

# CITY OF WINCHESTER, VIRGINIA

## CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: October 13, 2015

RESOLUTION \_\_\_ ORDINANCE  DESCRIPTION/PRESENTATION \_\_\_

**ITEM TITLE:** TA-15-441 - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 7, 8, 9, 10, 11, 12, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF BREWERY, DISTILLERY, MICRODISTILLERY, MICROBREWERY, NANOBREWERY, TASTING ROOM AND WINERY, PARKING REQUIREMENTS, AND USE STANDARDS. (The Amendment Creates Additional Definitions, Use Allowances, Parking Requirements, and Operational Standards for Breweries, Distilleries, Wineries and Related Uses).

**PUBLIC HEARING DATE:** October 27, 2015 at 6:00 PM

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

**Review:**

Aaron Grisdale	Completed	09/15/2015 4:22 PM
Timothy A. Youmans	Completed	09/15/2015 5:08 PM
Anthony Williams	Completed	10/08/2015 3:00 PM
Eden Freeman	Completed	10/08/2015 4:23 PM

Approved as to form:

**Aaron Grisdale**

Aaron Grisdale, Zoning and Building Inspector 09/15/2015

By: \_\_\_\_\_

**Winchester**  
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Eden Freeman, City Manager 10/8/2015

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Aaron Grisdale, Zoning and Building Inspections Director  
**Date:** October 13, 2015  
**Re:** TA-15-441 - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 7, 8, 9, 10, 11, 12, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF BREWERY, DISTILLERY, MICRODISTILLERY, MICROBREWERY, NANOBREWERY, TASTING ROOM AND WINERY, PARKING REQUIREMENTS, AND USE STANDARDS. (The Amendment Creates Additional Definitions, Use Allowances, Parking Requirements, and Operational Standards for Breweries, Distilleries, Wineries and Related Uses).

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**THE ISSUE:** This is a publicly initiated Zoning Ordinance amendment to expand permitted uses related to various types and intensities of breweries, distilleries and wineries. City staff has received several inquiries over the past two years about the permissibility of smaller scale breweries and distilleries, especially in the downtown. This amendment proactively establishes ordinance provisions to allow for expanded uses beyond the current allowances of *Breweries*, which are limited to the CM-1, M-1, and M-2 districts.

**RELATIONSHIP TO STRATEGIC PLAN:** Goal 2 - Promote and accelerate revitalization of targeted areas throughout the city.

**BACKGROUND:**

See attached staff report.

**BUDGET IMPACT:**

None

**OPTIONS:**

- 1) Adopt the ordinance amendment as presented.
- 2) Adopt the ordinance amendment with revisions.
- 3) Decline to adopt the ordinance amendment.

**RECOMMENDATIONS:**

The Planning Commission unanimously recommended approval at their September 15, 2015 meeting.

**TA-15-441 - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 7, 8, 9, 10, 11, 12, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF BREWERY, DISTILLERY, MICRODISTILLERY, MICROBREWERY, NANOBREWERY, TASTING ROOM AND WINERY, PARKING REQUIREMENTS, AND USE STANDARDS. (THE AMENDMENT CREATES ADDITIONAL DEFINITIONS, USE ALLOWANCES, PARKING REQUIREMENTS, AND OPERATIONAL STANDARDS FOR BREWERIES, DISTILLERIES, WINERIES AND RELATED USES).**

Draft 2 - (10/20/15)

Ed. Note: The following text represents excerpts of the Zoning Ordinance that are subject to change. Words with strikethrough are proposed for repeal. Words that are boldfaced and underlined are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.

