



# PLANNING AND ZONING CASE CHECKLIST

City of Rockwall  
Planning and Zoning Department  
385 S. Goliad Street  
Rockwall, Texas 75087

P&Z CASE # 22018-019 P&Z DATE \_\_\_\_\_ CC DATE \_\_\_\_\_ APPROVED/DENIED

ARCHITECTURAL REVIEW BOARD DATE \_\_\_\_\_ HPAB DATE \_\_\_\_\_ PARK BOARD DATE \_\_\_\_\_

ZONING APPLICATION
<input type="checkbox"/> SPECIFIC USE PERMIT
<input type="checkbox"/> ZONING CHANGE
<input type="checkbox"/> PD CONCEPT PLAN
<input type="checkbox"/> PD DEVELOPMENT PLAN

SITE PLAN APPLICATION
<input type="checkbox"/> SITE PLAN
<input type="checkbox"/> LANDSCAPE PLAN
<input type="checkbox"/> TREESCAPE PLAN
<input type="checkbox"/> PHOTOMETRIC PLAN
<input type="checkbox"/> BUILDING ELEVATIONS
<input type="checkbox"/> MATERIAL SAMPLES
<input type="checkbox"/> COLOR RENDERING

PLATTING APPLICATION
<input type="checkbox"/> MASTER PLAT
<input type="checkbox"/> PRELIMINARY PLAT
<input type="checkbox"/> FINAL PLAT
<input type="checkbox"/> REPLAT
<input type="checkbox"/> ADMINISTRATIVE/MINOR PLAT
<input type="checkbox"/> VACATION PLAT
<input type="checkbox"/> LANDSCAPE PLAN
<input type="checkbox"/> TREESCAPE PLAN

<input type="checkbox"/> COPY OF ORDINANCE (ORD.# _____)
<input type="checkbox"/> APPLICATIONS
<input type="checkbox"/> RECIEPT
<input type="checkbox"/> LOCATION MAP
<input type="checkbox"/> HOA MAP
<input type="checkbox"/> PON MAP
<input type="checkbox"/> FLU MAP
<input type="checkbox"/> NEWSPAPER PUBLIC NOTICE
<input type="checkbox"/> 500-FT. BUFFER PUBLIC NOTICE
<input type="checkbox"/> PROJECT REVIEW
<input type="checkbox"/> STAFF REPORT
<input type="checkbox"/> CORRESPONDENCE
<input type="checkbox"/> COPY-ALL PLANS REQUIRED
<input type="checkbox"/> COPY-MARK-UPS
<input type="checkbox"/> CITY COUNCIL MINUTES-LASERFICHE
<input type="checkbox"/> MINUTES-LASERFICHE
<input type="checkbox"/> PLAT FILED DATE _____
<input type="checkbox"/> CABINET # _____
<input type="checkbox"/> SLIDE # _____
<b>NOTES:</b> _____
_____
_____
_____
_____
<b>ZONING MAP UPDATED</b> _____



# CITY OF ROCKWALL, TEXAS

## MEMORANDUM

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**TO:** Planning and Zoning Commission

**FROM:** Ryan Miller, *Director of Planning and Zoning*

**DATE:** April 24, 2018

**SUBJECT:** *Z2018-018; Proposed Amendment to Article IV, Permissible Uses, UDC to Allow a Brewery and Distillery (Excluding Brew Pub) in the Downtown (DT) District*

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At the April 2, 2018 City Council meeting, the City Council directed staff to prepare a text amendment amending Article IV, *Permissible Uses*, of the Unified Development Code (UDC) for the purpose of allowing the *Brewery and Distillery (Excluding Brew Pub)* land use in the Downtown (DT) District by Specific Use Permit (SUP). This direction was the result of an appointment with Lorne Liechty of Liechty & McGinnis, LLP on behalf of Cory and Eva Cannon who are requesting the amendment to establish a brewery in the Downtown (DT) District. Under the City's current ordinances, the *Brewery or Distillery (Excluding Brew Pub)* land use is only permitted *by-right* in the Light Industrial (LI) and Heavy Industrial (HI) Districts. The purpose of these designations is that -- *until recently* -- a brewery or distillery was viewed as a manufacturing or industrial type of use; however, in 2013 the *Texas Alcoholic Beverage Commission (TABC)* passed amendments designed to loosen the restrictions on *microbreweries* or *craft-breweries*. The proposed changes would allow the City Council discretionary oversight and approval authority for any *Brewery or Distillery (Excluding Brew Pub)* land use proposed in the Downtown (DT) District. Staff should note that this gives the Planning and Zoning Commission and City Council the ability to establish operational conditions for the land use on a *case-by-case* basis.

In accordance, with Section 4.2 of Article XI, *Zoning Related Applications*, of the UDC staff is bringing the proposed amendment forward to the Planning and Zoning Commission for a recommendation to the City Council. Attached to this case memo is a copy of the proposed amendment to the UDC and a draft ordinance. The schedule for this text amendment is as follows:

*Planning and Zoning Commission [Work Session]:* April 24, 2018  
*Planning and Zoning Commission [Public Hearing]:* May 8, 2018  
*City Council [Public Hearing/1<sup>st</sup> Reading of the Ordinance]:* May 21, 2018  
*City Council [2<sup>nd</sup> Reading of the Ordinance]:* June 4, 2018

Staff will send out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Section 6.1 of Article II, *Authority and Administrative Procedures*, of the UDC. Should the Planning and Zoning Commission have any questions staff will be available at the meeting on April 24, 2018.

ARTICLE IV, *PERMISSIBLE USES*, OF THE UDC

Key:

Additions

Deletions

SECTION 1. LAND USE SCHEDULE

SECTION 1.1: USE OF LAND AND BUILDINGS

	<i>Residential</i>					<i>Mixed Use</i>					<i>Commercial</i>				<i>Industrial</i>				
Commercial and Business Services	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Brewery or Distillery (Excluding Brew Pub)											S							P	P

*P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions*

CITY OF ROCKWALL

ORDINANCE NO. 18-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [*ORDINANCE NO. 04-38*] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING ARTICLE IV, *PERMISSIBLE USES*; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, an amendment to the City of Rockwall's Unified Development Code [*Ordinance No. 04-38*] has been initiated by the City Council of the City of Rockwall to amend Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*]; and,

**WHEREAS**, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [*Ordinance No. 04-38*] should be amended as follows:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:**

**SECTION 1.** That Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance.

**SECTION 2.** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

**SECTION 3.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [*Ordinance No. 04-38*], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such cases provides;

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 4<sup>TH</sup> DAY OF JUNE, 2018.**

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Jim Pruitt, Mayor

**ATTEST:**

\_\_\_\_\_  
Kristy Cole, *City Secretary*

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Frank J. Garza, *City Attorney*

*1<sup>st</sup> Reading:* May 21, 2018

*2<sup>nd</sup> Reading:* June 4, 2018

**Exhibit 'A'**  
Article IV, Permissible Uses, of the  
Unified Development Code

**Key:**

**Additions**

**Deletions**

Section 1. Land Use Schedule.

