



**COMMITTEE OF THE WHOLE MEETING**  
**MONDAY, MAY 20, 2019**  
(Immediately following the Village Board Meeting)

**AGENDA**

**CALL TO ORDER**

**ROLL CALL**

**AUDIENCE COMMENTS**

**TRUSTEE COMMENTS**

**DISCUSSION**

1. 1059 Orchard Road Special Use
2. Business District Use Update

**EXECUTIVE SESSION**

**ADJOURN**

Initials

SB

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**VILLAGE OF NORTH AURORA  
BOARD REPORT**

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**TO:** VILLAGE PRESIDENT & BOARD OF TRUSTEES  
CC: STEVE BOSCO, VILLAGE ADMINISTRATOR  
**FROM:** MIKE TOTH, COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR  
**SUBJECT:** PETITION 19-03: 1059 ORCHARD ROAD MICROBREWERY SPECIAL USE  
**AGENDA:** MAY 20, 2019 COMMITTEE OF THE WHOLE MEETING

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**DISCUSSION**

The petitioner is requesting use of a 1,640 square foot tenant space located in the Orchard Crossing Shopping Center for the production and sales of beer. Staff notes that a separate text amendment is being proposed to allow Microbrewery as a special use in all business districts as the use is currently not a classified use in the Zoning Ordinance.

According to information submitted by the petitioner, the space would include a production area for brewing, a walk-in cooler, bar and seating areas. Additionally, the facility would produce roughly 500 barrels of beer per year – five (5) barrels, twice a week (each barrel contains 31 gallons). The petitioner indicated that no outdoor storage would be required and staff included a condition of approval prohibiting outdoor storage on the property.

A public hearing was held before the Plan Commission at their May 7, 2019 meeting. The Plan Commission briefly discussed the proposed business operations. The Plan Commission stated that the proposed use would be a nice addition to that area and unanimously recommended approval of the special use, subject to the two conditions listed in the staff report.

**Attachments:**

1. Staff report to the Plan Commission.

## **Staff Report to the Village of North Aurora Plan Commission**

**FROM: Mike Toth, Community and Economic Development Director**

### **GENERAL INFORMATION**

**Meeting Date:** May 7, 2019

**Petition Number:** 19-03

**Petitioner:** Stephen Newman

**Request(s):** Special use to allow a Microbrewery

**Location:** 1059 Orchard Rd.

**Parcel Number(s):** 12-32-327-007

**Property Size:** Approximately 2.84 acres

**Current Zoning:** B-2 PUD – General Business District Planned Unit Development

**Contiguous Zoning:** North – Unincorporated Property, East – B-2 PUD – General Business District Planned Unit Development, South – B-2 PUD – General Business District Planned Unit Development, West – B-2 PUD – General Business District Planned Unit Development

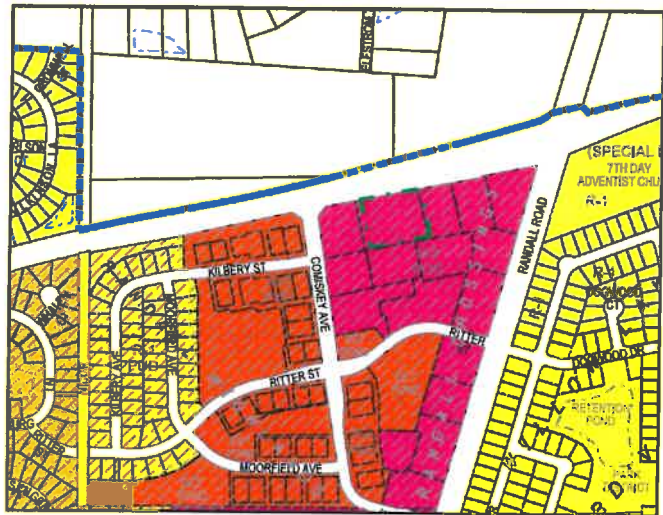
**Contiguous Land Use:** North – large tract vacant land, South – restaurant, East – multi-tenant commercial building West – vacant parcel

**Comprehensive Plan Designation:** Commercial /Retail

### **PROPOSAL**

The petitioner is requesting use of a 1,640 square foot tenant space located in the Orchard Crossing Shopping Center for the production and sales of beer. Staff notes that a separate text amendment is being proposed to allow Microbrewery as a special use in all business districts as the use is currently not a classified use in the Zoning Ordinance.

According to information submitted by the petitioner, the space would include a production area for brewing, a walk-in cooler, bar and seating areas. Additionally, the facility would produce roughly 500



barrels of beer per year – five (5) barrels, twice a week (each barrel contains 31 gallons). The petitioner indicated that no outdoor storage would be required and staff included a condition of approval prohibiting outdoor storage on the property.

### **RECOMMENDATIONS**

Staff finds that the information presented **meets** the Standards for Specials Uses as submitted by the petitioner and as set forth in the Zoning Ordinance. Based on the above considerations, staff recommends that the Plan Commission make the following motion recommending **approval** of Petition #19-03, subject to the following conditions:

1. A building permit shall be secured from the Village for any applicable building improvements.
2. All brewing operations shall be conducted within the confines of the building. All outdoor storage shall be prohibited.