**ARTICLE 1  
DEFINITIONS**

**SECTION 1-2. DEFINITIONS.**

- 1-2-12.1** BREWERY: The land and buildings containing an industrial use which **typically** brews and produces **over 10,000 barrels per year of** ales, beers (as defined within §4.1-100, Code of Virginia, as amended), and/or similar beverages on site for sale and distribution. A brewery may not be established or operated in any residential dwelling unit. **Such facilities may include a tasting room or retail space to sell the products to patrons on site.**
- 1-2-28.3** **DISTILLERY - A facility that typically produces more than 5,000 gallons per year of distilled alcoholic beverages or spirits (as defined within §4.1-100, Code of Virginia, as amended) and may include the intake of grains, fruits, sugars or other products, their fermentation, distilling, aging, and bottling. Products may include liquors, liqueurs, brandies, etc. Such facilities may include a tasting room or retail space to sell the products to patrons on site.**
- 1-2-64.1** **MICRODISTILLERY - A distillery, as defined in Section 1-2-83, where production does not exceed 5,000 gallons per year, generally referred to as a craft, boutique or artisan distillery. Such facilities may include an on-site tasting room or retail space to sell the products to patrons on site.**
- 1-2-64.2** **MICROBREWERY - A brewery, as defined in Section 1-2-12.1, which produces more than 500 but less than 10,000 barrels of beer per year. Such facilities may include a tasting room or retail space to sell the products to patrons on site.**
- 1-2-67.2** **NANOBREWERY - A brewery, as defined in Section 1-2-12.1, wherein up to 500 barrels of beer is manufactured and packaged per year. Such facilities may include a tasting room or retail space to sell the**

products to patrons for on-site or off-site consumption. No bottling or canning shall be performed on site.

1-2-91.1 TASTING ROOM - Any place or premise licensed by Virginia Alcohol Beverage Control and operated by an alcohol beverage manufacturer wherein alcoholic drinks are provided to customers to sample on-site. Such facilities may or may not include an option for customers to purchase containers of alcohol for off-site consumption.

1-2-94.3 WINERY - A facility where wine, as defined in Section 4.1-100 of the Code of Virginia, is manufactured and packaged. Such facilities may include a tasting room or retail space to sell the products to patrons for on-site or off-site consumption.

#### ARTICLE 7

##### RESIDENTIAL BUSINESS DISTRICT - RB-1

##### SECTION 7-2. USES REQUIRING A CONDITIONAL USE PERMIT.

7-2-25 Microdistilleries or nanobreweries no larger than 2,000 gross square feet.

#### ARTICLE 8

##### HIGHWAY COMMERCIAL DISTRICT - B-2

##### SECTION 8-1. USE REGULATIONS.

8-1-53 Microdistillery, microbrewery, nanobrewery, or winery.

#### ARTICLE 9

##### CENTRAL BUSINESS DISTRICT - B-1

##### SECTION 9-1. USE REGULATIONS.

9-1-46 Microdistillery, microbrewery, nanobrewery, or winery.

#### ARTICLE 10

##### COMMERCIAL INDUSTRIAL DISTRICT - CM-1

##### SECTION 10-1. USE REGULATIONS

- 10-1-13 Industrial uses. (1/14/03, Case TA-02-10, Ord. No. 003-2003; 6/12/07, Case TA-07-01, Ord. No. 2007-19)
- a. Distributing plants, parcel delivery, ice and cold storage plant, and food commissary, and bakery or catering establishment, ~~and~~ brewery.
  - b. Carpenter or cabinet shop.
  - c. Contractors' equipment storage yards or plants, or rental equipment commonly used by contractors.
  - d. Laundry, cleaning, and dyeing works, and carpet and rug cleaning.
  - e. Machinery sales and service.
  - f. Machine shop, metal fabrication shop, or welding shop, excluding punch press and drop hammers exceeding forty (40) ton rated capacity.
  - g. Monumental stone works.

- h. Plant nurseries or greenhouses.
- i. Public utility service yard.
- j. Retail lumberyard, including only incidental mill work.
- k. Upholstery shop.
- l. Brewery, distillery, microdistillery, microbrewery, nanobrewery, and winery.**

## ARTICLE 11

### LIMITED INDUSTRIAL DISTRICT - M-1

#### SECTION 11-1. USE REGULATIONS

11-1-8 Distribution plants, parcel delivery, ice and cold storage plant, and food commissary or catering establishment, ~~and brewery.~~ (6/12/07, Case TA-07-01, Ord. No. 2007-19)