Section 1.1 Use of Land and Buildings.

	Residential										Mixed Use		Commercial		Industrial				
Commercial and Business Services	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Brewery or Distillery (Excluding Brew Pub)											S							P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions





# CITY OF ROCKWALL, TEXAS

## MEMORANDUM

---

**TO:** Planning and Zoning Commission

**FROM:** Ryan Miller, *Director of Planning and Zoning*

**DATE:** May 8, 2018

**SUBJECT:** *Z2018-019; Proposed Amendment to Article IV, Permissible Uses, UDC to Allow a Brewery and Distillery (Excluding Brew Pub) in the Downtown (DT) District*

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At the April 2, 2018 City Council meeting, the City Council directed staff to prepare a text amendment amending Article IV, *Permissible Uses*, of the Unified Development Code (UDC) for the purpose of allowing the *Brewery and Distillery (Excluding Brew Pub)* land use in the Downtown (DT) District by Specific Use Permit (SUP). This direction was the result of an appointment with Lorne Liechty of Liechty & McGinnis, LLP on behalf of Cory and Eva Cannon who are requesting the amendment to establish a brewery in the Downtown (DT) District. Under the City's current ordinances, the *Brewery or Distillery (Excluding Brew Pub)* land use is only permitted *by-right* in the Light Industrial (LI) and Heavy Industrial (HI) Districts. The purpose of these designations is that -- *until recently* -- a brewery or distillery was viewed as a manufacturing or industrial type of use; however, in 2013 the *Texas Alcoholic Beverage Commission (TABC)* passed amendments designed to loosen the restrictions on *microbreweries* or *craft-breweries*.

In response to the City Council's direction, staff brought the proposed text amendment to the Planning and Zoning Commission on April 24, 2018 for discussion. Based on this discussion and the questions asked by the Planning and Zoning Commission, staff has prepared two (2) options for the proposed text amendment:

*Option 1.* The first option would simply allow the *Brewery or Distillery (Excluding Brew Pub)* land use in the Downtown (DT) District by Specific Use Permit (SUP). This would rely on the Planning and Zoning Commission and City Council to set regulations on a case-by-case basis through the Specific Use Permit (SUP) process.

*Option 2.* The second option creates a new land use, *Craft/Micro Brewery, Distillery and/or Winery*, which would be allowed through discretionary approval in the Downtown (DT), General Retail (GR) and Commercial (C) Districts and *by-right* in the Light Industrial (LI) and Heavy Industrial (HI) Districts (*i.e. the same districts that allow the current Winery land use*). In addition, the new land use would restrict the size of these operations (*i.e. 12,000 SF*), the size of their non-manufacturing or retail sales space (*i.e. 40% of total building area*), and the permitted accessory land uses. Under *Option 2*, larger *Brewery or Distillery* land uses would continue to be allowed only in industrial districts and the *Winery* land use would be restricted to the Agricultural (AG) District by Specific Use Permit (SUP) and Light Industrial (LI) and Heavy Industrial (HI) Districts *by-right*. By doing this, the code makes the distinction between smaller wineries (*i.e. which typically do not have vineyards or an agricultural component on premise*) and larger scale wineries (*i.e. which typically have vineyards and an agricultural component on premise*). Finally, the code amendment would decouple the *Private Club* and *Brewpub* land uses in order to establish a definition of *Brewpub*. The permitted land use districts would not change for either the *Private Club* or *Brewpub* land uses. Option 2 is designed to make distinctions between the various alcohol related land uses and provide specific regulations for

each, but does not increase the districts where these uses are allowed. The only exception is the addition of the *Craft/Micro Brewery, Distillery and/or Winery* in the Downtown (DT) District, which already permits wineries by Specific Use Permit (SUP).

Both text amendments would grant the Planning and Zoning Commission and City Council discretionary oversight and approval authority for any *brewery* land use proposed in the Downtown (DT) District. In addition, both text amendments give the Planning and Zoning Commission and City Council the ability to establish operational conditions for the land use on a *case-by-case* basis through the Specific Use Permit (SUP) in the Downtown (DT) District.

In accordance, with Section 4.2 of Article XI, *Zoning Related Applications*, of the UDC staff is bringing the proposed amendments forward to the Planning and Zoning Commission for a recommendation to the City Council. Staff should point out that while two (2) options have been prepared and presented, the Planning and Zoning Commission is not limited in making a recommendation to the City Council (*i.e. the Planning and Zoning Commission can make additional changes in their recommendation to the City Council*). Attached to this case memo is a copy of the proposed amendments to the UDC and corresponding draft ordinance for both of the presented options. In addition, staff has included excerpts from the Texas Alcoholic Beverage Commission's Alcoholic Beverage Code and a copy of the American Planning Association's March 2014 *Zoning Practice* which outlines the issues associated with *Microbreweries*. The schedule for this text amendment is as follows:

*Planning and Zoning Commission [Public Hearing]:* May 8, 2018  
*City Council [Public Hearing/1<sup>st</sup> Reading of the Ordinance]:* May 21, 2018  
*City Council [2<sup>nd</sup> Reading of the Ordinance]:* June 4, 2018

Staff has sent out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Section 6.1 of Article II, *Authority and Administrative Procedures*, of the UDC. Should the Planning and Zoning Commission have any questions staff will be available at the meeting on May 8, 2018 to discuss this case.



