Planning Commission

Agenda

Study Session

March 14, 2016
Noon

Lausmann Annex — Room 151-157
200 South Ivy Street, Medford, Oregon

Subject:

1. Code amendment initiation request: craft distillery.

MEMORANDUM

Subject	Request to initiate code amendment to allow **microdistilleries** in commercial zoning districts	*file no. GF-16-028*
To	Planning Commission	
From	John Adam, Principal Planner	
Date	March 8, 2016	*for 3/14 study session*

BACKGROUND

Staff met with an individual wanting to open a microdistillery (also known as "craft distillery" and "boutique distillery") in a commercial zoning district with on-premises sales by the drink. However, beverage production is not an allowed use in any commercial district. Following the policy procedure for private-party code amendment requests (attached), the individual has provided an argument in favor of initiating a code amendment. This memo is staff's evaluation of the request, an evaluation of the work load that we are currently carrying, and a recommendation to the Planning Commission on whether to proceed.

WORKLOAD REQUIREMENTS FOR CODE AMENDMENT

The Building Safety Code regulates how distilleries are built, so the basic questions from a zoning perspective are where such uses should be permitted, what external storage issues we have to consider, and what size or capacity limits should be placed on them to prevent undesirable scales of such uses. For example, the petitioner wants to produce 52 thousand cases of liquor a year, which is about 124 thousand gallons. Oregon does not define craft distilleries by annual production limits, but several other states do:

State	No. of gallons
Indiana	10,000
Ohio	10,000
New Jersey	20,000
New York	35,000
Iowa	50,000
Kansas	50,000
Michigan	60,000
California	100,000
Washington	150,000

Besides those state-level restrictions, some cities place a more restrictive cap on micro-distilleries in commercial zones. Tacoma and Memphis, for example, limit annual production to 5,000 gallons. Others limit them by building area: 6,000 square feet (Anaheim); 10,000 square feet (Knoxville; Dallas).

Most cities do not allow outdoor storage of equipment, which is a fairly universal restriction in commercial districts, but for microdistilleries some allow for small silos to store grain until it can be processed (Dallas; Anaheim). Others note that the used mash must be disposed of promptly; others allow temporary storage in silos.

With so many considerations and no prior experience with distilleries, this would not be a simple code amendment.

RECOMMENDATION

The comprehensive planning division has a heavy workload right now. Although we agree it would be good to allow more manufacturing and retail to comingle in business districts, staff does not recommend initiating the code amendment at this time. We may have more time after the summer.

ATTACHMENTS

Letter requesting initiation of code amendment

"Zoning Practice: Microbreweries," March 2014, APA

Policy on handling private-party code amendment petitions

Joshua Courter
3402 Anderson Creek Road
Talent, Oregon 97540
(352) 220-2102

February 23, 2016

John Adam, AICP
Principal Planner / Comprehensive Planning Division
City of Medford Planning Department
200 South Ivy Street
Medford, Oregon 97501
(541) 774-2380

Dear Mr. Adam,

Thank you for this opportunity to request that the Planning Commission of the City of Medford address the Commercial and Industrial zoning definitions as they pertain to craft distilleries. It is my hope that by raising this issue the Planning Commission will find that craft distilleries should be allowed to operate in suitable Commercial spaces in the same way as their craft brewery and winery counterparts currently are.

According to the American Distilling Institute, a Craft Distillery is defined as, "an independently-owned distillery with maximum annual sales of 52,000 cases where the product is PHYSICALLY distilled and bottled on-site." While many in the industry would contest placing strict limits on the amount of cases a craft distiller may produce, the point of this definition is to set craft distillers apart from large corporate distilleries and other industrial alcohol producers.

Essentially, a craft distillery is in the same business as a craft brewery or boutique winery except the fermented product is subjected to an additional process in which the base "beer" or "wine" is heated in a still to separate the ethanol and produce a higher proof spirit. Craft distilleries produce a wide range of products using many different raw materials and the production process may include a combination of post fermentation techniques including multiple distillations, blending, infusing and aging. Generally speaking, craft breweries, wineries, and distilleries all share the same focus on quality rather then quantity and often source raw materials locally to produce unique and regionally specific products that further set them apart from their large commercial counterparts.