## Letter in support of special use permit

To Whom it May Concern:

Chimp Monk Brewing proposes to operate a microbrewery in Orchard Crossing shopping center at 1059 West Orchard Road. Beer will be both brewed and served on site. Please see the attached diagram for a layout of the brewing and seating areas. The hour of Operations are expected to be Monday 2 – 9 pm, Thursday 2-9pm, Friday 2 – 10 pm, Saturday noon – 10pm and Sunday noon – 8 pm. We would consider expanding the weekend hours to open earlier, if there is a demand to watch international soccer and/or rugby games. Patrons would also be able to purchase guest ciders and beer. We will also offer pre-packaged food and non-alcoholic beverages. While customers would be encouraged to bring in their own food from local restaurants and on special occasions, we would invite food trucks to our location.

We understand the Village is currently petitioning to allow for microbreweries as a special use. There are no microbreweries in the immediate vicinity, so we feel this would fill a void for local residents. Infrastructure already exists so there will be no impact to existing services and the business will supply the area with employment opportunities and tax revenue. This is in line with the Village's Comprehensive Plan, which suggests regional commerce for the property. There will be no changes to the outside structure aside from signage, which will comply with any applicable regulations. There will not be any changes to the existing traffic patterns.. The site already provides adequate parking. All necessary utilities are already in place. The microbrewery is preparing to obtain all necessary applicable Federal State and Local licenses.

Thank you for your consideration on this matter.



Stephen Newman  
CEO Chimp Monk Brewing

## APPLICATION FOR SPECIAL USE

VILLAGE OF NORTH AURORA  
Board of Trustees  
25 East State Street  
North Aurora, IL 60542

PETITION NO. 19-03

FILE NAME 1059 ORCHARD RD. MICLOBANSKY

DATE STAMP

**RECEIVED**

**APR 18 2019**

**VILLAGE OF  
NORTH AURORA**

### I. APPLICANT AND OWNER DATA

Name of Applicant Stephen Newman

Applicant Address 345 N Batavia Ave, Batavia IL 60510

Applicant Telephone # 312 339-9180

Email Address Steve@chimpmonkbrewing.com

Property Owner(s) \_Orchard Crossing Baceline, LLC

Owner Address 1391 Speer Blvd, Suite 800, Denver, CO 80204

Owner Telephone # 303 615 9544

### II. ADDRESS, USE AND ZONING OF PROPERTY

Address of Property 1035-1061 West Orchard Road  
(indicate location if no common address)

Legal Description: \_12-32-327-007

Parcel Size \_\_\_\_\_ 2.92 acres \_\_\_\_\_

Present Use Vacant  
(business, manufacturing, residential, etc.)

Present Zoning District \_\_\_\_\_ B-2 General Business \_\_\_\_\_  
(Zoning Ordinance Classification)

### III. PROPOSED SPECIAL USE

Proposed Special Use    Microbrewery  
(Zoning Ordinance Classification)

Code Section that authorizes Special Use \_\_\_\_\_ N/A \_\_\_\_\_

Has the present applicant previously sought to rezone or request a special use for the property or any part thereof? \_No

If so, when? \_\_\_\_\_ to what district? \_\_\_\_\_

Describe briefly the type of use and improvement proposed \_\_

Microbrewery (see attached letter for more details) \_\_\_\_\_

What are the existing uses of property within the general area of the Property in question? \_\_\_\_\_

Retail, Personal training facility, liquor store credit union \_\_\_\_\_

To the best of your knowledge, can you affirm that there is a need for the special use at the particular location? (Explain) \_\_\_\_\_ No microbreweries in the immediate vicinity \_\_\_\_\_

**Attach hereto a statement with supporting data that the proposed special use will conform to the following standards:**

1. The proposed special use is, in fact, a special use authorized in the zoning district in which the property is located.
2. The proposed special use is deemed necessary for the public convenience at that location.
3. The proposed special use does not create excessive additional impacts at public expense for public facilities and services, and will be beneficial to the economic welfare of the community.
4. The proposed use is in conformance with the goals and policies of the Comprehensive Plan, and all Village codes and regulations.
5. The proposed special use will be designed, located, operated, and maintained so as to be harmonious and compatible in use and appearance with the existing or intended character of the general vicinity.

6. The proposed special use will not significantly diminish the safety, use, enjoyment, and value of other property in the neighborhood in which it is located.
7. The proposed special use is compatible with development on adjacent or neighboring property.
8. The proposed special use minimizes potentially dangerous traffic movements, and provides adequate and safe access to the site.
9. The proposed special use provides the required number of parking spaces and maintains parking areas, in accordance with the requirements of this Ordinance.
10. The proposed special use is served by adequate utilities, drainage, road access, public safety, and other necessary facilities.
11. The proposed special use conforms with the requirements of this Ordinance and other applicable regulations.

