



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**PLN-ZOTA-22-00011: AMENDMENT TO AGRICULTURAL RURAL (A-R)
ZONE TO ALLOW SMALL FARM MICRO-DISTILLERIES**

APPLICANT: SILVER SPRINGS FARM EQWINE AND VINEYARD, LLC

PROPOSED TEXT: (Note: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

ARTICLE 8-1 AGRICULTURAL RURAL (A-R) ZONE

(d) Conditional Uses.

(33) Small Farm Micro-Distilleries. Distilleries associated with an established agricultural use and produces less than 1,000 gallons of distilled spirit annually. The distillery shall be operated under a Class B License as defined in KRS 243.140, including all activities permitted in KRS 243.0305 and 243.035, without limitation, sampling, souvenir package sales, retail drink sale, and bottling.

STAFF REVIEW:

The petitioner, Silver Springs Farm Eqwine and Vineyard, LLC is requesting a text amendment to the Zoning Ordinance to add Small Farm Micro-Distillery as a conditional use within the Agricultural Rural (A-R) zone.

The Commonwealth of Kentucky currently regulates the distillation of alcohol utilizing two levels of licensing: Class A and Class B. A Class A license allows distillers to produce greater than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises, and a Class B license, which is also referred to as a “craft distillery”, allows distillers that produce less than fifty thousand (50,000) gallons of distilled spirits per calendar year (KRS 243.120(2)(b and c)). In either case, there is a base level of required production of six hundred (600) gallons of distilled spirits per calendar year (KRS 243.120(2)(a)). The differentiation of the two licenses is meant to allow for smaller establishments to operate without the same level of taxation and broader impact than larger distillers. Prior to 2022, the Zoning Ordinance did not differentiate between the levels of production of a distillery, and only allowed the distillation of alcohol within the Heavy Industrial (I-2) and Economic Development (ED) zones. Earlier this year, a Zoning Ordinance Text Amendment was passed that created a new category of distillery called a Craft Distillery, which aligned with the State requirements for a “Class B” license, and permitted its operation in the Light Industrial, Heavy Industrial, and Economic Development Zones.

In a similar vein, this request seeks to allow extremely small scale distilleries to operate in the Agricultural Rural (A-R) zone when operated in conjunction with an existing agricultural use. The applicant is seeking this text amendment in order to utilize homegrown grain and byproducts from the operation of their licensed small farm winery in order to produce distilled spirits such as brandy,



bourbon, and fortified wine. Under the applicant's current proposal, these operations would be capped at 1,000 gallons of distilled spirit production per year, or the equivalent of 18 bourbon sized barrels annually. This is equivalent to 2% of the annual distillate production currently permitted for Craft Distilleries within the I-1 zone. Implementing a low cap on the amount of distillate produced would ensure that any small farm micro-distillery use operates at a scale that is appropriate for an agricultural context, and that the associated agricultural use would remain the primary focus of the site. In a similar manner to small farm wineries, the applicant's proposed language also allows for all activity permitted by a Class B Distillers license, including: on-site tasting, souvenir package sales, retail drink sale, and bottling.

Within the letter of justification, the applicant emphasizes the historical connections between distilleries and agricultural operations, using his property's history as both a farm and distillery as an example. This was supported by staff's research, which found that small farm micro-distilleries, such as the one proposed by the applicant, would have been commonplace for farms in Kentucky as early as 1775¹. Agricultural uses of the time often included a distillery component, as distillation offered farmers the ability to convert excess fruits and grains into a value-added non-perishable product. The distilling byproducts, such as spent mash and grain, could then be recycled back into the agricultural operation as livestock feed. While the effects of Prohibition, increased urbanization, and legislative barriers led to a decline in micro distilleries as a whole in the early 1900s, within recent years there has been a significant resurgence in craft and micro distilleries in the United States. The growth of small distillery operations (less than 20 employees) saw a dramatic increase between 2008 and 2017 jumping from 317 businesses to approximately 3,157 businesses, a tenfold increase².

Under the applicant's proposal, establishing a small farm micro-distillery would require approval of a conditional use permit by the Board of Adjustment. The conditional use process allows the Board of Adjustment to review uses on an individualized basis. Included within the Board of Adjustment's purview is the ability to impose specific conditions on the operations of the use, such as hours or days of operation, or other site-specific requirements. Such a review would ensure that any proposed small farm micro-distillery would not have an adverse influence on existing or future development of the subject property or its surrounding neighborhood.

Staff finds that the applicant's proposal is supported by several of the goals, objectives, and policies of the 2018 Comprehensive Plan. The distilled spirits created by the proposed small farm micro-distillery uses are an agriculturally related, value-added product that increases the financial feasibility of the farm operation, meeting the goal of strengthening regulations and policies that propel the agricultural economy (Theme C, Goal #1.b). By allowing the production and sale of spirits, as well as allowing for tastings and tours of the operation, the proposal helps expand opportunities for agricultural tourism (Theme C, Goal #1.d). The proposed scale of the production also promotes context-sensitive agritourism in the Rural Service Area (Theme B, Protection Policy 6). Finally, the potential to utilize locally grown materials and agricultural byproducts in the operation of the use contributes to environmental sustainability (Theme E, Goal #1.d).

¹ Karl Raitz, *Making Bourbon: A Geographical History of Distilling in Nineteenth-Century Kentucky* (University Press of Kentucky, 2020)

² United States Bureau of Labor Statistics



Slight edits are suggested to the proposed text in order for it to be consistent with existing wording and formatting throughout the Zoning Ordinance. In addition, a definition is suggested to be added to Article 1-11, since the Kentucky Revised Statutes (KRS) do not specifically address this proposed distillery type.

Staff Alternative Text:

Article 1-11

Small farm micro-distillery means a distillery located on an active farm, that produces less than 1,000 gallons of distilled spirit annually, and operated under a Class B License as defined in KRS 243.140. The distillery may include all accessory activities as permitted in KRS 243.0305 and 243.035, without limitation. Such uses include product sampling, souvenir package sales, retail drink sale, and bottling.

Article 8-1(d)

(33) Small Farm Micro-Distilleries, operated on an active farm or at an agricultural, horticultural or agribusiness operation, including accessory activities such as product sampling, souvenir package sales, retail drink sale, and bottling.

The Staff Recommends: Approval of the Staff Alternative text amendment to the Zoning Ordinance, for the following reasons:

1. Micro-distilleries have extensive historical connections to agricultural uses within Lexington, as well as the Commonwealth of Kentucky as a whole.
2. Providing for small farm micro-distilleries in the Agricultural Rural (A-R) zone will permit additional opportunities to utilize existing agricultural resources for value-added products and tourism in support of the local economy.
3. The conditional use process and distillate production limits will ensure that the use operates at a scale that is compatible with the associated active farm or agricultural operation.
4. The inclusion of small farm micro-distillery to the possible conditional uses within the A-R zone is in agreement with the 2018 Comprehensive Plan for the following reasons:
 - a. The additional revenue stream for the agricultural uses that is derived from distillery operations will help strengthen the agricultural economy (Theme C, Goal #1.b).
 - b. The tasting and touring activities associated with small farm micro-distilleries will help promote agricultural tourism ((Theme C, Goal #1, Policy D).
 - c. By limiting the scale of production to no more than 1,000 gallons of distilled spirit, the use would promote context-sensitive agritourism in the Rural Service Area (Theme B, Protection Policy 6). The potential to utilize locally grown materials and agricultural byproducts in the operation of the use promotes environmental sustainability (Theme E, Goal #1, Policy D).

DAC/HB/TLW

7/29/2022

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