According to the American Distilling Institute's 2014 national craft distiller survey "*Estimated craft distillery case sales volume grew by more then 50% over the previous year*." Despite this phenomenal growth the "*Estimated craft distillery sales of 1.9 million cases*" is only, "*approaching 1% of total US distilled spirits volume*." This survey projects that if these growth trends continue, "*by 2020 there will be well over 1000 craft distilleries, approaching 7-8% of total US distilled spirits volumes sold*."

Large-scale commercial breweries and distilleries require massive factory buildings and vast warehouse space that appropriately exists only in industrial zones. Because of the 3-tier system of alcohol distribution established in the United States after Prohibition in which producers must sell to distributers who in turn sell to retailers, this industrial model for large-scale alcohol production has traditionally made sense.

For craft producers however the 3-tier system created nearly insurmountable barriers to entry because the distribution link in the supply chain is dominated by just a few huge companies. Changes in distribution laws allowing on-site tasting rooms, direct bottle sales to customers as well as, in Oregon, on-site cocktail bars for distilleries have leveled the playing field and are allowing many craft producers to gain a foothold.

The retail and customer oriented component is a critical factor in successfully establishing a new craft brand, but in order to attract local customers to try products a central and publically accessible location must be found. To help address this issue, many municipalities around the country are redefining zoning in commercial and retail areas to include breweries, wineries and distilleries.

According to an info packet prepared by the American Planning Association in April 2014, "Traditionally, relatively few communities have defined and regulated low-volume alcohol production facilities as distinct uses in their zoning codes. However, in recent years renewed interest in craft brewing and distilling, as well as small batch wine production, has prompted a number of communities to update their codes to sanction small scale producers in a wider range of zoning districts. Now, there are a number of communities across the country that have added definitions, use permissions, and, in some cases, use – specific standards for brewpubs, microbreweries, microdistilleries, or microwineries to their zoning codes. Generally speaking, the intent is to create space for smaller producers to operate outside of industrial districts."

The info packet also states, "These trends have significant economic development implications for localities across the country. In addition to satisfying demand for locally produced beer, wine, and spirits, microproducers often distribute their product regionally or nationally, bringing new money into their host communities. Furthermore, successful brewpubs and microproducers can help enliven commercial and mixed use districts that would otherwise clear out after conventional retail and office hours. It's no surprise, then, that some communities are actively trying to lure high-profile microbreweries from other states (McConnell 2012)."

Our specific business concept is similar to that of other well-established craft wineries and brew-pubs. Under the name MYTHICAL SPIRITS DISTILLERY we will produce brandy, grappa, liqueur and whisky from organic, local produce in the Rogue Valley of Southern Oregon. With our local market at heart and ambitious targets for growth in mind, MYTHICAL SPIRITS DISTILLERY will join the rapidly growing craft distilling movement that is rekindling America's taste for traditional alcoholic beverages and eventually become known as, "THE spirit of the mythical state of Jefferson".

We will initially be licensed for sale in Oregon only but hope to expand into other states within a few years. Our products will be sold in house at our tasting room, in liquor stores statewide and through relationships with restaurants and bars that will offer our whisky, brandies, apéritifs and digestifs on their beverage menus as stand-alone drinks and in premium cocktails. Our spirits will also be available for sale at booths in yearly events that feature local wine, beer, and food and we will build brand recognition at national distillery events and conferences. Eventually, we plan to open a full service cocktail bar at our distillery location and pair our products with delicious locally sourced food.

We have identified what we believe to be a suitable location at 1000 S. Central Ave. It is a warehouse type building with cinder block walls, a metal roof, roll up doors, high ceilings, 3-phase power, a separate front area for a public tasting room, office, bathroom, good visibility from Central Ave, ample room for parking and space for future inclusion of the cocktail bar and food service areas. The building is currently zoned regional commercial which I understand from the planning department would allow a brewery or winery type business, but not a distillery at this time.

I appreciate the opportunity to bring this matter to the attention of the Planning Commission and ask that it be given due consideration so that we may hopefully more forward with our plans to create a profitable and beneficial new business venture in the city of Medford.