#### **IV CHECKLIST FOR ATTACHMENTS**

The following items are attached here to and made a part hereof:

1. Introduction Letter. Please include information relevant to the proposed use of the property and business operations (hours of operation, number of employees, etc.).
2. Legal Description of the subject property(s).
3. Illinois Land Surveyor's plat of survey.
4. Site Plan illustrating all existing and proposed improvements.
5. Statement and supporting data regarding Standards for Special Uses (above).
6. Filing fee in the amount of \$300.00, if paid by check make payable to the Village of North Aurora.
7. Specified escrow deposit (\$4,000 minimum). May be included with filing fee. Remaining funds refundable upon project completion.
8. Visit the Illinois Department of Natural Resources' website [www.dnr.state.il.us](http://www.dnr.state.il.us) and initiate a consultation using DNR's [EcoCat](#) online application.
9. Visit the Kane DuPage Soil and Water Conservation District's website [www.kanedupageswcd.org](http://www.kanedupageswcd.org) for a Land Use Opinion Application



The Applicant authorizes the Village of North Aurora representatives to enter on to the property to make inspection during the hearing process.

The Applicant is responsible for publishing a legal notice in the newspaper, sending United States mail notices to properties within 250 feet, and posting a sign on the property advertising the public hearing. These shall be in accordance with village Ordinances at the times decided by the Village of North Aurora.

The undersigned hereby agrees to reimburse the Village for all costs of court reporter fees for attendance at and transcript of hearing(s) and other professional service fees for services rendered in connection with this application as defined in Appendix B of the North Aurora Zoning Ordinance. Such reimbursement shall be made promptly upon receipt of invoices from the Village, whether or not this application for special use is approved.

I (we) certify that all of the above statements and the statements contained in any documents submitted herewith are true to the best of my (our) knowledge and belief.

  
Applicant or Authorized Agent

Date

4/18/19

  
Owner

Date

4/18/19

Orchard Company Incubator, LLC  
Agent, Portfolio Manager  
Alyssa Scatena

Following are the names and addresses of all property owners within 250 feet of the property in questions for which the special use being is being requested.

See Attached

I, Stephen C Newman, being first duly sworn on oath certifies that all of the above statements and the statements contained in any papers or plans submitted herewith are true and correct.

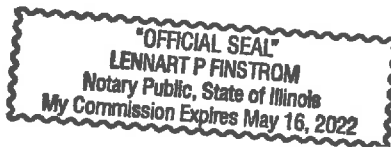
Applicant Signature

Date 4/17/2019

**SUBSCRIBED AND SWORN TO**

Before me this 17 day of April, 2019.