ARTICLE IV, *PERMISSIBLE USES*, OF THE UDC

KEY:

**Additions**  
**Deletions**

OPTION 1: UTILIZING EXISTING

SECTION 1. LAND USE SCHEDULE

SECTION 1.1: USE OF LAND AND BUILDINGS

	Residential									Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Commercial and Business Services																			
Brewery or Distillery (Excluding Brew Pub)											S							P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

OPTION 2: DEFINED LAND USES

SECTION 1. LAND USE SCHEDULE

SECTION 1.1: USE OF LAND AND BUILDINGS

	Residential									Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Retail and Personal Service																			
<del>Restaurant with Accessory Private Club or Brew Pub</del>											P		P	P	P	P	S	P	P
<del>Craft/Micro Brewery, Distillery and/or Winery +</del>											S			S	S			P	P
<del>Brew Pub +</del>											P		P	P	P	P	S	P	P
<del>Winery +</del>	S										S			S	S			P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

	Residential									Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Industrial and Manufacturing																			
<del>Brewery or Distillery (Excluding Brew Pub) +</del>																		P	P
<del>Winery +</del>	S																	P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

## SECTION 2.1.6: RETAIL AND PERSONAL SERVICE USE CONDITIONS

*Brewpub. A brewpub is a restaurant that incorporates a craft or microbrewery as an accessory use. The microbrewery in conjunction with the restaurant allows for the manufacturing of beer -- in limited quantities -- for both on premise and off premise consumption.*

*Craft/Micro Brewery, Distillery and/or Winery. Craft or micro-breweries, distilleries and/or wineries are small scale manufacturing and retail operations that are less than 12,000 square feet in total building area, and where a maximum of 40% of the total floor area can be dedicated to the direct sale of the on-site manufactured product. A craft or micro-brewery, distillery and/or winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of beer for off-premise consumption. A facility that does not have a manufacturing component (i.e. only provides tasting or retail sales of alcoholic beverages) shall not be considered a craft or micro-brewery, distillery and/or winery and shall be prohibited.*

*Restaurant with Accessory Private Club or brew pub. See "private club" above.*

~~*Winery. A winery shall mean the manufacturing, bottling, labeling and packaging of wine containing not more than 24 percent alcohol by volume from grapes, fruits and berries grown on premises or imported, and to include the manufacturing and importation of grape brandy for fortifying purposes only. Wine sales may be to holders of wholesaler's permits, winery permits, and wine bottler's permits. Retail sales to ultimate consumers in unbroken packages for off-premises consumption may not exceed an amount of 35,000 gallons annually. A winery may include the following accessory uses; a tasting room to dispense wine for on-premises consumption, meeting/banquet facilities, restaurants, and a retail sales area of wine for off-premises consumption.*~~

## SECTION 2.1.9: INDUSTRIAL AND MANUFACTURING

*Brewery or Distillery. A brewery or distillery is an industrial facility where the primary purpose of the facility is the manufacturing of malt, brewed and/or distilled beverages produced on the premises for sale or distributed for off-premise consumption. A brewery or distillery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption.*

*Winery. A winery is the industrial manufacturing, bottling, labeling and packaging of wine in accordance with the Texas Local Government Code (TLGC). A winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense wine for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of wine for off-premise consumption.*

# ZONING PRACTICE

MARCH 2014



AMERICAN PLANNING ASSOCIATION

➔ ISSUE NUMBER 3

## PRACTICE MICROBREWERIES



# 3

# 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-

## ASK THE AUTHOR JOIN US ONLINE!

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](http://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.

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



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.



## 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

#### 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. (Glennville, 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)

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 microbrewery	X	X	§14-03-08.4.u
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 microbrewery microdistillery	X	X	§6.28 §6.28 §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 microdistillery microwinery	X X X	X X X	
Glennville	NY	29,480	580	microbrewery microwinery	X X		
Goodyear	AZ	65,275	341	brewpub microbrewery	X X		§4-2-15 §4-2-16
Memphis-Shelby	TN	646,889	2,053	brew pub microbrewery microdistillery	X X X	X X X	§2.6.3.G §2.6.4.F §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 microbrewery	X X	X X	§1501.11 §1501.12
Port Townsend	WA	9,113	1,306	microbrewery microdistillery microwinery	X X X	X	
St. Petersburg	FL	244,769	3,964	brewpub microbrewery	X X	X X	§16.50.045 §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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**ZONING PRACTICE**  
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# HOW DOES YOUR ZONING TREAT BREW PUBS, MICROBREWERIES, MICRODISTILLERIES, AND MICROWINERIES?

# 3

(2) obtains from the retailer at the time of delivery a written affirmation, which may be printed or stamped on a sales invoice evidencing the sale or delivery of alcoholic beverages by the permit holder, that the retailer is authorized to purchase and receive the type of alcoholic beverage sold and delivered by the permit holder.

## CHAPTER 12. BREWER'S PERMIT (B)

**Sec. 12.01. AUTHORIZED ACTIVITIES.** (a) The holder of a brewer's permit may:

- (1) manufacture, bottle, package, and label malt liquor;
- (2) import ale and malt liquor acquired from a holder of a nonresident brewer's permit;
- (3) sell the ale and malt liquor only to wholesale permit holders in this state or to qualified persons outside the state;
- (4) dispense ale and malt liquor for consumption on the premises;
- (5) conduct samplings of ale or malt liquor, including tastings, at a retailer's premises; and
- (6) enter into an alternating brewery proprietorship or contract brewing arrangement as provided by Section 12.06.

(b) An agent or employee of the holder of a brewer's permit may open, touch, or pour ale or malt liquor, make a presentation, or answer questions at a sampling event.

**Sec. 12.02. FEE.** The annual state fee for a brewer's permit is \$1,500.

**Sec. 12.03. ALE OR MALT LIQUOR FOR EXPORT.** Regardless of any other provision of this code, a holder of a brewer's permit may manufacture and package malt beverages, or import them from outside the state, for shipment out of the state, even though the alcohol content, containers, packages, or labels make the beverages illegal to sell within the state. The permittee may export the beverages out of the state or deliver them at his premises for shipment out of the state without being liable for any state tax on beer, ale, or malt liquor sold for resale in the state.

**Sec. 12.04. CONTINUANCE OF OPERATION AFTER LOCAL OPTION ELECTION.** The right of a brewer's permittee to continue operation after a prohibitory local option election is covered by Section 251.75 of this code.

**Sec. 12.052. SALES BY CERTAIN BREWERS TO CONSUMERS.** (a) In addition to the activities authorized by Section 12.01, the holder of a brewer's permit whose annual production of ale together with the annual production of beer by the holder of a manufacturer's license at the same premises does not exceed a total of 225,000 barrels may sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises.

(b) The total combined sales of ale to ultimate consumers under this section, together with the sales of beer to ultimate consumers by the holder of a manufacturer's license under Section 62.122 at the same premises, may not exceed 5,000 barrels annually.

**Sec. 12.06. USE OF FACILITIES.** (a) The holder of a brewer's or nonresident brewer's permit may contract with the holder of a brewer's permit:

- (1) to provide brewing services; or
- (2) for the use of the permit holder's brewing facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond, as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (e) or (f).

(b) An entity is not required to own its brewing facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).

(c) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a permit at the location where brewing services are conducted under the arrangement.

(d) This section does not authorize a person acting as an agent for a brewery located outside of this state to contract with the holder of a brewer's permit to brew ale or malt liquor on the person's behalf. A contract described by this subsection may only be entered into by the holder of a brewer's permit and another person holding a permit under this code.

