CITY OF PARKVILLE ▪ 8880 Clark Avenue ▪ Parkville, MO 64152 ▪ (816) 741-7676 ▪ FAX (816) 741-0013

Public Hearing Summary
For November 10, 2015 Hearing

Proposed text amendment to Chapter 400 "General Provisions" and Chapter 470 "Supplementary Use Regulations–Conditional Uses" to allow microbreweries, microdistilleries, and microwineries.

The Parkville Planning and Zoning Commission will hold a public hearing on Tuesday, November 10, 2015 at 5:30 pm in the Boardroom at Parkville City Hall, 8880 Clark Ave., Parkville, MO to consider a text amendment to Parkville Municipal Code, Chapter 400 "General Provisions" and Chapter 470 "Supplementary Use Regulations–Conditional Uses" to allow microbreweries, microdistilleries, and microwineries.

Text amendments have been drafted by the Parkville Community Development Department that would add microbreweries, microdistilleries, and microwineries to the definitions section under Chapter 400, *General Provisions*, and add each as permitted conditional uses in specified districts under Chapter 470, *Supplementary Use Regulations*. As part of the definitions, the scope of the use as well as the limit on volume of production is defined for each. The newly proposed Section 470.040, subsection 26, sets out more specific conditions for the uses. These include the requirement for on-site retail sales in certain districts, limitations on the square footage of the facility, and an enumeration of which zones the use may be conditionally permitted in.

These amendments are intended to signal Parkville's openness to microbreweries, microdistilleries, and microwineries, subject to certain conditions designed to ensure compatibility with other existing uses.

The public hearing is open to the public and all interested parties are welcome to attend and express opinions before the Planning and Zoning Commission during the public hearings. Comments may be mailed to 8880 Clark Avenue, Parkville, MO, 64152, faxed to 816-741-0013 or emailed to sackerson@parkvillemo.gov.

Following consideration of the proposed text amendment, the Planning and Zoning Commission will recommend action to the Board of Aldermen or postpone the application for further consideration. Unless postponed or withdrawn by the applicant, the Board of Aldermen will consider final action on the amendments at their regularly scheduled meeting on Tuesday, November 17, 2015 at 7:00 p.m.

For questions, please call the Parkville Community Development Department at 816-741-7676.

Attachments:
1. Draft Text Amendment*
2. Research memo, Brewery Regulations and Zoning, dated September 15, 2015
3. March 2014 American Planning Association, Zoning Practice, Issue #3, *Microbreweries*

Additional online resources:
1. Parkville zoning code in its entirety - http://www.ecode360.com/PA3395-DIV-05

* The draft amendment is subject to change. If there are any revisions, this notice will be updated with a revised draft showing the proposed changes.

Last Updated: 11/6/2015 2:00 PM

Micro-Alcohol Production Text Amendment

New Definitions to be added to 400.030:

Microbrewery. A facility at which beer or similar beverage is brewed and fermented on the premises, and is kegged, canned, or bottled for retail sale and/or consumption on the premises, and which may be sold or distributed for sale and/or consumption off the premises, and for which the volume of production does not exceed 10,000 barrels per year.

Microdistillery. A facility, other than a microbrewery or microwinery, at which alcohol is distilled or manufactured on the premises, and is bottled, packaged or otherwise prepared for retail sale and/or consumption on the premises, and which may be sold or distributed for sale and/or consumption off the premises, and for which the volume of production does not exceed 15,000 gallons per year.

Microwinery. A facility at which wine is produced on premises, and is packaged or bottled for retail sale and/or consumption on the premises, and which may be sold or distributed for sale and/or consumption off the premises, and for which the volume produced does not exceed 2,000 barrels per year. The facility may or may not have its own on-site vineyard, and may source all or some of its grapes necessary for production from an off-site location.