*Lennaut P. Gristner*  
Notary Public



# Mailing Address Buffer

Parcel Number: 1232327007 Distance: 250 Feet

Include Source Parcel: ☒ Yes ☐ No

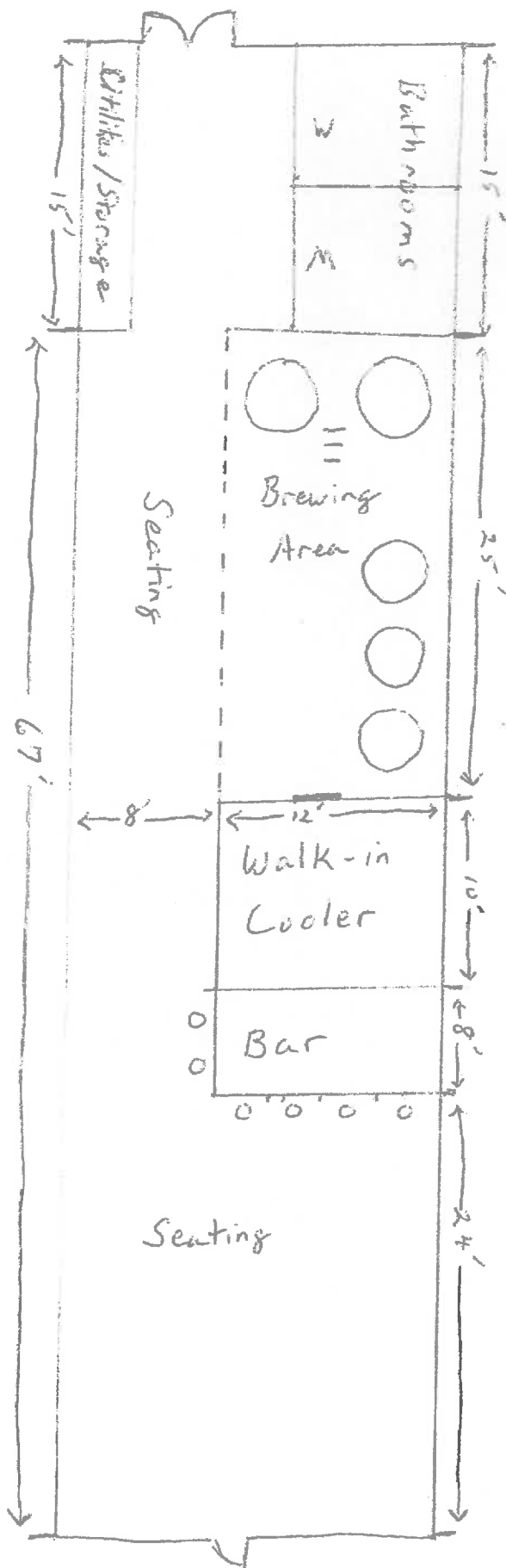
The first record is the buffered parcel

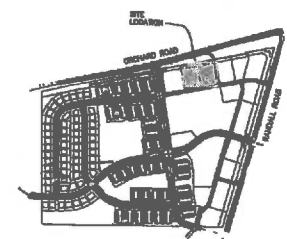
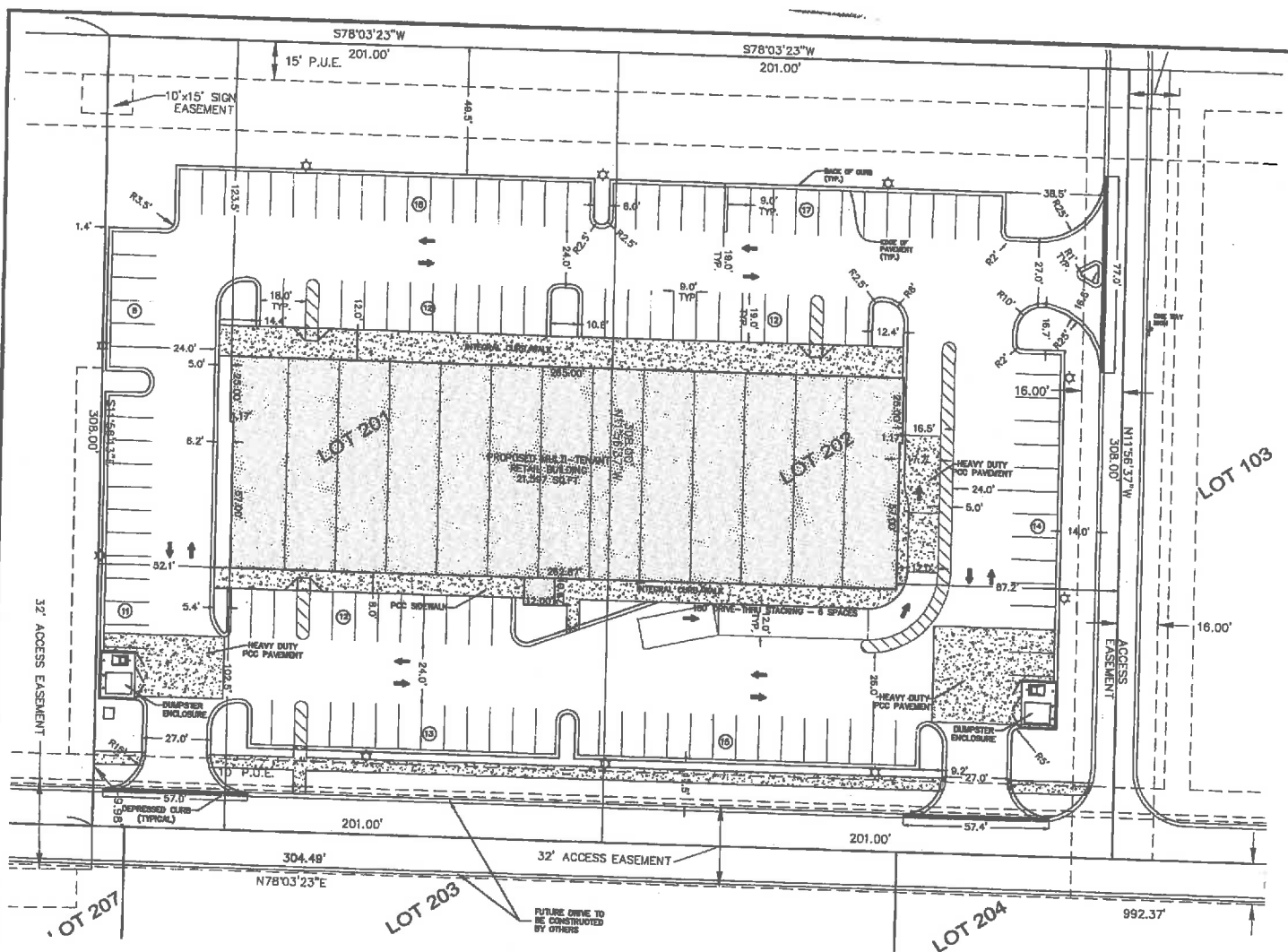
This list contains mailing addresses for parcels with in 250 feet of parcel 1232327007† => Results as .csv

Addresses						
Parcel	Tax Name	Address	Address (Line 2)	City	State	Zip
1232327007	ORCHARD CROSSING CENTER LLC	PO BOX 1339		SAINT CHARLES	IL	601747339
1232100013	LOYAL ORDER OF MOOSE			MOOSEHEART	IL	60539
1232200014	LOYAL ORDER OF MOOSE			MOOSEHEART	IL	60539
1232300017	LOYAL ORDER OF MOOSE			MOOSEHEART	IL	60539
1232327001	BBG RANDALL CROSSING LLC	BRIDGEVIEW BANK GROUP	4753 N BROADWAY ST	CHICAGO	IL	606405266
1232327010	N A TOWNHOMES LLC & OREILLY, TODD A	564 S WASHINGTON ST		NAPERVILLE	IL	605406668
1232403001	DENVER CAPITAL LLC	123 W WASHINGTON ST STE 214		OSWEGO	IL	605438204
1232403008	TURF ROOM LLC	PARKER GRABOWSKI	1033 FOREST TRL	SUGAR GROVE	IL	605549252
1232403010	BBG RANDALL CROSSINGS LLC	BRIDGEVIEW BANK GROUP	4753 N BROADWAY	CHICAGO	IL	606405266
1232403019	NA LODGING 1 LLC	DECADE GROUP - RANDALL LLC	564 S WASHINGTON ST STE 200	NAPERVILLE	IL	605406674
1232403021	DECADE GROUP - RANDALL LLC	564 S WASHINGTON ST STE 200		NAPERVILLE	IL	605406674

