

MEMORANDUM PLANNING COMMISSION

DATE: December 28, 2020
TO: Planning Commission
FROM: Amber Vogan, Assistant City Manager

SUBJECT: Zoning Regulations for Microbreweries, Microdistilleries, and Wineries

Microbreweries and other boutique liquor establishments are growing in popularity in our area. Staff was approached with an inquiry from a business interested in the regulations for placing a microbrewery in Bonner Springs. Our Code of Ordinance establishes licensing regulations for microbreweries, wineries, distilleries, and other such establishments. However, our Zoning Ordinance does not have any specific language for any of these types of establishments other than drinking establishments or taverns.

Staff recommends a discussion among the Planning Commissioners to determine where these types of uses would be appropriate in Bonner Springs. If a consensus is reached, staff will prepare an ordinance to amend the Zoning Ordinance for consideration at the February Planning Commission Meeting.

The following are State definitions and regulations found in the Kansas Alcohol and Beverage Control (ABC) Handbooks for Microbreweries, Microdistilleries, and Farm Wineries:

- **Farm winery:** Means a winery licensed under the Liquor Control Act by the director to manufacture, store and sell domestic table wine and domestic fortified wine. [Subsection (n) of K.S.A. 41-102] A farm winery is limited to producing no more than 100,000 gallons of wine per year. [Subsection (a)(1) of K.S.A. 41-308a]
- **Microbrewery:** Means a brewery licensed by the director to manufacture, store and sell domestic beer and hard cider. [Subsection (q) of K.S.A. 41-102] A microbrewery is not considered to be a retailer. [Subsection (y)(2) of K.S.A. 41-102] A microbrewery is not considered to be a manufacturer. [Subsection (p)(2) of K.S.A. 41-102]
 - **Manufacturing domestic beer:** A microbrewery may manufacture and store not less than 100 and not more than 60,000 barrels of domestic beer during a calendar year. However, if a microbrewery licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, then the aggregate number of barrels of domestic beer manufactured by all such licensees with such common ownership shall not exceed the 60,000 barrel limit. [Subsection (a)(1) of K.S.A. 41-308b]
- **Microdistillery:** Means a facility which produces spirits from any source or substance that is licensed by the Director to manufacture, store and sell spirits. [Subsection (s) of K.S.A. 41-102] A microdistillery is not considered to be a retailer. [Subsection (z)(2) of K.S.A. 41-102] A microdistillery is not considered to be a manufacturer. [Subsection (q)(2) of K.S.A. 41-102]
- **Days and Hours of Sales:** A microbrewery may sell domestic beer to consumers for consumption off-premises at any time between 6 a.m. and 12 a.m. on any day. [Subsection (e) of K.S.A. 41-308b, as amended by 2018 HB 2470]
- **Location:** Microbreweries cannot be located within 200 feet of a public or parochial school, college or church unless the existence of the licensed premises predates the school, college or church. [Subsection (c)(1) of K.S.A. 41-710] However, a city may, by ordinance, waive this restriction for licensed premises located within a core commercial district as defined by K.S.A. 12-17,122. [Subsection (d) of K.S.A. 41-710].

- Kansas ABC Handbooks:
 - Microbreweries: www.ksrevenue.org/abchbmicrobreweries.html
 - Microdistilleries: www.ksrevenue.org/abchbmicrodistilleries.html
 - Farm Wineries: www.ksrevenue.org/abchbfarmwineries.html

Staff researched the zoning regulations of several other cities. Many did not have specific language in their zoning regulations regarding microbreweries, and even less cities had specific language for microdistilleries or wineries. In researching cities outside of the state that did have specific language, most allowed microdistilleries in the same zoning areas as microbreweries, and most allowed wineries in agricultural zoning due to the need to grow grapes. However, as a Shawnee staff report states, a wine bar concept could be allowed in the same zoning areas as microbreweries and microdistilleries.

