

**BUILDING INSPECTION DEPARTMENT**

(972) 450-2880 Fax: (972) 450-2837

16801 Westgrove

Post Office Box 9010 Addison, Texas 75001-9010

**A PUBLIC HEARING BEFORE THE ADDISON  
PLANNING AND ZONING COMMISSION**

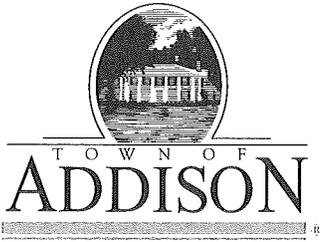
**November 21, 2013**

**6:00 p.m.**

**ADDISON TOWN HALL  
5300 BELT LINE ROAD  
COUNCIL CHAMBERS**

1. **PUBLIC HEARING** Case 1675-Z/Town of Addison. Public Hearing, discussion and consideration of approval of an ordinance amending the Code of Ordinances of the Town by amending Appendix A – Zoning, thereof, the same being the Comprehensive Zoning Ordinance, by amending Article XX (Special Uses), Section 1, Subsection A, by adding to the list of Special Uses a microbrewery in any district other than a Planned Development District and in any Planned Development District where a microbrewery is allowed (New Subsection A.(39), subject to the adoption of an ordinance authorizing the same, all in accordance with the terms, conditions and restrictions set forth in this ordinance and in any other ordinance of the Town and with applicable laws, rules and regulations; and amending Section XXX (definitions) by adding thereto a definition of microbrewery, on application from the Town of Addison, represented by Carmen Moran.

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS WITH DISABILITIES.  
PLEASE CALL 972-450-2819 AT LEAST  
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**



**BUILDING INSPECTION DEPARTMENT**

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Post Office Box 9010 Addison, Texas 75001-9010

November 4, 2013

**RE:** Case 1675-Z/Town of Addison

**LOCATION:** Amendment to Appendix A, the Addison Zoning Ordinance, Article XX (Special Uses) there of and Article XXX (Definitions)

**REQUEST:** Approval of an ordinance amending the Town's Code of Ordinances by amending Appendix A – Zoning thereof, the same Being the Comprehensive Zoning Ordinance of the Town, by amending (i) Article XX (Special Uses) thereof by adding thereto a "microbrewery" as a use that may be authorized at a location upon the approval of an ordinance, and by amending Section XXX (definitions) by adding thereto a definition of a microbrewery

**APPLICANT:** Town of Addison, represented by Carmen Moran

**DISCUSSION:**

Background. During the 2013 regular session of the Texas Legislature, the Legislature adopted bills pertaining to the craft brewing industry that are intended to help the industry grow and flourish in Texas much like it has in other states. Provisions in Senate Bills 516 and 517 authorize brewers and manufacturers that produce less than 125,000 barrels of beer and ale annually to obtain a self-distribution license and/or permit and sell up to 40,000 barrels annually direct to retailers, and provisions in Senate Bill 518 authorize brewers and manufacturers who produce no more than 225,000 barrels annually to sell no more than 5,000 barrels annually of malt beverages produced on the brewery premises to visitors of the brewery to drink on site. Prior to this legislation, breweries could give beer away on site, but could not sell it.

This new legislation makes it easier for small breweries to make craft beers in Texas and allows customers to tour the breweries and consume beer on-site. While the

Legislation allows the customers to buy and consume beer on site, it does not allow them to buy the beer in any container (keg, can, or bottle) and take it off the site.

Current Request. While Addison currently has a Special Use Permit requirement for a "brewpub", it does not have an SUP for a microbrewery. A microbrewery is defined as:

An establishment:

(a) located at premises and that holds at those premises:

(i) both a valid brewer's self-distribution permit and a valid manufacturer's self-distribution license issued by the State of Texas, and whose annual production of beer and ale, combined, at the premises does not exceed 125,000 barrels, and whose sales of beer and ale, combined at the same premises does not exceed 40,000 barrels annually; and/or

(ii) both a valid brewer's permit and a valid manufacturer's license, and whose annual production of beer and ale, combined at the premises does not exceed a total of 225,000 barrels, and whose total combined sales of beer and ale produced on the same premises under the said permit and license to ultimate consumers on the premises for responsible consumption on the premises does not exceed 5000 barrels annually, and whose sale to such ultimate consumers takes place only between 8:a.m. and midnight on any day except Sunday and between 10 a.m. and midnight on Sunday; and

(b) that is in compliance at all times with the applicable permits and licenses described in subsection (a) and with all applicable laws, rules and regulations of the State and with the Charter and ordinances of the town and that promptly provides to the town information requested, and in form and format determined, by the town to determine such compliance.

In Addison, a brewpub has a requirement to sell food. However, the staff would not expect a microbrewery to sell food, although it might have food catered in for events. In addition the staff has talked with several operators, and a microbrewery is a much more industrial operation than a brewpub, and produces a much larger quantity of beer/ale. The operators have indicated that they will begin production with keg and possibly cans of beer, and eventually move into bottling. One operator indicated he might store as many as 20,000 pounds of grain on the site at one time.

Therefore, while all other alcohol-related SUPs: liquor for off-premises consumption, beer and wine for off-premises consumption, alcoholic beverages for on-premises consumption, are limited to Local Retail or Planned Development zoning districts, the staff feels that a microbrewery should be allowed in any district, including Commercial

and Industrial districts, provided the request is reviewed and approved by the P&Z and Council.

RECOMMENDATION:

The craft beer phenomenon is quite popular in Texas with several well-established microbrewers in Austin. Many new breweries are opening in Dallas and the surrounding suburbs, and the breweries are very popular as sites for happy hours, receptions, meetings, and other events. Addison has been approached by two brewery developers who would like establish breweries in Town.