(e) Subject to Subsection (f), the commission by rule may require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission not to exceed \$200,000.

(f) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than \$30,000 if the entity does not own a fee interest in a brewing facility.

## CHAPTER 12A. BREWER'S SELF-DISTRIBUTION PERMIT(DA)

**Sec. 12A.01. ELIGIBILITY FOR PERMIT.** A brewer's self-distribution permit may be issued only to the holder of a brewer's permit under Chapter 12 or the holder of a nonresident brewer's permit under Chapter 13.

**Sec. 12A.02. AUTHORIZED ACTIVITIES.** (a) A holder of a brewer's self-distribution permit whose annual production of ale under the brewer's or nonresident brewer's permit, together with the annual production of beer by the holder of a manufacturer's or nonresident manufacturer's license at the same premises, does not exceed 125,000 barrels may sell ale produced under the brewer's or nonresident brewer's permit to those persons to whom the holder of a general class B wholesaler's permit may sell ale under Section 20.01(3).

(b) The total combined sales of ale under this section, together with the sales of beer by the holder of a manufacturer's self-distribution license under Section 62A.02 at the same premises, may not exceed 40,000 barrels annually.

(c) With regard to a sale under this section, the holder of a brewer's self-distribution permit has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general class B wholesaler's permit.

(d) Ale sold under this section may be shipped only from a brewery in this state.

**Sec. 12A.03. FEE.** The annual state fee for a brewer's self-distribution permit is \$250.

**Sec. 12A.04. REPORT OF SALES TO RETAILERS.** (a) Not later than the 15th day of each month, the holder of a brewer's self-distribution permit shall file a report with the commission that contains information relating to the sales made by the permit holder to a retailer during the preceding calendar month.

(b) The commission shall by rule determine the information that is required to be reported under this section and the manner in which the report must be submitted to the commission. The commission may require the report to contain the same information reported to the comptroller under Section 151.462, Tax Code [*Refer to Appendix for this citation*].

## CHAPTER 13. NONRESIDENT BREWER'S PERMIT (U)

**Sec. 13.01. PERMIT REQUIRED.** A nonresident brewer's permit is required for any brewer located outside the state before his ale or malt liquor may be imported into Texas or offered for sale in Texas.

**Sec. 13.02. FEE.** The annual state fee for a nonresident brewer's permit is \$1,500.

**Sec. 13.03. NONRESIDENT SELLER'S PERMIT REQUIRED.** The holder of a nonresident brewer's permit is also required to hold a nonresident seller's permit.

## **MUNICIPAL CODE OF ORDINANCES**

### **CHAPTER 4: ALCOHOLIC BEVERAGES**

#### **SECTION 4-1.: CONSUMPTION OR POSSESSION IN PUBLIC PLACES PROHIBITED**

*It shall be unlawful for any person to consume or possess any open containers of any alcoholic beverage on the premises of any public place, street or alley in the city, with the following exceptions in accordance with the policies and guidelines adopted by the city council and on file in the city secretary's office:*

- (1) The Center at Rockwall City Place, 108 E. Washington;*
- (2) The Harbor Public Event Area, 2047 Summer Lee; and*
- (3) Town Square, bordered by Washington, Fannin, Olive and Alamo Streets.*

*(Code 1982, § 3-1; Ord. No. 75-7, §§ 1—3, 6-2-1975; Ord. No. 06-49, § 1, 11-6-2006)*

**State Law reference**—*Authority to restrict consumption in certain areas, V.T.C.A., Alcoholic Beverage Code § 109.35.*

CITY OF ROCKWALL

ORDINANCE NO. 18-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [*ORDINANCE NO. 04-38*] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING ARTICLE IV, *PERMISSIBLE USES*; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, an amendment to the City of Rockwall's Unified Development Code [*Ordinance No. 04-38*] has been initiated by the City Council of the City of Rockwall to amend Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*]; and,

**WHEREAS**, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [*Ordinance No. 04-38*] should be amended as follows:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:**

**SECTION 1.** That Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance.

**SECTION 2.** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

**SECTION 3.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [*Ordinance No. 04-38*], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such cases provides;

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 4<sup>TH</sup> DAY OF JUNE, 2018.**

\_\_\_\_\_  
Jim Pruitt, Mayor



**ATTEST:**

\_\_\_\_\_  
Kristy Cole, *City Secretary*

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Frank J. Garza, *City Attorney*

*1<sup>st</sup> Reading:* May 21, 2018

*2<sup>nd</sup> Reading:* June 4, 2018

**Exhibit 'A'**  
Article IV, Permissible Uses, of the  
Unified Development Code

**Key:**

**Additions**

**Deletions**

Section 1. Land Use Schedule.

Section 1.1 Use of Land and Buildings.

	Residential										Mixed Use		Commercial		Industrial				
Commercial and Business Services	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Brewery or Distillery (Excluding Brew Pub)											S							P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

CITY OF ROCKWALL

ORDINANCE NO. 18-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [*ORDINANCE NO. 04-38*] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING ARTICLE IV, *PERMISSIBLE USES*; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, an amendment to the City of Rockwall's Unified Development Code [*Ordinance No. 04-38*] has been initiated by the City Council of the City of Rockwall to amend Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*]; and,

**WHEREAS**, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [*Ordinance No. 04-38*] should be amended as follows:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:**

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**SECTION 2.** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

**SECTION 3.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [*Ordinance No. 04-38*], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such cases provides;

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 4<sup>TH</sup> DAY OF JUNE, 2018.**

---

Jim Pruitt, Mayor

**ATTEST:**

\_\_\_\_\_  
Kristy Cole, *City Secretary*

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Frank J. Garza, *City Attorney*

*1<sup>st</sup> Reading:* May 21, 2018

*2<sup>nd</sup> Reading:* June 4, 2018

**Exhibit 'A'**  
Article IV, Permissible Uses, of the  
Unified Development Code

**Key:**

Additions

Deletions

Section 1. Land Use Schedule.

Section 1.1 Use of Land and Buildings.

Retail and Personal Service	Residential										Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI	
<del>Restaurant with Accessory Private Club</del>											P		P	P	P	P	S	P	P	
<del>Craft/Micro Brewery, Distillery and/or Winery +</del>											S			S	S				P	P
<del>Brew Pub +</del>											P		P	P	P	P	S	P	P	

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

Industrial and Manufacturing	Residential										Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI	
<del>Brewery or Distillery (Excluding Brew Pub) +</del>																			P	P
<del>Winery +</del>	S																		P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

Section 2.1.6: Retail and Personal Service Use Conditions

**Brewpub.** A brewpub is a restaurant that incorporates a craft or microbrewery as an accessory use. The microbrewery in conjunction with the restaurant allows for the manufacturing of beer -- in limited quantities -- for both on premise and off premise consumption.