New text to be added to 470.040 (Conditional Uses):

26. Microbreweries, Microdistilleries, and Microwineries as defined in Section 400.030.
    a. Microbreweries, microdistilleries, and microwineries may be allowed as a conditional use in "OTD" Old Town District, "B-1" Neighborhood Business District, "B-2" General Business District, "B-4" Planned Business District, "I-1" Light Industrial District, and "I-2" Light Industrial District, all subject to applicable regulations contained in their respective chapters and the requirements contained herein.
    b. Retail sales, restaurant, tasting room, pub, outdoor service areas, live entertainment, tours and similar may be permitted as accessory uses in accordance with licensing and zoning restrictions and requirements contained herein.
    c. As each location is uniquely suited for such usages, additional restrictions and conditions may be required on a case by case basis. Heightened restrictions may be imposed when adjacent to residential areas.
    d. A site plan, meeting the requirements of Chapter 478, shall be submitted with any application for a conditional use permit. In addition to the requirements of Section 478.060, the site plan shall include details regarding any accessory uses, delivery, distribution, and any outdoor storage.
    e. With the submittal of the site plan, details of the brewing, distilling or wine-making process and any byproducts or wastes created shall be submitted so the impacts to the sewer system can be assessed. Processes or equipment to remove or treat byproducts or wastes, regulate temperature, or other solutions may be required as a condition of conditional use permit approval.

f. The manufacturing process shall not produce adverse odors, dust, vibration, noise, or other external impacts that cause a significant disturbance beyond the property lines of the subject property.

g. When permitted in “OTD” Old Town District, “B-1” Neighborhood Business District, “B-2” General Business District, or “B-4” Planned Business District, the following conditions shall apply:

   1) With the intention of promoting retail sales, the applicant shall be required to supply a business plan detailing a proposed timeline for construction, renovation, production, operation, and sales. The proposed business plan will state a start date for on-site retail sales and consumption of the product manufactured on site. Unless otherwise approved, retail sale of the product shall be required within twelve (12) months of approval of the conditional use permit.

   2) Unless otherwise approved as part of the conditional use permit, a minimum of 25% of the product must be sold on-site at retail directly to the consumer for consumption on- or off-site. If to be consumed off-site, the product must be in the original packaging, or other packaging as may be permitted under the required liquor licenses. Accessory retail sales of related items are permitted and encouraged.

   3) Due to appearance and public health concerns, outdoor storage is prohibited, unless expressly allowed as part of an approved site plan.

   4) Total indoor floor area of the facility, including production and retail areas, shall not exceed 8,000 sq. ft.

To: Sean Ackerson
From: Zach Tusinger
Date: September 15, 2015
Re: Brewery Regulations and Zoning

Issue: The City of Parkville has received inquiries about the possibility of amending zoning regulations to allow microbreweries to operate in Parkville. While the greatest interest has been directed at Downtown Parkville, interest has also been expressed in other commercial locations throughout Parkville. As such, it is appropriate to consider how such an amendment might pertain to Parkville as a whole.

Other municipalities: As microbreweries have proliferated over the last decade cities have increasingly amended their zoning codes to allow small microbreweries to operate in areas not traditionally intended for manufacturing uses.

The City of Weston specifically allows microbreweries in their downtown Historic District. The city's zoning code specifically allows licensed microbreweries that do not produce more than 10,000 barrels per year. Other cities still limit microbreweries to areas zoned industrial (but particularly in larger cities, industrial areas often blend and merge right into commercial areas). Kansas City has recently adopted regulations for 'artisanal manufacturing' and expanded the areas where such manufacturing is a permitted or allowed by special use. Some just consider this a form of manufacturing and require a conditional use permit.

St. Louis, MO
14.07.060 - Microbrewery license.
A. A microbrewery license shall authorize the licensee to manufacture beer and malt liquor in quantities not to exceed ten thousand barrels per annum. The fee for such license shall be three hundred seventy-five dollars ($375.00) annually.
B. Notwithstanding any other provision of this chapter or title to the contrary, the holder of a microbrewery license may apply for a drink license and the Excise Commissioner may authorize issuance of, and the License Collector may issue, a drink license to the holder of the microbrewery license. A drink license may only be issued to a holder of a microbrewery license for the same premises for which the microbrewery license is issued. The provisions of this section shall apply to applications for issuance, renewal and protest of retail liquor licenses for premises licensed as a microbrewery.
C. The holder of a microbrewer's license may also sell beer and malt liquor produced on the brewery premises to duly licensed wholesalers. However, holders of a micro brewer's license shall not, under any circumstances, directly or indirectly, have any financial interest in any wholesaler's business.
(Ord. No. 68536, § 8, 12-15-2009.)