Thank you,

Joshua Courter

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Zoning for Small-Scale Alcohol Production: Making Space for Brewpubs, Microbreweries, Microwineries, and Microdistilleries

By David M. Morley, AICP

In communities across the country, beer titans like St. Louis-based Anheuser-Busch and Chicago-based MillerCoors are facing stiff competition from a host of locally owned and operated craft breweries.

The number of brewers is higher today than at any point during the 20th century.

Brewers Association, Boulder, Colorado

Meanwhile, there is parallel growth in craft distilleries and small-volume wineries. While renewed interest in small-scale alcohol production is just one facet of the buy-local movement, it has special relevance for planning and zoning practitioners.

Historically, few communities have used zoning to draw distinctions between alcohol production facilities of different types and sizes. More recently, though, numerous localities have added provisions to their zoning codes that acknowledge the variety of alcohol producers. The primary motivation for these regulatory changes is a desire to make space for smaller producers to operate outside of industrial districts.

The two most common small-scale alcohol production uses to receive special zoning attention are brewpubs (restaurants combined with breweries) and microbreweries (small-volume brewers with or without on-site sales). But references to microdistilleries (small-volume distilleries with or without on-site sales) and microwineries (small-volume wineries without on-site vineyards) are also on the rise.

The purposes of this article are to highlight why the growth in small-scale alcohol production may merit zoning changes and to summarize how communities have amended their codes to add definitions, use permissions, and, in some cases, additional standards to sanction brewpubs and microproducers.

THE BOOM IN SMALL-SCALE ALCOHOL PRODUCTION

According to the Brewers Association, the trade group for small brewers, as of June 2013 there were 1,165 brewpubs and 1,221 microbreweries in the United States. By way of comparison, in the late 1970s there were only 89 commercial brewers of any type (Brewers Association 2013). This boom in small-scale production has spread to spirits and wine too. In April 2012 *Time* reported a 400 percent surge in microdistilleries in the U.S. between 2005 and 2012 (Steinmetz 2012). And according to statistics maintained by trade publisher *Wines & Vines*, the number of wineries producing between 1,000 and 5,000 cases per year grew 16.5 percent between August 2011 and January 2014 alone.

These trends have significant economic development implications for localities across the country. In addition to satisfying demand for locally produced beer, wine, and spirits, microproducers often distribute their product regionally or nationally, bringing new money into their host communities. Furthermore, successful brewpubs and microproducers can help enliven commercial and mixed use districts that would otherwise clear out after conventional retail and office hours. It's no surprise, then, that some communities are actively trying to lure high-profile microbreweries from other states (McConnell 2012).

THE TROUBLE WITH REGULATORY SILENCE

Despite the explosive growth in brewpubs and microproducers, surprisingly few communities explicitly sanction small-scale alcohol pro-

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Go online during the month of March to participate in our "Ask the Author" forum, an interactive feature of Zoning Practice. *David Morley,* AICP, *will be available to answer questions about this article. Go to the* Zoning Practice *section of the APA website at www.planning.org/zoningpractice and follow the links to the Ask the Author discussion board. From there, just submit your questions about the article to the active forum. After each forum closes at the end of the month, the archived questions and answers will be available through the Ask the Author discussion board.*

About the Author

David Morley, AICP, is a senior research associate with the American Planning Association, as well as APA's Planning Advisory Service (PAS) coordinator and coeditor of *Zoning Practice*. Since 2007 he has contributed to APA research projects on topics including brownfields redevelopment, complete streets, urban agriculture, shrinking cities, solar energy, and disaster recovery. Apart from his contributions to research projects and APA publications, Morley provides customized research on a daily basis for PAS subscribers.

duction facilities through their zoning codes. Without clear definitions and use permissions, planning staff or public officials are forced to make ad hoc use interpretations that can delay or even prevent otherwise desirable development. This regulatory silence creates uncertainty for business owners looking to make location decisions and secure financing, and it may have the effect of scaring away potential applicants. Finally, explicit definitions, use permissions, and use-specific standards allow communities to proactively address the potential negative effects of brewpubs and microproducers on surrounding areas, thereby minimizing future conflicts with neighbors.