**Craft/Micro Brewery, Distillery and/or Winery.** Craft or micro-breweries, distilleries and/or wineries are small scale manufacturing and retail operations that are less than 12,000 square feet in total building area, and where a maximum of 40% of the total floor area can be dedicated to the direct sale of the on-site manufactured product. A craft or micro-brewery, distillery and/or winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of beer for off-premise consumption. A facility that does not have a manufacturing component (i.e. only provides tasting or retail sales of alcoholic beverages) shall not be considered a craft or micro-brewery, distillery and/or winery and shall be prohibited.

**Restaurant with Accessory Private Club or brew pub.** See "private club" above.

**Winery.** A winery shall mean the manufacturing, bottling, labeling and packaging of wine containing not more than 24 percent alcohol by volume from grapes, fruits and berries grown on-premises or imported, and to include the manufacturing and importation of grape brandy for fortifying purposes only. Wine sales may be to holders of wholesaler's permits, winery permits, and wine bottler's permits. Retail sales to ultimate consumers in unbroken packages for off-premises consumption may not exceed an amount of

**Exhibit 'A'**  
Article IV, Permissible Uses, of the  
Unified Development Code

35,000 gallons annually. A winery may include the following accessory uses; a tasting room to dispense wine for on-premises consumption, meeting/banquet facilities, restaurants, and a retail sales area of wine for off-premises consumption.

**Section 2.1.9: Industrial and Manufacturing**

**Brewery or Distillery.** A brewery or distillery is an industrial facility where the primary purpose of the facility is the manufacturing of malt, brewed and/or distilled beverages produced on the premises for sale or distributed for off-premise consumption. A brewery or distillery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption.

**Winery.** A winery is the industrial manufacturing, bottling, labeling and packaging of wine in accordance with the Texas Local Government Code (TLGC). A winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense wine for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of wine for off-premise consumption.



# CITY OF ROCKWALL, TEXAS

## MEMORANDUM

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**TO:** Mayor and City Council

**CC:** Rick Crowley, *City Manager*  
Brad Griggs, *Assistant City Manager*

**FROM:** Ryan Miller, *Director of Planning and Zoning*

**DATE:** May 21, 2018

**SUBJECT:** *Z2018-019; Proposed Amendment to Article IV, Permissible Uses, UDC to Allow a Brewery and Distillery (Excluding Brew Pub) in the Downtown (DT) District*

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At the April 2, 2018 City Council meeting, the City Council directed staff to prepare a text amendment amending Article IV, *Permissible Uses*, of the Unified Development Code (UDC) for the purpose of allowing the *Brewery and Distillery (Excluding Brewpub)* land use in the Downtown (DT) District by Specific Use Permit (SUP). This direction was the result of an appointment with Lorne Liechty of Liechty & McGinnis, LLP on behalf of Cory and Eva Cannon who are requesting the amendment to establish a brewery in the Downtown (DT) District. Under the City's current ordinances, the *Brewery or Distillery (Excluding Brew Pub)* land use is only permitted *by-right* in the Light Industrial (LI) and Heavy Industrial (HI) Districts. The purpose of these designations is that -- *until recently* -- a brewery or distillery was viewed as a manufacturing or industrial type of use; however, in 2013 the *Texas Alcoholic Beverage Commission (TABC)* passed amendments designed to loosen the restrictions on *microbreweries* or *craft-breweries*.

In response to the City Council's direction, staff brought the proposed text amendment to the Planning and Zoning Commission on April 24, 2018 for discussion. Based on the discussion at this meeting and the questions asked by the Planning and Zoning Commission, staff prepared two (2) options for the proposed text amendment:

*Option 1.* The first option would simply allow the *Brewery or Distillery (Excluding Brew Pub)* land use in the Downtown (DT) District by Specific Use Permit (SUP). This would rely on the Planning and Zoning Commission and City Council to set regulations on a case-by-case basis through the Specific Use Permit (SUP) process.

*Option 2.* The second option would create a new land use, *Craft/Micro Brewery, Distillery and/or Winery*, which would be allowed through discretionary approval (*i.e. SUP*) in the Downtown (DT), General Retail (GR) and Commercial (C) Districts and *by-right* in the Light Industrial (LI) and Heavy Industrial (HI) Districts (*i.e. the same districts that allow the current Winery land use and by-right Brewery and/or Distillery [excluding Brewpub] land use*). In addition, the new land use would restrict the size of these types operations (*i.e. 12,000 SF*), the size of their non-manufacturing or retail sales space (*i.e. 40% of total building area*), and the permitted accessory land uses. Under *Option 2*, larger *Brewery or Distillery* land uses would continue to be allowed only in industrial districts and the *Winery* land use would be restricted to the Agricultural (AG) District by Specific Use Permit (SUP), and Light Industrial (LI) and Heavy Industrial (HI) Districts *by-right*. By doing this, the code makes the distinction between smaller wineries (*i.e. which typically do not have vineyards or an agricultural component on premise*) and larger scale wineries (*i.e. which typically have vineyards and an agricultural component on premise*).



Finally, the code amendment would decouple the *Private Club* and *Brewpub* land uses in order to establish a definition of *Brewpub*. The permitted land use districts would not change for either the *Private Club* or *Brewpub* land uses. *Option 2* is designed to make distinctions between the various alcohol related land uses and provide specific regulations for each, but does not increase the districts where these uses are allowed. The only exception is the addition of the *Craft/Micro Brewery, Distillery and/or Winery* in the Downtown (DT) District, which already permits wineries by Specific Use Permit (SUP).

Both text amendments would grant the Planning and Zoning Commission and City Council discretionary oversight and approval authority for any *brewery* land use proposed in the Downtown (DT) District. In addition, both text amendments give the Planning and Zoning Commission and City Council the ability to establish operational conditions for the land use on a *case-by-case* basis through the Specific Use Permit (SUP) in the Downtown (DT) District. *Option 2* is more restrictive than *Option 1*, and would clean up and provide restrictions for other alcohol related land uses; however, both options give the Planning and Zoning Commission and City Council discretionary oversight with regard to the requested land use.

In accordance, with Section 4.2 of Article XI, *Zoning Related Applications*, of the UDC staff brought the proposed amendment options forward to the Planning and Zoning Commission for a recommendation to the City Council. On May 8, 2018, the Planning and Zoning Commission approved a motion to recommend approval of *Option 2* to the City Council by a vote of 7-0. Attached to this case memo is a copy of the proposed amendments to the UDC and corresponding draft ordinances for both of the presented options. In addition, staff has included excerpts from the Texas Alcoholic Beverage Commission's Alcoholic Beverage Code and a copy of the American Planning Association's March 2014 *Zoning Practice* which outlines the issues associated with *Microbreweries*. Staff has sent out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Section 6.1 of Article II, *Authority and Administrative Procedures*, of the UDC. Should the City Council have any questions staff will be available at the meeting on May 21, 2018 to discuss this case.