**11-1-32 Brewery, distillery, microdistillery, microbrewery, nanobrewery, and winery.**

## ARTICLE 12

### INTENSIVE INDUSTRIAL DISTRICT - M-2

#### SECTION 12-1. USE REGULATIONS

12-1-13 Distribution plants, parcel delivery, ice and cold storage plant, and food commissary or catering establishment, ~~and brewery.~~ (6/12/07, Case TA-07-01, Ord. No. 2007-19)

**12-1-42 Brewery, distillery, microdistillery, microbrewery, nanobrewery, and winery. Such facilities may not incorporate a restaurant as principal part of their operations.**

## ARTICLE 13

### PLANNED DEVELOPMENT

#### SECTION 13-2. PLANNED COMMERCIAL DISTRICT - PC

13-2-3 USE REGULATIONS. Structures, not exceeding eight thousand (8,000) gross square feet of floor area, nor containing drive-thru facilities other than one ATM for banks and financial institutions, or land to be used shall be for one or more of the following uses:

**13-2-3.17 Microdistillery and nanobrewery.**

13-2-4 USES PERMITTED WITH A CONDITIONAL USE PERMIT.

**13-2-4.12 Microbrewery and winery.**

## ARTICLE 18

### GENERAL PROVISIONS

18-6-5. AMOUNT OF OFF-STREET PARKING REQUIRED.

18-6-5.1 The off-street parking required by this Article shall be provided and maintained on the basis of the following requirements specified in the following tables, except as otherwise provided in this Article: (9/12/89,

Case TA-89-01, Ord. No. 022-89; 4/10/90, Case TA-89-14, Ord. No. 012-90; 7/8/97, Case TA-97-05, Ord. No. 016-97; 10/13/09, Case TA-09-89, Ord. No. 2009-27; 6/8/10, Case TA-10-111, Ord. No. 2010-19; 7/10/12, Case TA-12-187, Ord. No. 2012-20)

**Table 18-6-5.1**

<b>Non-Residential Uses: Industrial Uses</b>		
Generally		1 for each 400 sq. ft. of office space; plus 1 for each 2 employees; plus 1 for each company vehicle stored on-site
Storage or warehouse		1 for each 2,500 sq. ft. of GFA
<b><u>Brewery, Distillery, Microdistillery, Microbrewery, Nanobrewery, Winery</u></b>		<b><u>1 for each 2000 sq. ft.; plus 1 for each 100 sq. ft. of public floor area if tasting room included</u></b>

**SECTION 18-25. BREWERIES AND DISTILLERIES.**

**For the purposes of this section the terms breweries and distilleries include all types of such facilities including *Breweries, Distilleries, Microbreweries, Microdistilleries, Nanobreweries, and Wineries.***

- A. All manufacturing, brewing, and/or bottling and canning associated with breweries and distilleries must occur within a fully enclosed building.**
- B. Outdoor storage of materials shall only be permitted in the M-1 and M-2 districts. Such permitted outdoor storage shall meet the requirements provided in Section 18-20-5.**
- C. All loading and unloading docks should be oriented away from public streets whenever feasible.**
- D. Any brewery or distillery providing entertainment, must meet the requirements provided for entertainment establishments in Section 18-24.**

- 18-19-4 Permitted home occupations shall not in any event include (1/14/14, Case TA-13-493, Ord. No. 2013-41):
- Bookstores or motion picture theaters
  - Animal hospitals and kennels
  - Bed and breakfast homestays and boarding houses
  - Massage therapy (other than strictly a home office used for record keeping)
  - Motor vehicle sales, repair, equipment installation, and similar activities
  - Pet Daycare, training or grooming exceeding care of more than one (1) pet at a time, excluding those of the tenant of the dwelling unit
  - Private Clubs or Lodges

- Restaurants
- Tourist Homes
- Vehicle towing, demolishing, or salvaging
- **Brewery, distillery, microbrewery, microdistillery, nanobrewery, winery**

City Council  
September 22, 2015

**TA 15-441 AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 7, 8, 9, 10, 11, 12, 13 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF BREWERY, DISTILLERY, MICRODISTILLERY, MICROBREWERY, NANOBREWERY, TASTING ROOM, AND WINERY, PARKING REQUIREMENTS, AND USE STANDARDS.**

**REQUEST DESCRIPTION**

This is a publicly initiated ordinance to amend and expand the allowable use provisions for brewery, distillery and related uses within the Zoning Ordinance and various commercial and industrial districts.