DEFINING USES

Clear zoning standards for small-scale alcohol production facilities begin with clear use definitions. Generally speaking, there are two basic schools of thought about defining uses in zoning codes. Some communities try to define every conceivable potential use, while others rely on use groups (or categories) with similar operational requirements and attendant community effects.

The first method can bring clarity and avoid some legal disputes over specific uses, but it may create unnecessarily complex regulations. The second method is part of larger trend away from proscriptive use regulations, as many communities focus more on a prescriptive approach to the form of development. In practice, most conventional new zoning codes use a hybrid of these approaches, with broad use categories, such as household living or general retail, and specific use definitions for a small subset of higher-impact or more contentious uses under each category.

Steve Morgan/Creative Commons 3.0

Since 2008 the federally landmarked G.G. Gerber building in Portland, Oregon's Pearl District has housed a brewpub.

Mirroring this broader conversation about the best approach to classifying and defining uses, communities that have added specific definitions for small-scale alcohol production facilities to their zoning codes generally take one of two approaches. Either they define brewpubs, microbreweries, microdistilleries, and microwineries as distinct uses, or they define an umbrella term that encompasses multiple types of production facilities.

Communities that define microbreweries, microdistilleries, or microwineries as distinct uses often rely on a production volume threshold to distinguish between the "micro" and "conventional" version of a particular use. For microbreweries, 15,000 barrels per year is a common threshold, which corresponds to the American Brewers Association's defined limit for a microbrewery. Given that there are no corresponding industry definitions for microdistillery and microwinery, it is perhaps unsurprising that thresholds for these uses seem to vary more from place to place.

When communities define brewpubs as a distinct use, the intent is usually to distinguish between accessory- and primary-use brewing facilities. Most communities stipulate that beer production in a brewpub must be accessory to a bar or restaurant, and many cap the volume of beer produced annually (usually less than 15,000 barrels). Furthermore, some jurisdictions quantify this subordinate relationship by limiting the percentage of floor area or sales attributable to the brewery component of the business.

Definitions for brewpubs, microbreweries, microdistilleries, and microwineries often include an acknowledgment that the alcohol produced will be consumed both on- and off-site. For "micro" facilities, the presumption is typically that on-site consumption will be

Examples of Use Definitions

Brewpub:

- A retail establishment that manufactures not more than 9,000 barrels of malt liquor on its licensed premises each calendar year. (Aurora, Colorado)
- A restaurant-brewery that sells 25 percent or more of its beer on-site. The beer is brewed primarily for sale in the restaurant and bar. The beer is often dispensed directly from the brewery's storage tanks. Where allowed by law, brewpubs often sell beer "to go" or distribute to off-site accounts. (Brewers Association)

A restaurant with facilities for the brewing of beer for on-site consumption and retail sale at the restaurant. A brewpub must derive at least 40 percent of its gross revenue from the sale of food. (Goodyear, Arizona)

- A restaurant featuring beer that is brewed on-site. (Memphis-Shelby County, Tennessee)
- A restaurant that brews beer as an accessory use, either for consumption on-site or in hand-capped, sealed containers in quantities up to one-half barrel sold directly to the consumer. Production capacity is limited to 5,000 barrels of beverage (all beverages combined) per year. The area used for brewing, bottling, and kegging shall not exceed 30 percent of the total floor area of the commercial space. A barrel is equivalent to 31 gallons. (Plainfield, Illinois)

Microbrewery:

- A small facility for the brewing of beer that produces less than 15,000 barrels per year. It may often include a tasting room and retail space to sell the beer to patrons on the site. (Asheville, North Carolina)
- Any establishment where malt liquors are manufactured and packaged on- or off-premises, manufacturing more than 9,000 but less than 60,000 barrels of malt liquor on its licensed premises each calendar year. (Aurora, Colorado)
- A brewery that produces less than 15,000 barrels of beer per year with 75 percent or more of its beer sold off-site. Microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and, directly to the consumer through carryouts or on-site taproom or restaurant sales. (Brewers Association)
- A brewery (for malt beverages) that has an annual nationwide production of not less than 100 barrels or more than 10,000 barrels. (Missoula, Montana)
- The production of beer, regardless of the percentage of alcohol by volume, in quantities not to exceed 5,000 barrels per month, with a barrel containing 31 U.S. liquid gallons. (Nashville-Davidson, Tennessee)