ARTICLE IV, *PERMISSIBLE USES*, OF THE UDC

KEY:

Additions

Deletions

OPTION 1: UTILIZING EXISTING

SECTION 1. LAND USE SCHEDULE

SECTION 1.1: USE OF LAND AND BUILDINGS

	Residential									Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Commercial and Business Services																			
Brewery or Distillery (Excluding Brew Pub)											S							P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

OPTION 2: DEFINED LAND USES

SECTION 1. LAND USE SCHEDULE

SECTION 1.1: USE OF LAND AND BUILDINGS

	Residential									Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Retail and Personal Service																			
Restaurant with Accessory Private Club or Brew Pub											P		P	P	P	P	S	P	P
Craft/Micro Brewery, Distillery and/or Winery +											S			S	S			P	P
Brew Pub +											P		P	P	P	P	S	P	P
Winery +	S										S			S	S			P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

	Residential									Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Industrial and Manufacturing																			
Brewery or Distillery (Excluding Brew Pub) +																		P	P
Winery +	S																	P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

## SECTION 2.1.6: RETAIL AND PERSONAL SERVICE USE CONDITIONS

*Brewpub. A brewpub is a restaurant that incorporates a craft or microbrewery as an accessory use. The microbrewery in conjunction with the restaurant allows for the manufacturing of beer -- in limited quantities -- for both on premise and off premise consumption.*

*Craft/Micro Brewery, Distillery and/or Winery. Craft or micro-breweries, distilleries and/or wineries are small scale manufacturing and retail operations that are less than 12,000 square feet in total building area, and where a maximum of 40% of the total floor area can be dedicated to the direct sale of the on-site manufactured product. A craft or micro-brewery, distillery and/or winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of beer for off-premise consumption. A facility that does not have a manufacturing component (i.e. only provides tasting or retail sales of alcoholic beverages) shall not be considered a craft or micro-brewery, distillery and/or winery and shall be prohibited.*

*Restaurant with Accessory Private Club or brew pub. See "private club" above.*

~~*Winery. A winery shall mean the manufacturing, bottling, labeling and packaging of wine containing not more than 24 percent alcohol by volume from grapes, fruits and berries grown on premises or imported, and to include the manufacturing and importation of grape brandy for fortifying purposes only. Wine sales may be to holders of wholesaler's permits, winery permits, and wine bottler's permits. Retail sales to ultimate consumers in unbroken packages for off-premises consumption may not exceed an amount of 35,000 gallons annually. A winery may include the following accessory uses; a tasting room to dispense wine for on-premises consumption, meeting/banquet facilities, restaurants, and a retail sales area of wine for off-premises consumption.*~~

## SECTION 2.1.9: INDUSTRIAL AND MANUFACTURING

*Brewery or Distillery. A brewery or distillery is an industrial facility where the primary purpose of the facility is the manufacturing of malt, brewed and/or distilled beverages produced on the premises for sale or distributed for off-premise consumption. A brewery or distillery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption.*

*Winery. A winery is the industrial manufacturing, bottling, labeling and packaging of wine in accordance with the Texas Local Government Code (TLGC). A winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense wine for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of wine for off-premise consumption.*

# ZONING PRACTICE

MARCH 2014



AMERICAN PLANNING ASSOCIATION

➔ ISSUE NUMBER 3

## PRACTICE MICROBREWERIES



# 3

# 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-



## ASK THE AUTHOR JOIN US ONLINE!

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](http://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.

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



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.



## 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

#### 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)

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 microbrewery	X	X	§14-03-08.4.u
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 microbrewery microdistillery	X	X	§6.28 §6.28 §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 microdistillery microwinery	X X X	X X X	
Glenville	NY	29,480	580	microbrewery microwinery	X X		
Goodyear	AZ	65,275	341	brewpub microbrewery	X X		§4-2-15 §4-2-16
Memphis-Shelby	TN	646,889	2,053	brew pub microbrewery microdistillery	X X X	X X X	§2.6.3.G §2.6.4.F §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 microbrewery	X X	X X	§1501.11 §1501.12
Port Townsend	WA	9,113	1,306	microbrewery microdistillery microwinery	X X X	X	
St. Petersburg	FL	244,769	3,964	brewpub microbrewery	X X	X X	§16.50.045 §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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**ZONING PRACTICE**  
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# HOW DOES YOUR ZONING TREAT BREW PUBS, MICROBREWERIES, MICRODISTILLERIES, AND MICROWINERIES?

# 3

(2) obtains from the retailer at the time of delivery a written affirmation, which may be printed or stamped on a sales invoice evidencing the sale or delivery of alcoholic beverages by the permit holder, that the retailer is authorized to purchase and receive the type of alcoholic beverage sold and delivered by the permit holder.

## CHAPTER 12. BREWER'S PERMIT (B)

**Sec. 12.01. AUTHORIZED ACTIVITIES.** (a) The holder of a brewer's permit may:

- (1) manufacture, bottle, package, and label malt liquor;
- (2) import ale and malt liquor acquired from a holder of a nonresident brewer's permit;
- (3) sell the ale and malt liquor only to wholesale permit holders in this state or to qualified persons outside the state;
- (4) dispense ale and malt liquor for consumption on the premises;
- (5) conduct samplings of ale or malt liquor, including tastings, at a retailer's premises; and
- (6) enter into an alternating brewery proprietorship or contract brewing arrangement as provided by Section 12.06.

(b) An agent or employee of the holder of a brewer's permit may open, touch, or pour ale or malt liquor, make a presentation, or answer questions at a sampling event.

**Sec. 12.02. FEE.** The annual state fee for a brewer's permit is \$1,500.

**Sec. 12.03. ALE OR MALT LIQUOR FOR EXPORT.** Regardless of any other provision of this code, a holder of a brewer's permit may manufacture and package malt beverages, or import them from outside the state, for shipment out of the state, even though the alcohol content, containers, packages, or labels make the beverages illegal to sell within the state. The permittee may export the beverages out of the state or deliver them at his premises for shipment out of the state without being liable for any state tax on beer, ale, or malt liquor sold for resale in the state.

**Sec. 12.04. CONTINUANCE OF OPERATION AFTER LOCAL OPTION ELECTION.** The right of a brewer's permittee to continue operation after a prohibitory local option election is covered by Section 251.75 of this code.

