

4-B)

DEPARTMENTAL CORRESPONDENCE

TO: James O'Connor
City Manager

FROM: Timothy J. McGarry, AICP
Director of Planning and Development

DATE: April 22, 2016 *EM*

SUBJECT: **First Reading of a Draft Ordinance Amending
the Land Development Regulations to Provide for a
Regulatory Framework Related to the Permitting
of Microbreweries**

Overview

The Planning and Development Department requests that the attached draft Ordinance be placed on the City Council's May 3, 2016, regularly scheduled agenda for First Reading. The draft Ordinance was prepared by the need to establish a regulatory framework for allowing microbreweries in the Downtown (DTW) and other commercial zoning districts. These regulations are necessitated by the upcoming sale of the Old Diesel Power Plant to a private firm for the development and operation of a microbrewery at the site.

A detailed description and analysis of the draft Ordinance is presented in the attached staff report to the Planning and Zoning Board. The draft Ordinance will require two public hearings before the City Council in addition to the First Reading.

Planning and Zoning Board Action

The Planning and Zoning Board conducted a legislative public hearing on the draft Ordinance on April 21, 2016. The Planning and Zoning Board recommend 5-0 supporting the staff's recommended draft Ordinance with a minor amendment and recommend its submittal to the City Council for favorable consideration.

SWOT Analysis

Strengths:

- The Ordinance would allow microbreweries as a permitted use within several of the City's downtown and commercial zoning districts, which should have a positive economic impact and enliven these districts, particularly mixed used areas such as the Downtown.

- The Ordinance would remove the uncertainty for interested property owners and developers who seeking opportunities within the City for establishment of microbreweries in commercial areas.
- The Ordinance is needed to complete the sale of the Old Diesel Power Plant so that it can be developed and operated as a microbrewery.

Weaknesses

- The Ordinance has specifics on development standards; however, many of the specific site design requirements in addition to development standards in the City Code will have to be vetted through the development process, which may raise some public concerns about potential off-site impacts, such as, but not limited to noise, odor, truck pick-up and deliveries, location of loading docks and doors.

Opportunities

- The Ordinance would open up opportunities for further investment in the City's downtown and commercial districts, which should have a positive impact on these districts.

Threats

- Without the Ordinance, the pending sale for the Old Diesel Power Plant may fall.
- Without the Ordinance, the City's efforts to revitalize the Downtown and other commercial areas may be hampered by the inability to locate microbreweries in these areas; such microbreweries have been a catalyst for the enhancement and revitalization of many downtowns throughout the nation.

ORDINANCE NO. 2016-__

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING VARIOUS PROVISIONS OF PART III, LAND DEVELOPMENT REGULATIONS, IN THE CODE OF THE CITY OF VERO BEACH, RELATED TO PERMITTED USES IN CERTAIN NONRESIDENTIAL ZONING DISTRICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the existing Land Development Regulations, Part III, of the Code of the City of Vero Beach do not define or list microbreweries as a permitted use in any of the City's commercial zoning districts, and

WHEREAS, small scale, on-site craft beer production in conjunction with pubs, restaurants, and tasting areas has provided an economic stimulus for many localities by satisfying a demand for locally brewed beer and enlivening commercial and mixed use districts that may otherwise clear out after retail and business hours; and

WHEREAS, beer production is considered as an industrial use generally limited to industrial zoning districts, except where such use is determined to be as an accessory to a restaurant or bar; and

WHEREAS, a microbrewery is unique in that it is a combination of two uses, manufacturing and restaurant, which due to the volume of beer production on-site and retail carry-out sales and sales to distributors make the beer production function the primary use rather than an accessory use under the City's existing regulations, and

WHEREAS, the lack of the inclusion of the microbrewery use as an allowable use in the City's commercial districts hampers the ability to attract small-scale and artisan beer production establishments to appropriate commercial areas of the City by creating uncertainties for businesses making location decisions; and

WHEREAS, the inclusion of a microbrewery as a permitted use in appropriate commercial zoning districts will provide more certainty to prospective business owners and investors; and

WHEREAS, the City Council of the City of Vero Beach ("City Council") finds it is desirable to attract investment in small-scale craft microbreweries as an important component for economic development and to facilitate the approval of such facilities in appropriate locations; and

WHEREAS, the City Council finds that adoption of the amendments provided for in this Ordinance serves a municipal purpose, is in the best interest of the public, and is consistent with the standards provided in subsections 65.22(i)(1) and (3) of the Code of the City of Vero Beach,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA:

Section 1. Adoption of “Whereas” Clauses.

The foregoing “Whereas” clauses are hereby adopted and incorporated herein as forming the legislative findings, purpose and intent of this Ordinance.

Section 2. Amendment of Chapter 60, Appendix. Definitions.