Nanobrewery:

- The production of beer, regardless of the percentage of alcohol by volume, in quantities not to exceed 1,250 barrels per month. (Nashville-Davidson, Tennessee)

Microdistillery:

- A combination retail, wholesale, and small-scale artisan manufacturing business that produces and serves alcoholic spirits or food on the premises. (Port Townsend, Washington)
- A facility that produces no more than 15,000 gallons per year of spirituous beverages on-site and shall include a tasting room in which guests/customers may sample the product. (Fort Collins, Colorado)
- A facility that produces alcoholic beverages in quantities not to exceed 35,000 gallons per year and includes an accessory tasting room. A tasting room allows customers to taste samples of products manufactured on-site and purchase related sales items. Sales of alcohols manufactured outside the facility are prohibited. (Evanston, Illinois)

(continued on page 5)

subordinate to off-site consumption. For brewpubs, the opposite is true.

Communities that define an umbrella term for multiple "micro" facilities tend to stress spatial or operational features over production volume limits. In some instances this means a square footage limit on facility size or the proportion of a facility that can be used for alcohol production. In other instances, there are no defined size limits, and the use definition simply describes a set of operational characteristics (e.g., alcohol production and sales for on- and off-site consumption).

USE PERMISSIONS

Defining and regulating small-scale alcohol production facilities allows communities to permit small breweries, distilleries, and wineries in locations that would be inappropriate for conventional, large-scale facilities. Typically, this translates to permitting brewpubs, microbreweries, microdistilleries, and microwineries in one or more commercial or mixed use districts, either by right, with ministerial approval, or subject to a discretionary use permit.

Permitting a use by right sends a clear signal to potential developers and business owners that the use is desirable in a certain zoning district. This approach presents applicants with the fewest hoops to jump through before obtaining zoning approval, but it is important to note that most small-scale production facilities will still be subject to state or local licensing or permitting laws that govern the production or sale of alcoholic beverages.

Requiring a ministerial approval for a use communicates that the community is generally supportive of the use in a certain zoning district, but this support is conditional upon compliance with objective standards intended to minimize negative impacts on proximate uses. This approach gives planning staff an opportunity to review an application before the planning director or zoning administrator issues an "over-the-counter" permit. Often, communities use ministerial approval processes to confirm that a particular application conforms to use-specific standards (see additional standards discussion below).

Permitting a use subject to a discretionary use permit (often referred to as a conditional, special, or special exception use permit) indicates that the community is potentially supportive of the use in a certain zoning district, provided the specific spatial and operational characteristics of the use do not pose compatibility problems. Discretion-

ary approval processes involve one or more public hearings before the local legislative body, planning commission, or zoning board renders a final decision on an application. Because the longer approval time frame and a greater degree of uncertainty can discourage some applicants, it is important for communities to reserve discretionary use permissions for locations or circumstances where objective standards are likely to be insufficient to ensure compatibility.

Since a brewpub typically has more in common with a restaurant than a factory, many communities permit brewpubs either by right or with ministerial approval in a wide range of commercial and mixed use districts. Meanwhile, use permissions for microbreweries, microdistilleries, and microwineries vary considerably from place to place. With that said, though, many cities do permit microproduction facilities either by right or with ministerial approval in at least one commercial or mixed use district. Furthermore, it is relatively common to permit microbreweries, microdistilleries, or microwineries by right in more intense commercial or mixed use districts and subject to a discretionary use permit in less intense districts. (See the table on page 6.)

ADDITIONAL STANDARDS

Many contemporary zoning codes limit use permissions with use-specific development or operational standards. By codifying additional standards for specific uses, the community can permit a wider range of uses without relying on discretionary use permits to ensure compatibility. In some cases, use-specific standards apply only in certain zoning districts, while in other cases the standards apply community-wide.

