beverages.
- Under the licensing model, private firms purchase a license to sell alcoholic beverages.
- Montgomery is one of four counties statewide where retail liquor is only sold through County-run dispensaries
- For Wineries, a Class 4 license holder may serve samples of wine, sell or serve more than a dozen food items, hold planned promotional events, purchase bulk wine and blend the wine with the license holder's wine and pomace brandy if the aggregate purchase does not exceed 25% of the license holder's annual wine and pomace brandy production, and conduct winemaking and packaging activities at another winery under certain circumstances.
- Wineries with a direct wine shipper's permit can ship their products directly to Maryland consumers.
- Similar restrictions apply to breweries (Class 8 farm brewery license) and Distilleries (Class 1 Distillery License)

# ZTA 18-03 ASSESSMENT

SECTION	TEXT	ISSUES	OPPORTUNITIES
<b>The ZTA, generally</b>	<p><i>Section 3.2.10. Accessory Agricultural Uses</i></p> <p><i>B. Farm Alcohol Production</i></p>	<ul style="list-style-type: none"><li>• This zoning text amendment, adopted by the County Council on October 2, 2018 <b>adds farm alcohol production as a use</b> allowed in certain zones and establishes standards for farm alcohol production.</li><li>• ZTA 18-03 incorporates many of the standards applicable to wineries in the zoning ordinance and applies those standards and others to breweries, cideries, and distilleries.</li><li>• It allows farm alcohol production in agricultural and rural residential zones under certain circumstances. The amendment also includes standards for tasting rooms, the sale of food, and events.</li></ul>	<ul style="list-style-type: none"><li>• In general, the recent adoption of this new ZTA makes it <b>difficult to suggest major new additional changes to these new standards</b>. However, <b>two exceptions</b> of opportunities are described in the following slides.</li></ul>



# ZTA 18-03 ASSESSMENT

SECTION	TEXT	ISSUES	OPPORTUNITIES
<b>Section 1.4.2 specific terms and phrases defined</b>	<i>Regionally-Grown Products:</i>  <i>Grains, fruits, vegetables, flowers, or honey harvested within the 5-state area of Maryland, Virginia, West Virginia, Delaware, and Pennsylvania and the city of Washington, DC.</i>	<ul style="list-style-type: none"><li>The multi-state definition of “regionally grown” used in the ZTA encompasses a large area, with the advantage that it pulls in more potential suppliers than if the definition were more narrowly construed. However, it may not fit with a consumer’s perceptions of what is a locally produced product</li></ul>	<ul style="list-style-type: none"><li>Some other counties use a 50-mile radius, for example, to define locally or regionally grown products. The County may want to <b>consider adopting a mileage-based, rather than jurisdictional-based, definition</b></li></ul>

# ZTA 18-03 ASSESSMENT

SECTION	TEXT	ISSUES	OPPORTUNITIES
<p><b>Section 3.2.10</b> <b>accessory</b> <b>agricultural</b> <b>uses</b></p>	<p>2. <i>Use Standards</i></p> <p>a) <i>Where Farm Alcohol Production is allowed as a limited use, it must satisfy the following standards:</i></p> <p>iii. <i>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:</i></p> <p>a. <i>have at least 20 acres of grapes or other fruit in cultivation on property they own, rent, or control; or</i></p> <p>b. <i>source a majority of their grapes or other fruit from Maryland.</i></p> <p>iv. <i>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.</i></p> <p>v. <i>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.</i></p>	<ul style="list-style-type: none"> <li>• The ZTA both increases and relaxes standards related to the cultivation of crops grown on site for use in the production process.</li> <li>• It relaxes the previous winery standard by allowing the fruit to be grown on an abutting or confronting property rented by the producer, rather than requiring it to be grown on site.</li> <li>• But it also may be placing a requirement for crop production that is difficult to meet for a beginning vintner. For instance, in Virginia, 50 percent of vineyards are 7.3 acres or less.</li> </ul>	<ul style="list-style-type: none"> <li>• Under the recommendations provided above for Wineries above, suggested an opportunity to consider a “<b>percent of land area under cultivation in grapes or other fruit</b>” standard for the cultivation of crops grown on site for use in the production process, rather than an absolute minimum of 5 acres (although the 5-acre minimum could still be included in addition).</li> <li>• This provision would provide more flexibility to smaller wineries and beginning vintners</li> </ul>



# DISCUSSION