The Code of the City of Vero Beach, Chapter 60, Appendix, Definitions, is hereby amended to add the following definition:

Microbrewery: A retail and restaurant establishment for the brewing of beer or other malt liquors that produces less than 15,000 barrels per year. At least 3,500 square feet of floor area shall be maintained for public use as a restaurant/bar, including tasting area. No more than 75 percent of the floor area shall be used for the brewery function, including, but not limited to, the brew house, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks. No outdoor storage shall be allowed including portable storage units, cargo containers, and tractor trailers.

Section 3. Amendment of Chapter 62, Article III, Commercial Districts, Section 62.35. Permitted Uses.

Section 62.35 of the Code of the City of Vero Beach is hereby amended to add the following uses as follows:

Sec. 62.35. Permitted uses.

In these districts a building or premises may be used only for the following purposes:

	<i>Zoning Districts</i>			
<i>Uses</i>	<i>C-1A</i>	<i>C-1B</i>	<i>B-1</i>	<i>C-1</i>
<u>Microbreweries</u>		<u>P</u>		<u>P</u>

Section 4. Amendment of Chapter 62, Article VII, Airport Master Plan Land Use Zones, Section 62.100,

Section 62.100 of the Code of the City of Vero Beach is hereby amended to add the following use:

Sec. 62.100. Development guidelines.

	<i>Zoning Districts</i>				
<i>Permitted uses:</i>	<i>ALI-A1</i>	<i>ALI-A2</i>	<i>ALI-1</i>	<i>ALI-MC</i>	<i>AR-MHP</i>
<u>Microbreweries</u>				X	

Section 5. Amendment of Chapter 62, Article X, Downtown District, Section 62.301,

Section 62.301 of the Code of the City of Vero Beach is hereby amended to add the following uses:

Sec. 62.301. Permitted uses.

In this District, the following uses are permitted:

- (30) Microbreweries

Section 6. Amendment of Chapter 64, Article I, Development Review, Section 64.10 (c)(4).

Section 64.10(c)(4) of the Code of the City of Vero Beach is hereby amended to add new paragraph f as follows:

Sec. 64.10. Site plan review standards and conditions.

- (c) *Development standards.*
- (4) All manufacturing or processing, services, and businesses shall be conducted completely within enclosed buildings, except as follows:
- g. Fermentation tanks, brite or conditioning tanks, and grain silos associated with a microbrewery may be installed on premises outside the microbrewery building if approved by the planning and zoning board for major site plans or, the planning director for all other development permits.

Section 7. Codification.

The provisions of this Ordinance shall be codified in the Code of the City of Vero Beach, Florida.

Section 8. Conflict and Severability.

In the event any provision of this Ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this Ordinance, the more strict provision shall apply and supersede. If any provision of this Ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 9. Effective Date.

This Ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the _____ day of _____, 2016, and was advertised on the ___ day of _____, 2016, as being scheduled for a public hearing to be held on the _____ day of _____, 2016, and was also advertised on the _____ day of _____, 2016, as being scheduled for a second public hearing to be held on the _____ day of _____, 2016, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

- Mayor Jay Kramer _____
- Vice Mayor Randolph B. Old _____
- Councilmember Pilar E. Turner _____
- Councilmember Richard G. Winger _____
- Councilmember Harry Howle III _____

ATTEST:

CITY OF VERO BEACH, FLORIDA

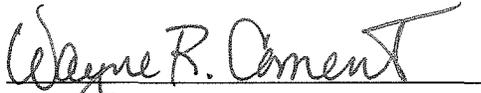
Tammy K. Vock
City Clerk

Jay Kramer
Mayor

[SEAL]



Approved as to form and legal
sufficiency:



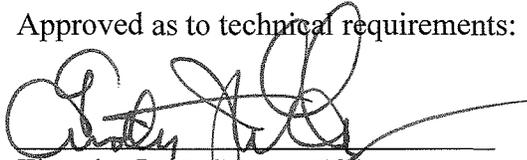
Wayne R. Coment
City Attorney

Approved as conforming to municipal
policy:



James R. O'Connor
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Director, Planning & Development

DEPARTMENTAL CORRESPONDENCE

TO: Chairman Larry Lauffer and Planning and
Zoning Board Members

FROM: Timothy J. McGarry, AICP
Director of Planning and Development 

DATE: April 14, 2016

SUBJECT: **Public Hearing on Proposed Amendments to the
Land Development Regulations Providing for a Regulatory
Framework Related to the Permitting of Microbreweries**

Overview

The staff has prepared the attached draft Ordinance amending the Land Development Regulations to establish the regulatory framework related to the permitting of establishments, called *microbreweries*, that produce beer and other malt liquors on-site in conjunction with a restaurant/bar or tasting room. The draft Ordinance defines a microbrewery as a use and identifies the specific commercial zoning districts where microbreweries would be permitted.