**Sec. 12.052. SALES BY CERTAIN BREWERS TO CONSUMERS.** (a) In addition to the activities authorized by Section 12.01, the holder of a brewer's permit whose annual production of ale together with the annual production of beer by the holder of a manufacturer's license at the same premises does not exceed a total of 225,000 barrels may sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises.

(b) The total combined sales of ale to ultimate consumers under this section, together with the sales of beer to ultimate consumers by the holder of a manufacturer's license under Section 62.122 at the same premises, may not exceed 5,000 barrels annually.

**Sec. 12.06. USE OF FACILITIES.** (a) The holder of a brewer's or nonresident brewer's permit may contract with the holder of a brewer's permit:

- (1) to provide brewing services; or
- (2) for the use of the permit holder's brewing facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond, as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (e) or (f).

(b) An entity is not required to own its brewing facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).



(c) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a permit at the location where brewing services are conducted under the arrangement.

(d) This section does not authorize a person acting as an agent for a brewery located outside of this state to contract with the holder of a brewer's permit to brew ale or malt liquor on the person's behalf. A contract described by this subsection may only be entered into by the holder of a brewer's permit and another person holding a permit under this code.

(e) Subject to Subsection (f), the commission by rule may require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission not to exceed \$200,000.

(f) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than \$30,000 if the entity does not own a fee interest in a brewing facility.

## CHAPTER 12A. BREWER'S SELF-DISTRIBUTION PERMIT(DA)

**Sec. 12A.01. ELIGIBILITY FOR PERMIT.** A brewer's self-distribution permit may be issued only to the holder of a brewer's permit under Chapter 12 or the holder of a nonresident brewer's permit under Chapter 13.

**Sec. 12A.02. AUTHORIZED ACTIVITIES.** (a) A holder of a brewer's self-distribution permit whose annual production of ale under the brewer's or nonresident brewer's permit, together with the annual production of beer by the holder of a manufacturer's or nonresident manufacturer's license at the same premises, does not exceed 125,000 barrels may sell ale produced under the brewer's or nonresident brewer's permit to those persons to whom the holder of a general class B wholesaler's permit may sell ale under Section 20.01(3).

(b) The total combined sales of ale under this section, together with the sales of beer by the holder of a manufacturer's self-distribution license under Section 62A.02 at the same premises, may not exceed 40,000 barrels annually.

(c) With regard to a sale under this section, the holder of a brewer's self-distribution permit has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general class B wholesaler's permit.

(d) Ale sold under this section may be shipped only from a brewery in this state.

**Sec. 12A.03. FEE.** The annual state fee for a brewer's self-distribution permit is \$250.

**Sec. 12A.04. REPORT OF SALES TO RETAILERS.** (a) Not later than the 15th day of each month, the holder of a brewer's self-distribution permit shall file a report with the commission that contains information relating to the sales made by the permit holder to a retailer during the preceding calendar month.

(b) The commission shall by rule determine the information that is required to be reported under this section and the manner in which the report must be submitted to the commission. The commission may require the report to contain the same information reported to the comptroller under Section 151.462, Tax Code [*Refer to Appendix for this citation*].

## CHAPTER 13. NONRESIDENT BREWER'S PERMIT (U)

**Sec. 13.01. PERMIT REQUIRED.** A nonresident brewer's permit is required for any brewer located outside the state before his ale or malt liquor may be imported into Texas or offered for sale in Texas.

**Sec. 13.02. FEE.** The annual state fee for a nonresident brewer's permit is \$1,500.

**Sec. 13.03. NONRESIDENT SELLER'S PERMIT REQUIRED.** The holder of a nonresident brewer's permit is also required to hold a nonresident seller's permit.

## **MUNICIPAL CODE OF ORDINANCES**

### **CHAPTER 4: ALCOHOLIC BEVERAGES**

#### **SECTION 4-1.: CONSUMPTION OR POSSESSION IN PUBLIC PLACES PROHIBITED**

*It shall be unlawful for any person to consume or possess any open containers of any alcoholic beverage on the premises of any public place, street or alley in the city, with the following exceptions in accordance with the policies and guidelines adopted by the city council and on file in the city secretary's office:*

- (1) The Center at Rockwall City Place, 108 E. Washington;*
- (2) The Harbor Public Event Area, 2047 Summer Lee; and*
- (3) Town Square, bordered by Washington, Fannin, Olive and Alamo Streets.*

*(Code 1982, § 3-1; Ord. No. 75-7, §§ 1—3, 6-2-1975; Ord. No. 06-49, § 1, 11-6-2006)*

**State Law reference**—*Authority to restrict consumption in certain areas, V.T.C.A., Alcoholic Beverage Code § 109.35.*

CITY OF ROCKWALL

ORDINANCE NO. 18-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [*ORDINANCE NO. 04-38*] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING ARTICLE IV, *PERMISSIBLE USES*; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, an amendment to the City of Rockwall's Unified Development Code [*Ordinance No. 04-38*] has been initiated by the City Council of the City of Rockwall to amend Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*]; and,

**WHEREAS**, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [*Ordinance No. 04-38*] should be amended as follows:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:**

**SECTION 1.** That Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance.

**SECTION 2.** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

**SECTION 3.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [*Ordinance No. 04-38*], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such cases provides;

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 4<sup>TH</sup> DAY OF JUNE, 2018.**

---

Jim Pruitt, Mayor

**ATTEST:**

\_\_\_\_\_  
Kristy Cole, *City Secretary*

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Frank J. Garza, *City Attorney*

1<sup>st</sup> Reading: May 21, 2018

2<sup>nd</sup> Reading: June 4, 2018

**Exhibit 'A'**  
Article IV, Permissible Uses, of the  
Unified Development Code

**Key:**

**Additions**

**Deletions**

Section 1. Land Use Schedule.

Section 1.1 Use of Land and Buildings.

	Residential										Mixed Use		Commercial		Industrial				
Commercial and Business Services	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Brewery or Distillery (Excluding Brew Pub)											S							P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

CITY OF ROCKWALL

ORDINANCE NO. 18-XX

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Jim Pruitt, Mayor



**ATTEST:**

\_\_\_\_\_  
Kristy Cole, *City Secretary*

**APPROVED AS TO FORM:**

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Frank J. Garza, *City Attorney*

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Section 1.1 Use of Land and Buildings.

