

# COUNTY OF YORK

## MEMORANDUM

**DATE:** September 5, 2014 (BOS Mtg. 9/16/14)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator 

**SUBJECT:** Sponsorship of Zoning Ordinance Text Amendments – Microbreweries, Wineries, Cideries, Distilleries

### ISSUE

As requested by the Board, staff has researched and developed recommendations concerning the micro-alcohol operations (breweries, wineries, cideries, distilleries) mentioned in the attached letter from the Economic Development Authority. The attached resolution, which would initiate a formal text amendment application and forward it to the Planning Commission, has been prepared for the Board's consideration.

### CONSIDERATIONS

1. Small-scale alcohol production – microbreweries, micro-distilleries, micro-wineries, and micro-cideries – is a fast-growing industry in the United States. In Virginia alone, so-called “craft beer” production is a \$623 million-a-year industry, according to the Brewers Association, a trade group for small brewers. The growing micro-alcohol production industry presents an opportunity for localities seeking to reap the economic and tourism benefits associated with the growing appeal of craft beers, whiskeys, and such. For example, the Williamsburg City Council recently approved the sale of a City-owned former hotel property on Capitol Landing Road to be redeveloped as a micro-distillery that is estimated to generate \$216,000 in tax revenue in the first six years and \$86,000 annually thereafter.\* The project is also expected to help revitalization one of the City's somewhat blighted commercial corridors.

In York County, the Zoning Ordinance treats breweries and distilleries as manufacturing uses that fall under the land use category of “Manufacture, Compounding, Processing & Packaging of Food and Food Products” (Section 24.1-306, Table of Land Uses, Category 16, No. 6) and are permitted as a matter of right in the IL (Limited Industrial) and IG (General Industrial) districts and with a Special Use Permit in the EO (Economic Opportunity) district. The Zoning Ordinance does not currently define “microbrewery” or specifically provide for them in the Zoning Ordinance; microbreweries are treated the same as ordinary breweries. The County's one microbrewery – the Alewerks Brewing Company – is located in the Ewell Industrial Park on Mooretown Road, which is zoned IL. In a letter dated April 1,

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\* Figures include sales taxes, meal and beverage taxes, and the BPOL tax and do not include real or personal property taxes.

2014 (copy attached), the Economic Development Authority has requested the Board to sponsor an application to amend the Zoning Ordinance to allow microbreweries – as well as small distilleries, and alcoholic cideries – in the GB (General Business) and EO (Economic Opportunity) zoning districts, either as a matter of right or with a Special Use Permit.

2. Unlike ordinary breweries and distilleries, which are appropriate in industrial zoning districts that are intended for uses that can generate noise, heavy truck traffic, and odors, microbreweries and micro-distilleries are relatively small-scale operations that involve less intensive external impacts. Also, they typically include tasting rooms where customers can sample the beverages produced on the premises as well as other accessory retail components such as gift shops, restaurants, and reception facilities – all of which are permitted as stand-alone uses in both the GB and EO zoning districts. It should also be noted that although the Zoning Ordinance does not specifically provide for microbreweries, it does provide for a similar use – Restaurant/Brew-Pub – which is permitted as a matter of right in the GB and EO zoning districts. This provision was among a series of “housekeeping amendments” adopted by the Board in September 1998 (Application No. ZT-29-98). The term “brew-pub” is not defined in the Zoning Ordinance, but the 1998 staff report to the Board describes it as a type of restaurant “that includes food and beverage sales and beverage making and bottling as an incidental/accessory use.” The basic difference between a brew-pub and a microbrewery is that a brew-pub *must* include a food sales/service component, whereas in a microbrewery, the manufacture of beer could be the sole activity.