So far, relatively few communities have adopted additional development or operational standards for small-scale alcohol production facilities. Among those that have, the most common provisions relate to outdoor storage, the size of the facility or volume of production, loading and unloading, and proximity either to sensitive uses or to other similar producers.

Outdoor Storage

Perhaps the most prevalent type of additional standards for brewpubs and microproducers are screening requirements or limitations on the amount of space business owners can use to store equipment, production waste, or product. In some cases these standards take the form of an outright prohibition on outdoor storage.

To illustrate, Covington, Kentucky, flatly prohibits all outdoor equipment and storage for brewpubs and microbreweries (§§6.28.02–03). Meanwhile, Dallas permits microbreweries and microdistilleries to store spent grain outside in silos or containers, provided the storage is screened from view (C51A-4.210(b)(4)(E)(ii)(cc)). And Novi, Michigan, prohibits all outdoor storage for brewpubs and microbreweries, with the exception of storage in tractor trailers for a period less than 24 hours (§§1501.11.b and 1501.12.b).

The two basic rationales for storage restrictions are aesthetics and public health. Outdoor storage can be an uninviting eyesore, especially in pedestrian-oriented areas. And left unattended, production waste may produce foul odors and attract vermin.

Use Definitions *(continued from page 4)*

- Any place or premises wherein any wines or liquors are manufactured for sale, not to exceed 5,000 gallons per year, generally referred to as a craft, boutique, or artisan distillery. Microdistilleries may or may not include an on-site tasting room, and may or may not operate in conjunction with an on-site restaurant or bar. For operation of an on-site tasting room or in conjunction with an on-site restaurant or bar additional permitting may be required. All relevant federal, state, and local regulations apply, including but not limited to TCA Title 57 and Memphis Code of Ordinances Title 7. For on-site sales by manufacturer compliance with TCA 57-3-204 applies. (Memphis-Shelby County, Tennessee)

Microwinery:

- A combination retail, wholesale, and small-scale artisan manufacturing business that produces and serves wine and food on the premises. (Port Townsend, Washington)
- A facility that produces no more than 100,000 gallons per year of vinous beverages on-site and shall include a tasting room in which guests/customers may sample the product. (Fort Collins, Colorado)
- A small wine producer that does not have its own vineyard, and instead sources its grape production from outside suppliers. Microwineries produce wine for sale on- or off-site. For the purposes of this chapter, a microwinery is limited to a production of no more than 2,000 barrels per year. On-site consumption is not allowed, other than sample tasting by customers shopping on-site. (Glenville, New York)

Microbrewery/microdistillery/microwinery:

- A facility with no more than 3,000 square feet of floor area, for the production and packaging of alcoholic beverages for distribution, retail, or wholesale, on- or off-premises and which meets all alcohol beverage control laws and regulations. (Newport News, Virginia)
- An establishment for the manufacture, blending, fermentation, processing, and packaging of alcoholic beverages with a floor area of 10,000 square feet or less that takes place wholly inside a building. A facility that only provides tasting or retail sale of alcoholic beverages is not a microbrewery, microdistillery, or winery use. (Dallas)
- A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possesses the appropriate license from the State of Maryland. Tasting rooms for the consumption of on-site produced beer, wine, or distilled products are permitted on the premises. (Denton, Maryland)
- An establishment with a primary use as a table service restaurant where beer, liquor, wine, or other alcoholic beverage is manufactured on the premises in a limited quantity subordinate to the primary table service restaurant use. The gross floor area utilized in a microbrewery, microdistillery, or microwinery for the production of beer, liquor, wine, or other alcoholic beverage shall be no greater than the gross floor area utilized for the associated table service restaurant. A microbrewery, microdistillery, or microwinery may include some off-site distribution of its alcoholic beverages consistent with state law. A tasting room or taproom may exist in a microbrewery, microdistillery, or microwinery where patrons may sample the manufacturer's products. (Wooster, Ohio)

