

CITY OF SMYRNA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

To: Mayor and Council

From: Ken Suddreth, Community Development Director
Tom Boland, Economic Development Manager
Russell Martin, AICP, Senior Planner

Date: December 11, 2018

CC: Tammi Saddler-Jones, City Administrator

RE: Zoning Code Amendment – Breweries & Distilleries

BACKGROUND

Over the last year, the Community Development Department has met with numerous brewers looking to locate their breweries within the City of Smyrna. Community Development staff has worked with these brewers to identify potential business locations, as well as assist with the permitting and licensing process. The City's Zoning Ordinance is silent on breweries, brewpubs and distilleries and does not list the use as a permitted use under any zoning district in the city. Due to the number of requests to assist with the location of a brewery within the city limits, Community Development is proposing a code amendment to the Zoning Ordinance to identify the zoning districts where breweries, brewpubs and distilleries can be permitted.

ANALYSIS

Community Development has reviewed the City's Zoning Ordinance and found that breweries and distilleries are not identified as permitted uses within any zoning district in the city. As currently written, Community Development staff would have to make an interpretation as to which zoning districts breweries and distilleries would be permitted. The proposed code amendment would clearly define what breweries and distilleries are, as well as identify the specific zoning districts where they would be permitted.

Community Development is proposing to amend Section 402 of the Zoning Ordinance to add specific definitions related to breweries and distilleries. These terms include the definitions for barrel, brewer, brewery, brewpub, distilled spirits, distiller, distillery and malt beverages. These terms need to be defined to maintain consistency with state law and to provide clarity as to the definition of a brewery and distillery. The definitions will also provide a clear distinction between breweries and brewpubs.

Community Development is proposing to amend Sections 712, 714, 716 and 720 of the Zoning Ordinance to add breweries and distilleries as permitted uses under the General Commercial (GC), Light Industrial (LI), Central Business District (CBD) and Mixed Use (MU) zoning districts. These are the four zoning districts staff feels are the most appropriate zoning districts for

breweries, brewpubs and distilleries. In addition, these zoning districts are consistent with other area municipalities that allow breweries, brewpubs and distilleries. The proposed code amendment allows for breweries and distilleries to have accessory tasting rooms, where the brewery can set up tastings for the public. Finally, staff is proposing that the manufacturing of malt beverages and distilled spirits takes place within a wholly enclosed building.

The City's Alcoholic Beverage Ordinance will also need to be amended to address licensing.

The Planning and Zoning Board heard the proposed text amendment at the August 13, 2018 meeting and made a recommended for **approval** as presented by staff by a vote of 6-0.

STAFF COMMENTS

Community Development has researched the state law and surrounding municipalities to review how these governing authorities address breweries, brewpubs and distilleries within their jurisdictions. These municipalities included Cobb County, Duluth, Kennesaw and Marietta. The proposed code amendments below are consistent with state law and ordinances of surrounding municipalities. With these proposed code amendments, the City of Smyrna will be competitive with other municipalities in attracting breweries and distilleries into the City. Therefore, Community Development recommends **approval** of the proposed code amendments below to address breweries, brewpubs and distilleries within the City's Zoning Ordinance:

Section 402 of the Zoning Ordinance shall be amended to add new sections to provide definitions related to breweries and distilleries. The proposed sections shall read as follows (amended portions are highlighted).

(402.6.1) Barrel: 53 gallons of distilled spirits or 31 gallons of malt beverages.

(402.7.2) Brewer: A manufacturer of malt beverages.

402.7.3) Brewery: Any establishment where malt beverages are manufactured, except brewpubs.

(402.7.4) Brewpub: Any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation established by state law. As used in this paragraph, the term eating establishment means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least fifty percent (50%) of its total annual gross food and beverage sales from the sale of prepared meals or food; provided, however, that when determining the total annual gross food and beverage sales, barrels of malt beverages sold to licensed wholesale dealers, or to the public for consumption off premises, shall not be used.

(402.18.1) Distilled spirits: Any alcoholic beverage obtained by distillation or containing more than twenty-four percent (24%) alcohol by volume.

(402.18.2) Distiller: A manufacturer of distilled spirits. In the case of distilled spirits, "manufacturer" means any person engaged in distilling, rectifying, or blending any

distilled spirits; provided, however, that a vintner that blends wine with distilled spirits to produce a fortified wine shall not be considered a manufacturer of distilled spirits.

(402.18.3) Distillery: Any establishment where distilled spirits are manufactured.

(402.42.1) Malt beverage: Any alcoholic beverage obtained by the fermentation of any infusion or decoration of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than fourteen percent (14%) alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

Section 712 of the Zoning Ordinance shall be amended to add breweries, brewpubs and distilleries to the list of permitted uses under the General Commercial (GC) zoning district. The proposed sections shall read as follows (amended portions are highlighted).

(712.12.1) Breweries, distilleries and brewpubs, including accessory tasting rooms.

a. Manufacturing shall be conducted within a wholly enclosed building.

(712.12.42) Carnivals and/or circuses, provided that such activities are not operated within any road right of way, easement for vehicular access or parking lot, and provided that carnival rides, concessions, and other such activities be conducted at least 250 feet from any residential district.

Section 714 of the Zoning Ordinance shall be amended to add breweries, brewpubs and distilleries to the list of permitted uses under the Light Industrial (LI) zoning district. The proposed sections shall read as follows (amended portions are highlighted).

(714.4.1) Breweries, distilleries and brewpubs, including accessory tasting rooms.

a. Manufacturing shall be conducted within a wholly enclosed building.

Section 716 of the Zoning Ordinance shall be amended to add breweries, brewpubs and distilleries to the list of permitted uses under the Central Business District (CBD) zoning district. The proposed sections shall read as follows (amended portions are highlighted).

(716.22) Breweries, distilleries and brewpubs, including accessory tasting rooms.

a. Manufacturing shall be conducted within a wholly enclosed building.

Section 720 of the Zoning Ordinance shall be amended to add breweries, brewpubs and distilleries to the list of permitted uses under the Mixed Use (MU) zoning district. The proposed sections shall read as follows (amended portions are highlighted).

(720.2(19)) Breweries, distilleries and brewpubs, including accessory tasting rooms.

- a. Manufacturing shall be conducted within a wholly enclosed building.