Based on their small scale and relatively low external impacts, micro-alcohol production facilities can best be classified as a limited industrial use with retail components and, as such, do not appear to be inherently incompatible with commercial retail uses that are typically found in the GB and EO districts. In fact, as stated in the Zoning Ordinance, the EO district is specifically intended to guide a mix of commercial, tourist-related, *and limited industrial* uses to certain portions of the county identified in the comprehensive plan that have or are projected to have the access and infrastructure necessary to support both capital and employment intensive uses [emphasis added].

3. Most of the cities and counties in the immediate area specifically provide for microbreweries in their zoning ordinances, as outlined below:
  - Gloucester County permits microbreweries with a Special Exception in its Business (B-1) and Village Business (B-2) districts.
  - The City of Hampton permits microbreweries, micro-distilleries, and micro-wineries as a matter of right in most of its Manufacturing and Langley Flight Approach districts and with a Use Permit in two of its three Special Public Interest-Hampton Roads Center districts. In addition, the City recently amended its zoning ordinance to permit such facilities, including micro-wineries, as a matter of right in two additional Special Public Interest

districts provided that there is a retail component, and to provide opportunities for live entertainment in such facilities in certain districts.

- James City County permits microbreweries as a matter of right in its Limited Business/Industrial (M-1), General Business/Industrial (M-2), and General Business (B-1) districts.
- New Kent County permits brew-pubs and microbreweries as a matter of right in its Business and Economic Opportunity districts, and microbreweries are also permitted in its Industrial district.
- The City of Newport News permits microbreweries, micro-distilleries, and micro-wineries as a matter of right in its Mixed Use, Retail, General Commercial, Regional Business, Oyster Point Business, Oyster Point Business/Manufacturing, and Light Industrial districts.
- The City of Williamsburg permits microbreweries, micro-distilleries, micro-wineries and micro-cideries in three of its commercial zoning districts – Limited Business Mixed-Use (LB-3), Corridor Business District (B-2), and Urban Business District (B-3) – all with a Special Use Permit.

It should be noted that all of these localities permit microbreweries in commercial zoning districts, either as a matter of right or with a Special Use Permit, and several of them – Hampton, Newport News, and Williamsburg – also provide specifically for other small-scale alcohol production establishments such as micro-distilleries, micro-wineries, and micro-cideries. The definition of “microbrewery” differs from locality to locality, but by far the most common approach, not just in Virginia but across the United States, is to define them based on a maximum production capacity of 15,000 barrels a year. James City County and Williamsburg use the 15,000-barrel threshold, and the definition recently adopted by the City of Hampton uses the same standard. Newport News takes a different approach, defining “micro” based not on production volumes but on the size of the establishment, which is limited to 3,000 square feet of floor area. Gloucester does not have any size or production volume thresholds, but requires a Special Exception in all cases, and therefore has the ability to regulate the size of such facilities on a case-by-case basis.

Micro-distilleries, micro-wineries, and micro-cideries differ from microbreweries in that there is no generally recognized definition of the term “micro.” In Newport News, the 3,000-square foot limit applies, while Hampton established a maximum threshold of 20,000 gallons a year for micro-distilleries and micro-wineries. Nationally, standards range from 5,000 gallons (Memphis-Shelby County, Tennessee) to 15,000 gallons (Fort Collins, Colorado) to 35,000 gallons (Evanston, Illinois) a year for micro-distilleries. Micro-wineries typically do not have production volume thresholds and are sometimes defined simply as wineries that do not have their own vineyards; the same would likely apply to micro-cideries, which can be thought of as cideries that do not have their own orchards. (Commercial vineyards

and orchards are permitted as a matter of right in the RC-Resource Conservation, RR-Rural Residential, EO, IL, and IG districts, and with a Special Use Permit in the R20-Medium density single-family residential and R13-High density single-family residential zoning districts); however, the proposed text amendments concerning agricultural uses would remove the SUP opportunity in the R20, R13 and EO districts).