EXAMPLES OF DEFINED USES AND PERMISSIONS

Community	State	2010 Population	Density (pop./square mile)	Defined Uses	Permitted in One or More Mixed Use or Commercial Districts: By Right or Ministerial Approval	Subject to Discretionary Use Permit	Subject to Additional Standards
Asheville	NC	83,393	1,856	microbrewery	X	X	§7-16-1(c)(43)
Bismarck	ND	61,272	1,986	brewpub	X		§14-03-08.4.u
				microbrewery		X	
Bloomington	IN	80,405	3,472	brewpub	X		§20.05.089
Burlington	VT	42,417	4,116	microbrewery	X	X	
Columbia	SC	129,272	978	microbrewery	X		§17-290
Covington	KY	40,640	3,079	brewpub	X		§6.28
				microbrewery		X	§6.28
				microdistillery		X	§6.28
Dallas	TX	1,197,816	3,518	microbrewery/ microdistillery/ winery		X	§51A-4.210(b)(4)
Denton	MD	4,418	837	microbrewery/ microwinery/ microdistillery		X	
Fort Collins	CO	143,986	2,653	microbrewery	X	X	
				microdistillery	X	X	
				microwinery	X	X	
Glenville	NY	29,480	580	microbrewery	X		
				microwinery	X		
Goodyear	AZ	65,275	341	brewpub	X		§4-2-15
				microbrewery	X		§4-2-16
Memphis-Shelby	TN	646,889	2,053	brew pub	X	X	§2.6.3.G
				microbrewery	X	X	§2.6.4.F
				microdistillery	X	X	§2.6.4.F
Missoula	MT	66,788	2,428	microbrewery		X	
Modesto	CA	201,165	5,457	microbrewery	X	X	§10-3.203
Newport News	VA	180,719	2,630	microbrewery/ microdistillery/ microwinery	X		
Novi	MI	55,224	1,825	brewpub	X	X	§1501.11
				microbrewery	X	X	§1501.12
Port Townsend	WA	9,113	1,306	microbrewery	X	X	
				microdistillery	X		
				microwinery	X		
St. Petersburg	FL	244,769	3,964	brewpub	X	X	§16.50.045
				microbrewery	X	X	§16.50.045
Wooster	OH	26,119	1,601	microbrewery/ microdistillery/ microwinery	X		

Facility Size or Volume of Production

Some communities use additional standards to restrict the size of the facility, scale of production, or the relationship between the alcohol production facility and collocated food or beverage service. This is most common in codes where the use definition does not stipulate a specific production limit or the nature of the relationship between primary and accessory uses. However, communities can also use this type of operational standard to modify defined limits or relationships in lower-intensity zoning districts.

For example, Asheville, North Carolina, limits microbreweries to 4,000 square feet of floor area in two specific office districts (§17-16-1(c)(43)a.3). Columbia, South Carolina, limits microbrewery production to 1,000 barrels per year in three lower-intensity commercial and mixed use districts (§17-290(2)). And Novi, Michigan, stipulates that no more than 50 percent of the gross floor space in a brewpub shall be used for brewing (§1501.11.e).

Loading and Unloading

A few communities have adopted additional standards stipulating the provision or location of loading spaces or prohibiting deliveries during certain hours. Both of these types of delivery restrictions can help brewpubs and microproducers be better neighbors by minimizing traffic congestion or limiting noise during certain times of the day. Still, it's important to note that in some pedestrian-oriented districts it may be infeasible or undesirable to require dedicated loading spaces due to premiums on space or urban design goals.

As one example, Asheville, North Carolina, stipulates that all microbreweries must have an off-street or alley-accessible loading dock (§17-16-1(c)(43)a.4). Meanwhile, St. Petersburg, Florida, discourages microbrewery access and loading from streets and requires any street-facing loading bays to keep their doors closed at all times, except when actively in use. The city also restricts service truck loading and unloading to the hours between 8 a.m. and 8 p.m., Monday through Saturday, and between 11 a.m. and 7 p.m. on Sundays and national holidays (§§16.50.045.4–6).

Distancing Requirements

A small number of communities have adopted distancing requirements that either limit the proximity of small-scale alcohol production facilities to sensitive uses, such as schools or churches, or require a minimum separation between similar uses. For the first type of distancing requirement, the rationale is to limit potential spillover effects on properties where children congregate. The rationale for the second type of requirement is to prevent an over-concentration of brewpubs or microproducers in a specific district.