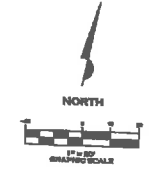
Proposed Special Use Permit conformance with standards:

1. The Village is currently seeking to allow the microbrewery through a special use permit.
2. There are currently no microbreweries in the immediate area.
3. The necessary infrastructure to support the microbrewery already exist and the microbrewery would provide employment and additional tax revenue.
4. The Comprehensive Plan suggests regional commerce for this property, making the microbrewery a good fit.
5. It is not necessary to make any changes to the outside structure to accommodate the brewery.
6. The adjacent and neighboring properties are commercial and should have their businesses enhanced by the patrons attracted to the microbrewery.
7. As previously stated the microbrewery should help increase customer flow to the neighboring commercial business and should be a comfortable place for local residents to meet.
8. The microbrewery will have no impact on traffic movements at the site.
9. The location already provides adequate parking.
10. The necessary utilities, drainage, access and other facilities already exist.
11. The microbrewery will be obtaining all necessary liquor and other applicable licenses.





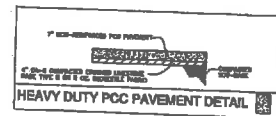
LOCATION MAP



- NOTES:
1. CROSS-LOT ACCESS TO BE PROVIDED FOR ACCESS TO SITE AND TO ADJACENT SITES.
  2. ALL RADII SHOWN TO BACK OF CURB

- SITE DATA**
1. SITE AREA ± 2.84 ACRES
  2. PROPOSED USE: 13 UNIT COMMERCIAL CENTER  
PROPOSED BUILDING - 21,597 SQ.FT. - 17.46% F.A.R.  
PROPOSED PAVEMENT - 62,880 SQ.FT. - 50.8%
  3. EXISTING ZONING B-2 GENERAL COMMERCIAL  
PROPOSED USE COMMERCIAL CENTER/RANDALL CROSSING SUBDIVISION  
W/ DRIVE THRU WINDOW ON EAST WALL
  4. PARKING CALCULATION  
ONE SPACE REQUIRED FOR EACH 300 S.F. OF GROSS FLOOR AREA.  
 $1 / 300 \times 21,597 = 72$  SPACES REQUIRED  
130 SPACES PROVIDED  
6.02 PARKING RATIO  
+8 DRIVE THRU STACKING SPACES

NOTE: LOCATION OF BARRIER FREE PARKING SPACES WILL BE DETERMINED BASED ON NUMBER AND LOCATION OF BUSINESSES WITHIN BUILDING



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**MeritCorp, PC**  
 SCALE: 1"=200'  
 DRAWN BY: REH  
 CHECKED BY: JPM  
 SEAL:

DATE: 11-30-07  
 DESCRIPTION: SUBMITTED TO NORTH AURORA  
 REVISIONS FOR VILLAGE REVIEW  
 11-30-07  
 11-30-07

**MeritCorp, PC**  
 Engineering - Planning - Surveying  
 20 S. Main Street  
 Chicago, IL 60643  
 Office 800.844.4444  
 Fax 800.564.7775  
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 www.merit-corp.com

THE SHOPPES AT RANDALL  
 CROSSING  
 NORTH AURORA, IL  
**FINAL SITE PLAN**

PROJECT NO. M07075  
 SHEET NO. 2/8



**PUBLIC HEARING  
NOTICE  
VILLAGE OF  
NORTH AURORA  
SPECIAL USE TO ALLOW  
A MICROBREWERY IN  
THE B-2 GENERAL  
BUSINESS DISTRICT  
PLANNED UNIT  
DEVELOPMENT AT 1059  
ORCHARD RD., VILLAGE  
OF NORTH AURORA,  
ILLINOIS**

**PLEASE BE NOTIFIED**  
of a hearing before the  
North Aurora Plan Commis-  
sion on Tuesday, May 7, 2019  
at 7:00 p.m. at the North Au-  
rora Village Board Meeting  
Room, 25 E. State Street,  
North Aurora, Illinois. The  
applicant requests the fol-  
lowing:

1. Special Use to allow a  
Microbrewery in the B-2  
General Business District  
Planned Unit Development.

The property is com-  
monly known as 1059 Or-  
chard Rd., North Aurora,  
Kane County, Illinois. PIN#  
12-32-327-007