**STAFF COMMENTS**

Presently in the Zoning Ordinance *Breweries* are explicitly approved in only the CM-1, M-1, and M-2 districts. This is the result of an ordinance amendment that was adopted by City Council in 2007. It is possible with other provisions in the ordinance for limited brewing or distilling operations provided the operations meet provided processing/manufacturing provisions in the Zoning Ordinance. However, in the purpose of clarity, staff believes it would be appropriate to fully and clearly provide definitions, use allowances and use standards in the Zoning Ordinance for several commercial and industrial zoning districts. With the rising trends of artisan and craft breweries throughout the country, it is appropriate for the City to proactively plan and provide use provisions for zoning districts where they may be appropriate.

The proposed ordinance provides distinctions for various types of alcohol manufacturing and processing operations with the most intensive uses permitted in the industrial districts and the smaller scale uses allowed within commercial districts.

DESCRIPTION	LR	MR	HR	HR1	RO1	RB1	B1	B2	CM1	M1	M2	PC	EIP	HS	MC	HE1
<b>Brewery</b>	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-
<b>Distillery</b>	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-
<b>Microdistillery</b>	-	-	-	-	-	C	P	P	P	P	P	P	-	-	-	-
<b>Microbrewery</b>	-	-	-	-	-	-	P	P	P	P	P	C	-	-	-	-
<b>Nanobrewery</b>	-	-	-	-	-	C	P	P	P	P	P	P	-	-	-	-
<b>Tasting Room</b>	-	-	-	-	-	P*	P*	P*	P*	P*	P*	P*	-	-	-	-
<b>Winery</b>	-	-	-	-	-	-	P	P	P	P	P	C	-	-	-	-
P – Permitted By-Right / C – Conditional Use																
* Tasting Rooms permitted by-right as a subordinate use to a brewery, distillery, microdistillery, microbrewery, nanobrewery, or winery.																

The thresholds for the different classifications of breweries and distilleries are based off of the licensing and production thresholds of Virginia Alcohol Beverage Control.

<b><u>Facility Type</u></b>	<b><u>Production Capacity</u></b>
Brewery	Typically over 10,000 barrels per year
Microbrewery	More than 500 but less than 10,000 barrels per year
Nanobrewery	No more than 500 barrels per year
Distillery	Typically over 5,000 gallons per year
Microdistillery	No more than 5,000 gallons per year

The ordinance includes parking provisions for these types of operations by including a blended requirement acknowledging the typical low intensity parking required with manufacturing and processing uses: 1 space per 2000 square feet. Higher parking requirements are included, with a standard that is comparable to restaurants, for facilities that include tasting rooms: 1 space per 100 square feet of public floor area.

In addition to providing clearer definitions and use allowances, the ordinance amendment provides for basic use provisions for these types of operations. These use provisions include:

- All manufacturing, brewing, and/or bottling associated with breweries and distilleries must occur within a fully enclosed building.
- No outdoor storage of materials shall be permitted.
- All loading and unloading docks should be oriented away from public streets whenever feasible.
- Any brewery or distillery providing entertainment must meet the requirements of entertainment establishments.

### **October 27, 2015 Update**

Revisions were made to each of the definitions in the amendment to ensure that they are reflecting the definitions of beer, spirits and wine as provided in the Code of Virginia. This will allow the local Zoning Ordinance to be flexible with the definitions provided at the state level.

Additionally, changes were made to the general provisions in Section 18-25 to allow for outdoor storage of materials in the M-1 (Limited Industrial) and M-2 (Intensive Industrial) districts. Outdoor storage, when permitted, must meet the screening requirements provided in Section 18-20-5 of the Ordinance.

### **RECOMMENDATION**

At their September 15<sup>th</sup> meeting, the Planning Commission unanimously forwarded **TA-15-441** with a favorable recommendation because the ordinance as presented provides for good planning practice by providing clear definitions, use parameters and additional use allowances providing for increased business opportunities.