Background

Prior to the RFP process for the selection of a buyer of the historic Old Diesel Power Plant and site, the staff had made the determination that the City's Land Development Regulations would need to be amended to allow a microbrewery in the Downtown zoning district. The problem is that the on-site production of beer and malt liquor is considered an industrial use, which is not permitted outside the City's industrial zoning districts. The approval of the sale of the Old Diesel Power Plant property to develop and operate a microbrewery on the site necessitated the staff to initiate the preparation of draft regulations to address this permitting issue.

In practice, the Planning and Development Department has approved small scale on-site beer production in commercial districts where such production is accessory to and in conjunction with a restaurant as a principal use. However, the volume of on-site beer production and sale of beer to wholesalers for distribution associated with a microbrewery would make beer production, which is a manufacturing or industrial use, the primary use.

Prior to preparing the draft regulations, the staff reviewed ordinances enacted by other localities related to microbreweries. In addition, the staff relied upon a publication prepared by the American Planning Association entitled *Practice Microbreweries*, dated March 2014. This document identified issues related to the permitting of small-scale alcohol production and standards or criteria used by localities throughout the nation in regulating such facilities.

Summary and Commentary on Proposed Ordinance

The following is a summary of the significant components of the proposed regulations and the rationale for each as appropriate:

1. Chapter 60, Appendix. Definitions.

After a review of the City's regulations, it was determined that it was only necessary to amend the Code to address microbreweries and not brewpubs or traditional breweries. Brewpubs (such as the Orchid Isle Brewery), which are typically associated with a restaurant component, are limited to producing no more than 5,000 barrels per year and prohibited from sale to distributors under the Florida licensing. As such, brewpubs can be and are addressed as a restaurant under the City's existing zoning regulations.

A traditional brewery, which is not limited in the amount of on-site beer production and may or may not have a restaurant component, is addressed as a manufacturing or industrial use under the City's zoning regulations. This use is allowed in industrial zoning districts.

It was further determined that it would not be necessary to list microbreweries as a permitted use in any industrial zoning district that allows both restaurants and light industrial uses. Therefore, although microbreweries are not proposed as a permitted use in the, M (Industrial) and ALI-1 zoning districts, this use would still be permitted in those districts. [It should be noted that such uses would not be limited by the restrictions or requirements placed on microbreweries (see following discussion.)]

A definition for *microbrewery* is proposed in the Appendix. This definition is based on the on-site production limit of 15,000 barrels per year, which corresponds to state licensing and brewing industry nomenclature. The requirements on the minimum amount of floor area devoted for public use (restaurant/bar or tasting area) and the maximum limit on the percent of floor area to be used for the brewing function ensure that a *microbrewery* will have a commercial component.

The definition prohibits outdoor storage and lists other types of storage that are prohibitive for aesthetic and public health reasons. This language supplements the general restrictions in Section 64.10 (c)(4) that requires all activities to be completely within enclosed buildings, except where exceptions are provided in that code section.

2. Sections 62.35, 62.100, and 62.301.

Microbreweries are proposed as a permitted use in the C-1, C-1B, ALI-MC, and DTW zoning districts. It was the staff's opinion that this type of use has more in common with the more intensive commercial uses in these districts than the commercial districts with uses of less intensity. More specifically, the C-1A zoning district was excluded due to the floor size limitations on general retail and service uses. The B-1 zoning district was

also excluded due to types of commercial uses not permitted in that district and location of most of these districts in proximity to residential zoning districts.

3.Section 62.(c)(4).

Various beer pre-production elements or structures associated with a microbrewery, such as grain silos, fermentation tanks, and brite or conditioning tanks, are often times installed outside of the building occupied by the use. These structures serve both as a function in beer production and as attractive design features for the project. This provision would allow a microbrewery to install such structures outside the principal building with Planning and Zoning Board (major site plan) or Planning Director (minor site plan) approval.

Staff Review and Analysis

The staff reviewed the proposed text amendments to the Land Development Regulations based on the standards outlined in Section 65.22(i)(1) and (3) of the City of Vero Beach Code. The staff's analysis and findings are as follows:

Justification for the Amendment. As stated in the Background section, a microbrewery is not a permitted use in any commercial district as this type of use is considered primarily a manufacturing or industrial use. Therefore, the lack of any regulations to allow microbreweries within commercial districts is a major handicap for economic development where such a use can be an important catalyst in enlivening commercial and mixed use districts.

Most importantly, unless the City's Land Development Regulations are amended to at least allow microbreweries in the Downtown zoning district, the sale of the Old Diesel Power Plant may not be successfully concluded. The staff believes that the proposed use of this historic building for a microbrewery will have a positive impact on both the Downtown and the proposed Cultural Arts Village.

Therefore, the staff finds the proposed text amendments to be justified and warranted pursuant to Section 65.22(i)(1) based upon the above facts.