An application has been  
filed by the petitioner and is  
known as petition number  
#19-03. The application for  
special use is on file at the  
office of the North Aurora  
Community Development  
Department and is avail-  
able for public inspection.  
Public comments will be  
taken at the public hearing.  
Further information is  
available by contacting the  
Community Development  
Department at 630-897-8228.  
Dated this 18th day of April,  
2019

/s/ Mike Toth  
Community Development  
Director  
Published in Daily Herald  
April 18, 2019 (4522969)

## **CERTIFICATE OF PUBLICATION**

**Paddock Publications, Inc.**

# **Daily Herald**

Corporation organized and existing under and by virtue of the laws of the State of Illinois, DOES HEREBY CERTIFY that it is the publisher of the **DAILY HERALD**. That said **DAILY HERALD** is a secular newspaper and has been circulated daily in the Village(s) of Addison, Algonquin, Antioch, Arlington Heights, Aurora, Barrington, Barrington Hills, Bartlett, Batavia, Bensenville, Bloomingdale, Buffalo Grove, Burlington, Campton Hills, Carol Stream, Carpentersville, Cary, Deer Park, Des Plaines, East Dundee, Elburn, Elgin, Elk Grove Village, Elmhurst, Fox Lake, Fox River Grove, Geneva, Gilberts, Glen Ellyn, Glendale Heights, Glenview, Grayslake, Green Oaks, Gurnee, Hainesville, Hampshire, Hanover Park, Hawthorn Woods, Hoffman Estates, Huntley, Inverness, Island Lake, Itasca, Keeneyville, Kildeer, Lake Barrington, Lake Villa, Lake in the Hills, Lake Zurich, Libertyville, Lincolnshire, Lindenhurst, Lisle, Lombard, Long Grove, Medinah, Mt. Prospect, Mundelein, Naperville, North Aurora, North Barrington, Oakbrook, Oakbrook Terrace, Palatine, Prospect Heights, Rolling Meadows, Roselle, Schaumburg, Sleepy Hollow, South Barrington, South Elgin, St. Charles, Woodridge, Streamwood, Tower Lakes, Vernon Hills, Villa Park, Volo, Warrenville, Wauconda, Wayne, West Chicago, West Dundee, Wheaton, Wheeling, Wildwood, Winfield, Wood Dale, Round Lake Park, Pingree Grove, Sugar Grove

County(ies) of Cook, DuPage, Kane, Lake, McHenry  
and State of Illinois, continuously for more than one year prior to the date of the first publication of the notice hereinafter referred to and is of general circulation throughout said Village(s), County(ies) and State.

I further certify that the **DAILY HERALD** is a newspaper as defined in "an Act to revise the law in relation to notices" as amended in 1992 Illinois Compiled Statutes, Chapter 715, Act 5, Section 1 and 5. That a notice of which the annexed printed slip is a true copy, was published 18-APR-19 in said **DAILY HERALD**.

IN WITNESS WHEREOF, the undersigned, the said **PADDOCK PUBLICATIONS, Inc.**, has caused this certificate to be signed by, this authorized agent, at Arlington Heights, Illinois.

**PADDOCK PUBLICATIONS, INC.**  
**DAILY HERALD NEWSPAPERS**

BY *Danula Baltz*  
Authorized Agent

Control # 4522969



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**VILLAGE OF NORTH AURORA  
BOARD REPORT**

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**TO:** VILLAGE PRESIDENT & BOARD OF TRUSTEES  
CC: STEVE BOSCO, VILLAGE ADMINISTRATOR  
**FROM:** MIKE TOTH, COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR  
**SUBJECT:** PETITION 19-02: BUSINESS DISTRICT USE UPDATE  
**AGENDA:** MAY 20, 2019 COMMITTEE OF THE WHOLE MEETING

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**DISCUSSION**

An implementation action step of the 2015 North Aurora Comprehensive Plan is to re-assess the commercial land use classifications in the Zoning Ordinance to ensure they are aligned with Comprehensive Plan objectives. In order to achieve the objectives of the Comprehensive Plan, consolidate uses and remove any out-of-date or non-applicable uses, staff has revisited the land use classifications for all business districts. Staff notes that a number of business district land uses were reclassified in 2015.

The following text amendments were proposed to the Plan Commission:

- Add *Microbrewery* as a special use all business districts.
- Remove the *Outdoor Storage* use from the B-2 and B-3 business districts.
- Reclassify *Tobacco Shops* as a permitted use in all business districts.

A public hearing was held before the Plan Commission at their May 7, 2019 meeting. The Plan Commission was favorable towards the proposed text amendments and recommended that *Microdistillery* and *Microwinery* also be added as a special use in all business districts. As a result, the Plan Commission unanimously recommended approval of the proposed text amendments, as follows:

Use	B-1	B-2	B-3	Use Standard
<u>Microbrewery</u>	<u>S</u>	<u>S</u>	<u>S</u>	
<u>Microdistillery</u>	<u>S</u>	<u>S</u>	<u>S</u>	
<u>Microwinery</u>	<u>S</u>	<u>S</u>	<u>S</u>	
<u>Outdoor Storage</u>		<u>S</u>	<u>S</u>	
<u>Tobacco Shop</u>	<u>S P</u>	<u>S P</u>	<u>S P</u>	

**Attachments:**

1. Staff report to the Plan Commission.

## **Staff Report to the Village of North Aurora Plan Commission**

**Prepared By:** Mike Toth, Community and Economic Development Director

**Petition Number:** 19-02

**Hearing Date:** May 7, 2019

**Request(s):** The Village of North Aurora requests a Zoning Ordinance text amendment to add, remove and reclassify certain uses in the B-1 Community Business District, B-2 General Business District and B-3 Central Business District.