To illustrate, Novi, Michigan, requires microbreweries to be separated from one another by at least 2,500 feet (§1501.12.h). And Bismarck, North Dakota, requires property owner consent as a condition of approval for microbreweries located within 300 feet of a lot line for any school, church, library, or hospital (§14-03-08.4.u.1).

CONCLUSIONS

When localities choose to define and regulate small-scale alcohol production facilities as one or more distinct uses, it allows them to permit these uses in locations that would be inappropriate for major industrial operations. By doing so, communities can set the stage to capitalize on the economic and placemaking benefits of brewpubs and microproducers.

With that said, the preceding discussion only hints at the variety of approaches localities have taken to regulate brewpubs, microbreweries, microdistilleries, and microwineries. Furthermore, a number of communities with thriving craft brewing and distilling scenes, such as Chicago and Portland, Oregon, have yet to single out small-scale alcohol production facilities for special zoning treatment. Others have made a conscious decision to minimize use-based restrictions in favor of prescriptive standards for the form of development. However, communities that don't thoughtfully consider regulatory alternatives for brewpubs and microproducers run the risk of being caught "flat-footed" by an application for a new facility that may be beneficial to the community but is inconsistent with current zoning.

Finally, as with any significant potential zoning change, it can be helpful to talk to other communities that have taken a similar approach to see what's working and what might need further attention. And, of course it's always important to review both new provisions and the intent behind those provisions with residents, business owners, and other community stakeholders before recommending or taking action.

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HOW DOES YOUR ZONING TREAT BREWPUBS, MICROBREWERIES, MICRODISTILLERIES, AND MICROWINERIES?

3

MEMORANDUM

SUBJECT	Policy on handling private-party code amendments petitions
TO	Eric Swanson, City Manager
FROM	John Adam, Senior Planner, via James E. Huber, Planning Director
DATE	October 8, 2014; revised April 27, 2015

PURPOSE

To have a regular, reliable method for processing private-party petitions to amend the development code. To address such petitions to the appropriate staff and appointed decision-making bodies. To maintain documentation for future reference.

METHOD

1. All inquiries should be directed to the Planning Department. Staff will direct the person to write a letter to the Director outlining the petition and their reasons for it.

2. On receipt of a petition a general file (GF) will be created in HTE. When a petition is moved to action the GF can be converted to a development code amendment (DCA) type.

3. Planning management/staff will discuss the request, accounting for how long it may take to develop a code amendment (owing to complexity), and developing a recommendation to the Planning Commission. Staff may also refer the question to other appropriate commissions or committees for their suggestions.

4. For the next available Planning Commission study session staff will prepare a memo explaining the pros and cons of the proposed change, staff's recommendation on whether or not to proceed, and how it may delay other items on the department's legislative agenda. Petitioner should be encouraged to attend the study session so Commissioners can query the petitioner directly.

5. At the conclusion of the study session, the Planning Commission will discuss the merits and deficits of proceeding on the petition. As a general rule, the Planning Commission will initiate no more than two private-party petitions in a calendar year.

5.1. A memorandum formally initiating a code amendment will be placed on the consent calendar of the next available regular Planning Commission meeting, which the Commission will vote either up or down.

5.2. If initiated, staff will begin scheduling work. Note that an initiation does not alter the priority of the existing workload; other projects underway or just beginning may take precedence.

5.2.1. At this point the Planning Department will collect the standard fee for code amendments before doing further work. Neither the Planning Commission nor staff are empowered to waive the fee, only the City Council may do so.

5.3. If the decision is not to proceed, or to withhold it for future consideration, a memo documenting the decision will be kept in the file.

5.4. For either situation staff will document the reasoning of the Commission. Staff will contact the petitioner and let them know the result, informing them of possible timeline. Staff will give a copy of the decision to the City Manager to share with the Council as he or she sees fit. All documents from the process will be filed in the Planning Department.

If subsequently the petitioner shows up at a Council meeting with the same request, or writes to one or more Councilor with the same request, staff will be able to provide documentation of the facts and the due consideration already given to the matter for the Council to take into account before deciding on a course of action.