Consistency with the Comprehensive Plan. The staff finds the proposed text amendments to be consistent with the one relevant objective and policy of the Land Use Element of the Comprehensive Plan as discussed below:

- **Land Use Objective 3.** *The City shall establish and maintain land use/development regulations that will reduce and prevent land uses that are inconsistent with community character and incompatible with adjacent development.*

The Comprehensive Plan provides little or no guidance on the proposed text amendment; however, Objective 3 does call for establishing and maintaining land use/development regulations that protect the community character and are

compatible with adjacent development. As discussed in the previous section, the microbrewery use is compatible with other types of uses found in the C-1, C-1B, DTW, and ALI-MC zoning districts.

- **Land Use Policy 7.3:** *The City shall reinforce downtown as a mixed-use office, employment and governmental center as well as a unique cultural, arts, entertainment and residential enclave, with shopping and dining opportunities that support the district and its surrounding neighborhoods.*

Allowing microbreweries as a permitted use in the Downtown zoning district will have a positive impact on the vitality and continued enhancement of the downtown as a mixed use district. A microbrewery will help draw both locals and out-of-town visitors to the downtown and to the proposed Cultural Arts Village.

Consistency with Land Development Regulations. The microbrewery use is compatible with other types of uses permitted in the four commercial zoning districts where it is proposed as a permitted use. Any microbrewery use will be subject to the specific development and performance site plan standards as any other use. Off-street parking and loading requirements for this use will be handled by addressing each use component, so no additional new parking requirements are need to be enacted as part of this amendment process.

Recommendation

The staff recommends Planning and Zoning Board approval of the attached draft Ordinance for transmittal to the City Council for favorable consideration.

TJM/tf
Attachments

ORDINANCE NO. 2016-__

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WHEREAS, the inclusion of a microbrewery as a permitted use in appropriate commercial zoning districts will provide more certainty to prospective business owners and investors; and

WHEREAS, the City Council of the City of Vero Beach ("City Council") finds it is desirable to attract investment in small-scale craft microbreweries as an important component for economic development and to facilitate the approval of such facilities in appropriate locations; and

WHEREAS, the City Council finds that adoption of the amendments provided for in this Ordinance serves a municipal purpose, is in the best interest of the public, and is consistent with the standards provided in subsections 65.22(i)(1) and (3) of the Code of the City of Vero Beach,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA:

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	<i>Zoning Districts</i>			
<i>Uses</i>	<i>C-1A</i>	<i>C-1B</i>	<i>B-1</i>	<i>C-1</i>
<u>Microbreweries</u>		<u>P</u>		<u>P</u>

Section 4. Amendment of Chapter 62, Article VII, Airport Master Plan Land Use Zones, Section 62.100,

Section 62.100 of the Code of the City of Vero Beach is hereby amended to add the following use:

Sec. 62.100. Development guidelines.

	<i>Zoning Districts</i>				
<i>Permitted uses:</i>	<i>ALI-A1</i>	<i>ALI-A2</i>	<i>ALI-1</i>	<i>ALI-MC</i>	<i>AR-MHP</i>
<u>Microbreweries</u>				X	

Section 5. Amendment of Chapter 62, Article X, Downtown District, Section 62.301,

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In this District, the following uses are permitted:

- (30) Microbreweries

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Section 64.10(c)(4) of the Code of the City of Vero Beach is hereby amended to add new paragraph f as follows:

Sec. 64.10. Site plan review standards and conditions.

- (c) *Development standards.*
- (4) All manufacturing or processing, services, and businesses shall be conducted completely within enclosed buildings, except as follows:
- g. Fermentation tanks, brite or conditioning tanks, and grain silos associated with a microbrewery may be installed on premises outside the microbrewery building if approved by the planning and zoning board or planning director.

Section 7. Codification.

The provisions of this Ordinance shall be codified in the Code of the City of Vero Beach, Florida.

Section 8. Conflict and Severability.

In the event any provision of this Ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this Ordinance, the more strict provision shall apply and supersede. If any provision of this Ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 9. Effective Date.

This Ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the _____ day of _____, 2016, and was advertised on the ___ day of _____, 2016, as being scheduled for a public hearing to be held on the _____ day of _____, 2016, and was also advertised on the _____ day of _____, 2016, as being scheduled for a second public hearing to be held on the _____ day of _____, 2016, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

- Mayor Jay Kramer _____
- Vice Mayor Randolph B. Old _____
- Councilmember Pilar E. Turner _____
- Councilmember Richard G. Winger _____
- Councilmember Harry Howle III _____

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

[SEAL]

Approved as to form and legal
sufficiency:

Wayne R. Coment
City Attorney

Approved as conforming to municipal
policy:

James R. O'Connor
City Manager

Approved as to technical requirements:

Timothy J. McGarry, AICP
Director, Planning & Development