Retail and Personal Service	Residential									Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
<del>Restaurant with Accessory Private Club</del>											P		P	P	P	P	S	P	P
<del>Craft/Micro Brewery, Distillery and/or Winery +</del>											S			S	S			P	P
<del>Brew Pub +</del>											P		P	P	P	P	S	P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

Industrial and Manufacturing	Residential									Mixed Use		Commercial			Industrial				
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
<del>Brewery or Distillery (Excluding Brew Pub) +</del>																		P	P
<del>Winery +</del>	S																	P	P

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

Section 2.1.6: Retail and Personal Service Use Conditions

**Brewpub.** A brewpub is a restaurant that incorporates a craft or microbrewery as an accessory use. The microbrewery in conjunction with the restaurant allows for the manufacturing of beer -- in limited quantities -- for both on premise and off premise consumption.

**Craft/Micro Brewery, Distillery and/or Winery.** Craft or micro-breweries, distilleries and/or wineries are small scale manufacturing and retail operations that are less than 12,000 square feet in total building area, and where a maximum of 40% of the total floor area can be dedicated to the direct sale of the on-site manufactured product. A craft or micro-brewery, distillery and/or winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of beer for off-premise consumption. A facility that does not have a manufacturing component (i.e. only provides tasting or retail sales of alcoholic beverages) shall not be considered a craft or micro-brewery, distillery and/or winery and shall be prohibited.

**Restaurant with Accessory Private Club or brew pub.** See "private club" above.

**Winery.** A winery shall mean the manufacturing, bottling, labeling and packaging of wine containing not more than 24 percent alcohol by volume from grapes, fruits and berries grown on premises or imported, and to include the manufacturing and importation of grape brandy for fortifying purposes only. Wine sales may be to holders of wholesaler's permits, winery permits, and wine bottler's permits. Retail sales to ultimate consumers in unbroken packages for off-premises consumption may not exceed an amount of

**Exhibit 'A'**  
Article IV, Permissible Uses, of the  
Unified Development Code

35,000 gallons annually. A winery may include the following accessory uses; a tasting room to dispense wine for on-premises consumption, meeting/banquet facilities, restaurants, and a retail sales area of wine for off-premises consumption.

**Section 2.1.9: Industrial and Manufacturing**

**Brewery or Distillery.** A brewery or distillery is an industrial facility where the primary purpose of the facility is the manufacturing of malt, brewed and/or distilled beverages produced on the premises for sale or distributed for off-premise consumption. A brewery or distillery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption.

**Winery.** A winery is the industrial manufacturing, bottling, labeling and packaging of wine in accordance with the Texas Local Government Code (TLGC). A winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense wine for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of wine for off-premise consumption.

CITY OF ROCKWALL

ORDINANCE NO. 18-27

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [*ORDINANCE NO. 04-38*] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING ARTICLE IV, *PERMISSIBLE USES*; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

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**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:**


**SECTION 1.** That Article IV, *Permissible Uses*, of the Unified Development Code [*Ordinance No. 04-38*] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance.

**SECTION 2.** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

**SECTION 3.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [*Ordinance No. 04-38*], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such cases provides.

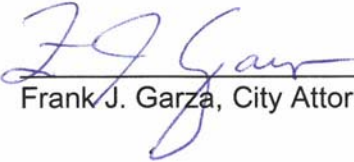
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL,  
TEXAS, THIS THE 4<sup>TH</sup> DAY OF JUNE, 2018.

  
Kevin Fowler, Mayor Pro Tem

**ATTEST:**

  
\_\_\_\_\_  
Kristy Cole, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Frank J. Garza, City Attorney



1<sup>st</sup> Reading: 05-21-18

2<sup>nd</sup> Reading: 06-04-18



**Exhibit 'A'**  
Article IV, Permissible Uses, of the  
Unified Development Code

**Key:**  
Additions  
Deletions

Section 1. Land Use Schedule.  
Section 1.1 Use of Land and Buildings.

	Residential										Mixed Use		Commercial			Industrial			
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Retail and Personal Service																			
<del>Restaurant with Accessory Private Club</del>																			
<del>Craft/Micro Brewery, Distillery and/or Winery +</del>																			
<del>Brew Pub +</del>																			

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

	Residential										Mixed Use		Commercial			Industrial			
	AG	SF-E	SF-1	SF-16	SF-10	SF-8.4	SF-7	ZL-5	2F	MF-14	DT	R-O	NS	GR	C	HC	RT	LI	HI
Brewery or Distillery ( <del>Excluding Brew Pub</del> ) +																			
<del>Winery +</del>																			

P=Permitted; A=Accessory Use; S=SUP; +=Permitted with Conditions

Section 2.1.6: Retail and Personal Service Use Conditions

**Brewpub.** A brewpub is a restaurant that incorporates a craft or microbrewery as an accessory use. The microbrewery in conjunction with the restaurant allows for the manufacturing of beer -- in limited quantities -- for both on premise and off premise consumption.

**Craft/Micro Brewery, Distillery and/or Winery.** Craft or micro-breweries, distilleries and/or wineries are small scale manufacturing and retail operations that are less than 12,000 square feet in total building area, and where a maximum of 40% of the total floor area can be dedicated to the direct sale of the on-site manufactured product. A craft or micro-brewery, distillery and/or winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of beer for off-premise consumption. A facility that does not have a manufacturing component (i.e. only provides tasting or retail sales of alcoholic beverages) shall not be considered a craft or micro-brewery, distillery and/or winery and shall be prohibited.

**Restaurant with Accessory Private Club or brew pub.** See "private club" above.

**Winery.** A winery shall mean the manufacturing, bottling, labeling and packaging of wine containing not more than 24 percent alcohol by volume from grapes, fruits and berries grown on premises or imported, and to include the manufacturing and importation of grape brandy for fortifying purposes only. Wine sales may be to holders of wholesaler's permits, winery permits, and wine bottler's permits. Retail sales to ultimate consumers in unbroken packages for off premises consumption may not exceed an amount of



**Exhibit 'A'**  
Article IV, Permissible Uses, of the  
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~~35,000 gallons annually. A winery may include the following accessory uses; a tasting room to dispense wine for on-premises consumption, meeting/banquet facilities, restaurants, and a retail sales area of wine for off-premises consumption.~~

*Section 2.1.9: Industrial and Manufacturing*

**Brewery or Distillery.** A brewery or distillery is an industrial facility where the primary purpose of the facility is the manufacturing of malt, brewed and/or distilled beverages produced on the premises for sale or distributed for off-premise consumption. A brewery or distillery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense beer for on premise consumption.

**Winery.** A winery is the industrial manufacturing, bottling, labeling and packaging of wine in accordance with the Texas Local Government Code (TLGC). A winery may include the following accessory uses (in accordance with any applicable land use standards and requirements): (1) a tasting room to dispense wine for on premise consumption, (2) meeting/banquet facilities, (3) restaurants, and/or (4) retail sales of wine for off-premise consumption.