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### **BACKGROUND**

An implementation action step of the 2015 North Aurora Comprehensive Plan is to re-assess the commercial land use classifications in the Zoning Ordinance to ensure they are aligned with Comprehensive Plan objectives. In order to achieve the objectives of the Comprehensive Plan, consolidate uses and remove any out-of-date or non-applicable uses, staff has revisited the land use classifications for all business districts. Staff notes that a number of business district land uses were reclassified in 2015.

Staff would now like to revisit the following land use classifications in the business districts:

Use	B-1	B-2	B-3	Use Standard
<u>Microbrewery</u>	<u>S</u>	<u>S</u>	<u>S</u>	
<u>Outdoor Storage</u>		<u>S</u>	<u>S</u>	
<u>Tobacco Shop</u>	<u>S P</u>	<u>S P</u>	<u>S P</u>	

#### **Microbrewery**

Staff has been working with an individual interested in opening a Microbrewery. An application for special use to allow the microbrewery has been submitted and is pending the outcome of this text amendment.

As part of the proposed text amendments to the Zoning Ordinance, *Microbrewery* is being proposed as a special use in all business districts, with the following definition also being proposed:

*Microbrewery means a small facility for the brewing of beer. It may often include a tasting room and retail space to sell the beer to patrons on the site.*

According to the American Planning Association, some communities have taken the approach that allow microbreweries as a permitted use with prescribed use standards (referred to as 'use standards' in North Aurora), while other communities have required special zoning treatment (i.e. special use). Staff is proposing Microbrewery as a special use to allow the Village to consider each application on a case-by-case basis.

### Outdoor Storage

Outdoor Storage is currently listed as a special use in the B-2 and B-3 Business Districts. As part of this petition, staff is requesting that outdoor storage be prohibited as a *primary use* in said business districts. Outdoor storage is defined as *the keeping of any goods, material, merchandise or equipment outside of an enclosed building. An item shall be deemed to be in storage if it is being maintained or repaired on the premises.*

Staff notes that there are a number of uses that include ancillary outdoor storage components of their operation. Some of those examples include: *Building Material and Supply Store; Contractor Yard, Gas Station; Motor Vehicle Repair and/or Service; Motor Vehicle Sales and/or Service; Nursery and/or Garden Store; Retail, Including Outdoor Component.* All of the aforementioned uses already require special use approval. Staff believes that outdoor storage (as a primary use) is appropriate as a special use in an industrial district, but not in a business district.

### Tobacco Shop

Staff received a tobacco license from someone interested in opening a tobacco store in the B-2 General Business District. The Zoning Ordinance currently requires special use approval for tobacco shops in all of the business districts. As tobacco products, nicotine products, alternative tobacco products, vapor products and electronic smoking devices are sold in grocery stores, gas stations, drug stores, convenience stores, staff questioned whether or not a special use is necessary for a tobacco shop. Staff also believes that the special use process for a tobacco shop would be subjective in any business district (What grounds would exist for denying a tobacco shop? What conditions of approval would even apply to a tobacco shop?)

When evaluating the uses impact on surrounding uses, staff notes that the Smoke-free Illinois Act prohibits smoking in virtually all public places and workplaces. Retail tobacco stores that derive more than 80 percent of its gross revenue from the sale of tobacco products and do not have a liquor, food or restaurant license are exempt from the act; however, the exemption only applies if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

Staff is proposing to amend the Zoning Ordinance to allow tobacco shops as a permitted use. Upon review of area municipalities, staff found that all of the Fox Valley municipalities reviewed (Aurora, Batavia, Geneva and St. Charles) allow retail tobacco sales as a permitted use in all of their respective business districts. Currently, if a retail establishment is selling vapor products that do not contain tobacco, the use is classified as "Retail, Indoor", which is classified as a permitted use in all business districts.

**PUBLIC NOTICE FOR  
HEARING ON  
A ZONING ORDINANCE  
TEXT CHANGE TO ADD,  
REMOVE AND RECLASSIFY  
CERTAIN USES IN  
THE B-1 COMMUNITY  
BUSINESS DISTRICT, B-2  
GENERAL BUSINESS  
DISTRICT AND B-3  
CENTRAL BUSINESS  
DISTRICT**

PLEASE BE NOTIFIED that a public hearing will be held before the North Aurora Plan Commission at 7:00 p.m. on Tuesday, May 7, 2019, at the North Aurora Village Hall Meeting Room, 23 East State Street, North Aurora, Illinois. The North Aurora Plan Commission will consider amending Title 17 of the North Aurora Municipal Code (Zoning Ordinance) to add, remove and reclassify certain uses in the B-1 Community Business District, B-2 General Business District and B-3 Central Business District. The proposed text amending the foregoing provisions of Title 17 of the North Aurora Municipal Code will be on file at the North Aurora Village Hall and available for public inspection, as amended from time to time. All public comments shall be taken at the hearing.