Microbrewery Zoning in Other Kansas Communities					
	Zoning District (P-Permitted by Right; C-Conditional Use; S-Special Use)				
	Downtown Commercial	General Commercial	Light Industrial	Heavy Industrial	Other
Edwardsville		S (Bar/Drinking Establishment)			
El Dorado	S	P			Special Use in Office (O-1)
Gardner	P	P	P	P	Special Use in Office (C-O)
Independence		C	P	P	
Kansas City	S	S	S	S	Special Use in all Zoning Districts
Lansing			P	P	
Olathe	S		P	P	
Shawnee < 5,000 sf	P	P	P	P	
> 5,000 sf	S	P	P	P	
Spring Hill		C			
Sterling		P			

The following are zoning regulations from Kansas cities regarding microbreweries, microdistilleries, and wineries:

- **Edwardsville, KS** – Does not have specific language for a microbrewery in their zoning regulations. However, they currently have one microbrewery under a Special Use Permit (SUP) in the C-2 Commercial Retail District. The SUP was required because of the bar/drinking establishment concept. All bars and drinking establishments are allowed under SUP in their C-2

district. If it were only a microbrewery with no drinking on-site, they likely would not have been required to have the SUP.

- **El Dorado, KS** – Microbreweries are permitted by right in Central Business District (C-2), and Special Use in General Business District (C-1) and Office / Institutional District (O-1).
- **Gardner, KS** – Considers a microbrewery a Limited / Artisan Manufacturer permitted by right in all Industrial Zoning, and all Commercial Zoning except Office District (C-O). Other Commercial Zoning categories include Neighborhood Business (CO-A), Central Business (C-1), General Business (C-2), Heavy Commercial (C-3). “Manufacturing – Limited / Artisan – A small-scale Industrial use where activities produce little or no byproducts such as smoke, odor, dust or noised discernable from outside of the building, where deliveries and distribution are made by general consumer delivery services requiring no special large truck access, and where products are made available to the general public. Uses typically occupy buildings or spaces under 10,000 square feet of gross leasable area. Examples include artists’ studios, small wood or metal shops, craft manufacturing, small bakery or micro-brewery, or other similar small-scale assembly of finished products.”
- **Independence, KS** – Microbreweries are permitted by right under Light and Heavy Industrial Districts, and by conditional use in C-2 and C-3 Commercial Districts.
- **Kansas City, KS** – Microbreweries and wineries are allowed by Special Use under any zoning district.
- **Lansing, KS** – Microbreweries are permitted by right in industrial zoning as a Limited/Artisan Manufacturer (Manufacturing – Limited / Artisan – A small-scale Industrial use where activities produce little or no byproducts such as smoke, odor, dust or noised discernable from outside of the building, where deliveries and distribution are made by general consumer delivery services requiring no special large truck access, and where products are made available to the general public. Uses typically occupy buildings or spaces under 10,000 square feet of gross leasable area. Examples include artists’ studios, small wood or metal shops, craft manufacturing, small bakery or micro-brewery, or other similar small-scale assembly of finished products.)
- **Olathe, KS** – Brewery/Tasting Rooms primarily engaged in brewing beer, ale, malt liquors, and nonalcoholic beer are permitted by right in all Industrial Zoning, and as a Special Use in all Downtown zoning areas.
- **Shawnee, KS** – Microbrewery, microdistillery or other boutique liquor establishment under 5,000 sf permitted by right in Commercial Neighborhood (CN), Commercial Highway (CH), Townsquare (TSQ, downtown), and Planned Industrial (PI). Over 5,000 sf permitted by right in Commercial Highway (CH) and Planned Industrial (PI), and Special Use in Commercial Neighborhood (CN) and Townsquare (TSQ, downtown). Wineries are permitted by right in the Agricultural (AG) Zoning District.
 - Shawnee changed the language of their Zoning Ordinance in May 2019 to “place a tenant square footage limitation on the land use so that a Special Use Permit is required in the CH and TSQ Zoning District when the tenant space is larger than 5,000 square feet. The limitation on size was added to ensure proper review of the liquor-related business in relation to the surrounding area, which may be smaller-scale tenant spaces near residential areas. Additionally, the Special Use Permit process will allow Staff to evaluate parking needs and concerns with aspects of manufacturing operations in these zoning districts. The most appropriate zoning districts to allow full-scale breweries or distilleries is an industrial district, so those land uses are designated as a Special Use in PI. Wineries and vineyards typically require the need to grow grapes, so the AG Zoning District is the most appropriate district for those uses. However, a wine bar concept could be considered a boutique liquor establishment.”

- **Spring Hill, KS** – Microbreweries are allowed under a Conditional Use in the C-2 General Business District.
- **Sterling, KS** - Microbreweries are permitted by right in the B-2 Central Business District.