4. For the most part, neighboring localities do not have specific performance standards for micro-alcohol production facilities, whether permitted as a matter of right or with either a Special Use Permit or a Special Exception. Of the local jurisdictions, only Gloucester has any standards, and those are relatively generic:
  - Lighting shall not constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
  - All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise, odor, and vibration.
  - The Board of Zoning Appeals may impose any additional requirements it may deem necessary for the protection, health, safety, and welfare of the residents of the county.

In other localities around the country that have performance standards for these types of uses, some of the more common types of requirements include the following:

- limitations on the amount of alcohol produced,
- prohibition of the consumption of alcoholic beverages not produced on-site,
- limitations on live entertainment associated with microbreweries,
- floor area requirements for accessory tasting rooms,
- minimum distance requirements between microbreweries and residential areas,
- prohibition of outdoor storage or any outdoor activities, other than loading, and
- compliance with state and/or local beer, wine, and liquor laws.

If the Board ultimately decides to amend the Zoning Ordinance to allow microbreweries, micro-distilleries in the EO and/or GB districts as a limited industri-

al use, such establishments would be subject to the following performance standards, which apply to all limited industrial uses:

- All off-street parking and loading space for limited industrial uses shall be located not less than thirty-five feet (35') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials.
- Structures of thirty thousand (30,000) square feet or greater shall have fire lanes surrounding the structure(s) unless approved otherwise by the director of public safety.
- Bay doors shall be oriented away from streets and residential properties or screened from direct views by landscape means.
- Outdoor lighting shall be sufficient to protect public safety; however, it shall not cast unreasonable or objectionable glare on adjacent properties and streets.
- Outdoor speaker or paging systems shall be directed away from property lines and shall be designed to prevent objectionable noise levels on adjacent properties or streets.
- All industrial uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes, fire or explosion.
- Service drives or other areas shall be provided for off-street loading in such a way that in the process of loading or unloading, no truck will block the passage of other vehicles on the service drive or extend into any fire lane or other public or private drive or street used for circulation.

Any such uses would also be subject to the general provisions of the zoning district in which they are located. In the GB zoning district, outdoor storage of goods or materials is not permitted in front yards, and any outdoor storage in side or rear yards must be in a fully buffered area that meets all applicable setback requirements. In the EO district, outdoor storage of goods or materials is not permitted in any front yards, and any outdoor storage in side or rear yards must be screened from public rights-of-way or adjoining properties that are zoned or used less intensively.

These provisions, together with the generally applicable transitional buffer and landscape yard requirements, should be adequate to ensure compatibility with neighboring uses and prevent any adverse impacts. Staff does not see any need for taproom floor area requirements as long as parking is sufficient to accommodate

such facilities and/or other accessory uses, and it goes without saying that all state ABC laws and licensing requirements would have to be followed. Regarding live entertainment, the County already governs that through its existing “nightclub” provisions, which require a Special Use Permit in the GB and EO (and LB-Limited Business) districts for any establishment that offers alcoholic beverages for on-premises consumption, is open after 11:00 p.m., and has a dance floor and/or stage for live bands or solo artists or other entertainment.

### **RECOMMENDATION**

The County has many EO- and GB-zoned sites that would be appropriate for micro-alcohol production facilities, and I believe existing standards are adequate to prevent any potentially adverse impacts on neighboring properties. Therefore, I recommend that the Board sponsor an application to allow consideration of a series of Zoning Ordinance text amendments to permit microbreweries, micro-distilleries, micro-wineries, and micro-cideries as a matter of right in the EO and GB zoning districts and to establish specific parking standards to account for the retail components that would likely be associated with such establishments. The proposed amendments would also add definitions for these uses and for “brew-pubs” as well. Sponsorship does not commit the Board to adopting these amendments but rather allows them to be referred to the Planning Commission to review and make a recommendation in accordance with applicable procedures.

Carter/3337/TCC

#### Attachments

- Letter from Economic Development Authority, dated April 1, 2014
- Proposed Resolution R14-114