DATED: This 10th day of April, 2019  
/s/ Michael Toth  
Community and Economic  
Development Director  
Published in Daily Herald  
April 12, 2019 (4522540)

## CERTIFICATE OF PUBLICATION

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# ZONING PRACTICE

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**PRACTICE MICROBREWERIES**

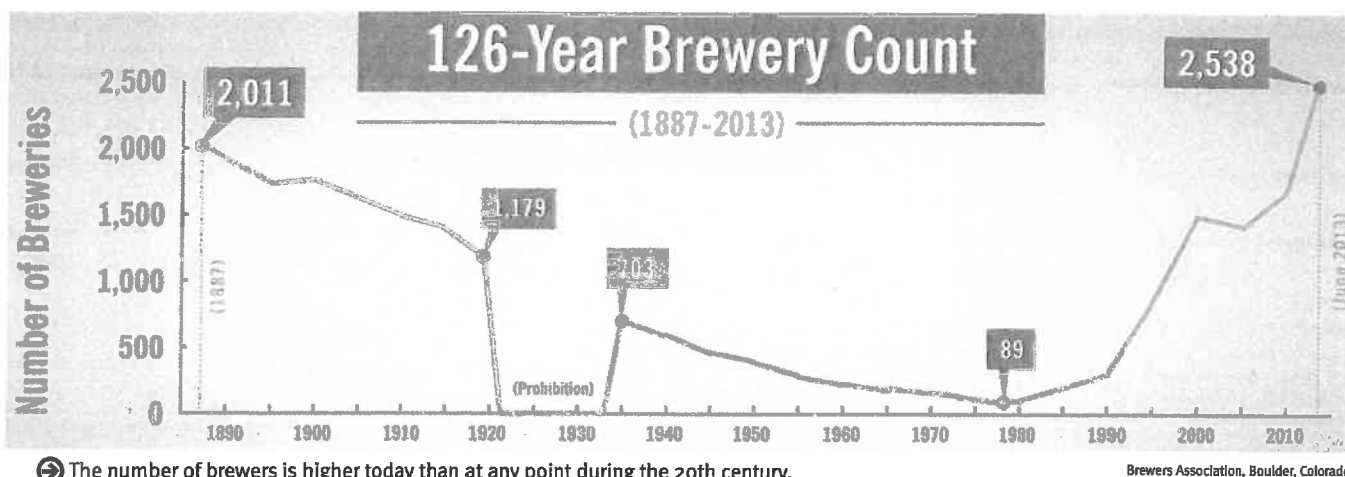
A black and white photograph of a glass of beer with a thick head of foam, serving as the background for the lower half of the cover.

**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.



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

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

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

microwineries (small-volume wineries without on-site vineyards) are also on the rise.

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

## THE BOOM IN SMALL-SCALE ALCOHOL PRODUCTION

According to the Brewers Association, the trade group for small brewers, as of June 2013 there were 1,165 brewpubs and 1,221 microbreweries in the United States. By way of comparison, in the late 1970s there were only 89 commercial brewers of any type (Brewers Association 2013). This boom in small-scale production has spread to spirits and wine too. In April 2012 *Time* reported a 400 percent surge in microdistilleries in the U.S. between 2005 and 2012 (Steinmetz 2012). And according to statistics maintained by trade

publisher *Wines & Vines*, the number of wineries producing between 1,000 and 5,000 cases per year grew 16.5 percent between August 2011 and January 2014 alone.

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

## THE TROUBLE WITH REGULATORY SILENCE

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

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### About the Author

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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



➞ 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)

### Macrobrewery:

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

### Microdistillery:

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

(continued on page 5)

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

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

## USE PERMISSIONS

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

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

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

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



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

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

#### ADDITIONAL STANDARDS

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

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

#### Outdoor Storage

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

the form of an outright prohibition on outdoor storage.

To illustrate, Covington, Kentucky, flatly prohibits all outdoor equipment and storage for brewpubs and microbreweries (§§6.28.02-03). Meanwhile, Dallas permits microbreweries and microdistilleries to store spent grain outside in silos or containers, provided the storage is screened from view (C51A-4.210(b)(4)(E)(ii)(cc)). And Novi, Michigan, prohibits

all outdoor storage for brewpubs and microbreweries, with the exception of storage in tractor trailers for a period less than 24 hours (§§1501.11.b and 1501.12.b).

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

#### Use Definitions *(continued from page 4)*

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

#### Microwinery:

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

#### Microbrewery/microdistillery/microwinery:

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

## EXAMPLES OF DEFINED USES AND PERMISSIONS

Community	State	2010 Population	Density (pop./square mile)	Defined Uses	Permitted in One or More Mixed Use or Commercial Districts		
					By Right or Ministerial Approval	Subject to Discretionary Use Permit	Subject to Additional Standards
Asheville	NC	83,393	1,856	microbrewery	X	X	§7-16-1(c)(43)
Bismarck	ND	61,272	1,986	brewpub 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 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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