Weston, MO
405.140.B – "H-1" Historic District Permitted Uses
36. Microbrewery licensed by the State of Missouri with production not to exceed ten thousand (10,000) barrels per year. Such facilities shall provide that waste grain does not enter the City of Weston's sewer system, and all facilities shall be operated so as not to produce noxious odors or noises.

Kansas City, MO
88-318-01 ARTISANAL MANUFACTURING STANDARDS
The use standards of this section apply to artisanal food and beverage manufacturing including, but not limited to, production of beer, wine, coffee, bakery goods or similar products, as well as to catering establishments.
88-318-01-A. Retail sales of the product manufactured on-site are allowed. If to be consumed off-site, the product must be in the original packaging. The product may also be sold and served on-site, and accessory retail sales of related items are permitted.
88-318-01-B. Total floor area of the establishment, including production and retail areas, shall not exceed 5,000 sq. ft.
88-318-01-C. No more than 50% of the product may be manufactured for sale to a wholesaler, and at least 50% of the product must be sold for retail use, to be consumed either on- or off-site.
88-318-01-D. All equipment used in the production and all products manufactured must be located within the principal building.
88-318-01-E. The manufacturing process shall not produce odors, dust, vibration, noise, or other external impacts that are detectable beyond the property lines of the subject property.

Springfield, MO
36-424 "CC" Center City District
(3) Conditional Use Manufacturing and Production
36-425 "COM" Commercial Street District
(2)(a) Taverns are permitted use
(3) Conditional Use Manufacturing and Production

Possible Text Amendment in Parkville
The most appropriate way to amend Parkville's zoning code would be to create microbreweries as a conditional use under Section 470.040. It would also be necessary to add 'microbrewery' as a definition under Section 400.030.

Definition to be added to 400.030:
Microbrewery – a facility at which beer is brewed and fermented on the premises, and is kegged, canned, or bottled for distribution, retail, or consumption on the premises and/or distribution or retail use off-site. The volume of production at any such facility may not exceed 10,000 barrels per year. A microbrewery may include additional uses such as retail sales, pub, live entertainment, tasting room, tours, and restaurant as otherwise permitted in the zoning districts.

Text Amendment to 470.040 (Conditional Uses):
A. 26. Microbrewery as defined in Section 400.030.

a. At no time shall the microbrewery allow the discharge of waste grain into the Parkville sewer system.
b. The manufacturing process shall not produce odors, dust, vibration, noise, or other external impacts that are detectable beyond the property lines of the subject property.
c. No more than 50% of the product may be manufactured for sale to a wholesaler, and at least 50% of the product must be sold for retail use, to be consumed either on- or off-site.
d. Retail sales of the product manufactured on-site are required. If to be consumed off-site, the product must be in the original packaging or in growlers. Accessory retail sales of related items are permitted.

e. Microbreweries may be allowed as a conditional use in “OTD” Old Town District, “B-2” General Business District, “B-4” Planned Business District, “I-1” Light Industrial District, “I-2” Light Industrial District, and “U-1” Underground District, all subject to applicable regulations contained in their respective chapters. Additional conditions may be applied, as necessary.
f. When permitted in “OTD” Old Town District the following conditions shall apply:
    1) Upon application, applicant shall supply to the city a business plan detailing a proposed timeline for renovation, production, operation, and sales.
    2) The proposed business plan will state a start date for on premise retail sales service and consumption of the product manufactured on-site.
    3) Outdoor “beer garden” may be allowed as part of the conditional use permit in accordance with licensing restrictions.
    4) Total floor area of the establishment, including production and retail areas, shall not exceed 8,000 sq. ft.

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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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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.)

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)

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.

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?

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