The staff feels that the addition of the ability to build a microbrewery in Addison would give the Town another attraction to offer visitors and hotel/meeting guests, as well as a venue for residents and businesspeople to gather in Addison.

Staff recommends approval of an ordinance amending the Code of Ordinances of the Town by amending Appendix A – Zoning, thereof, the same being the Comprehensive Zoning Ordinance, by amending Article XX (Special Uses), Section 1, Subsection A, by adding to the list of Special Uses a microbrewery in any district other than a Planned Development District and in any Planned Development District where a microbrewery is allowed subject to the adoption of an ordinance authorizing the same, and amending Section XXX (definitions) by adding thereto a definition of microbrewery, subject to no conditions.

Respectfully submitted,

A handwritten signature in black ink that reads "C MORAN". The letters are somewhat stylized and connected.

Carmen Moran  
Director of Development Services

Case 1675-Z/Town of Addison  
November 22, 2013

**COMMISSION FINDINGS:**

The Addison Planning and Zoning Commission, meeting in regular session on November 21, 2013, voted to recommend approval of an ordinance amending the Code of Ordinances of the Town by amending Appendix A – Zoning, thereof, the same being the Comprehensive Zoning Ordinance, by amending Article XX (Special Uses), Section 1, Subsection A, by adding to the list of Special Uses a microbrewery in any district other than a Planned Development District and in any Planned Development District where a microbrewery is allowed (New Subsection A. (39), subject to the adoption of an ordinance authorizing the same, all in accordance with the terms, conditions and restrictions set forth in this ordinance and in any other ordinance of the Town and with applicable laws, rules and regulations; and amending Section XXX (definitions) by adding thereto a definition of microbrewery.

Voting Aye: Doherty, Groce, Hewitt, Hughes, Oliver, Stockard, Wheeler  
Voting Nay: none  
Absent: none

**TOWN OF ADDISON, TEXAS**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING APPENDIX A – ZONING THEREOF, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE, BY AMENDING ARTICLE XX (SPECIAL USES), SECTION 1, SUBSECTION A, BY ADDING TO THE LIST OF SPECIAL USES A MICROBREWERY IN ANY DISTRICT OTHER THAN A PLANNED DEVELOPMENT DISTRICT AND IN ANY PLANNED DEVELOPMENT DISTRICT WHERE A MICROBREWERY IS ALLOWED (NEW SUBSECTION A.(39)), SUBJECT TO THE ADOPTION OF AN ORDINANCE AUTHORIZING THE SAME, ALL IN ACCORDANCE WITH THE TERMS, CONDITIONS AND RESTRICTIONS SET FORTH IN THIS ORDINANCE AND IN ANY OTHER ORDINANCE OF THE TOWN AND WITH APPLICABLE LAWS, RULES AND REGULATIONS; AMENDING SECTION XXX (DEFINITIONS) BY ADDING THERETO A DEFINITION OF MICROBREWERY; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the comprehensive Zoning Ordinance (the “Zoning Ordinance”) of the Town of Addison, Texas (the “City”), was adopted and made effective on October 13, 1964 pursuant to Ordinance No. 66 of the City, and with the subsequent codification of the ordinances of the City was thereafter included as (and is currently found in) Appendix A – Zoning to the City’s Code of Ordinances (the “Code”); and

**WHEREAS**, the City Council is authorized, pursuant to Chapter 211, Tex. Loc. Gov. Code, as amended, and Article XXIX of the Zoning Ordinance, to amend, supplement, or change by ordinance the regulations of the Zoning Ordinance; and

**WHEREAS**, during the regular session of the 83<sup>rd</sup> Texas Legislature (2013), the Legislature adopted legislation pertaining to the craft brewing industry, including provisions (included in Senate Bills 516 and 517) that authorize brewers and manufacturers that produce less than 125,000 barrels of beer and ale annually to obtain a self-distribution license and/or permit and sell up to 40,000 barrels annually direct to retailers, and provisions (included in Senate Bill 518) that authorize brewers and manufacturers who produce no more than 225,000 barrels annually to sell no more than 5,000 barrels annually of malt beverages produced on the brewery premises to visitors of the brewery to drink on site; and

**WHEREAS**, the Zoning Ordinance, as adopted by the said Ordinance No. 66, included a provision allowing certain uses, if at all, in certain zoning districts and only by the adoption of an ordinance authorizing such uses, such uses being referred to as “special uses”; and

**WHEREAS**, the provision in the Zoning Ordinance regarding special uses was continued as a part of the codification of the ordinances of the City with the inclusion of the Zoning Ordinance as Appendix A – Zoning to the Code; and

**WHEREAS**, in 1987 the Texas Legislature added Section 109.57 to the Texas Alcoholic Beverage Code, which Section, as amended, provides in part that (i) an ordinance promulgated by a governmental entity of the state may not impose stricter standards on premises or businesses required to have a license or permit under the Alcoholic Beverage Code than are imposed on similar premises or businesses that are not required to have such a license or permit, (ii) the Alcoholic Beverage Code exclusively governs the regulation of alcoholic beverages in the state and, except as permitted by the Alcoholic Beverage Code, a governmental entity of this state may not discriminate against a business holding a license or permit under the Alcoholic Beverage Code, and (iii) neither Section 109.57 nor Section 1.06 of the Alcoholic Beverage Code affects the validity or invalidity of a zoning regulation that was formally enacted before June 11, 1987, and that is otherwise valid, or any amendment to such a regulation enacted after June 11, 1987, if the amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee; and

**WHEREAS**, the City Council desires by the adoption of this Ordinance to amend the special use provisions (Article XX) of the Zoning Ordinance by adding “microbrewery” (as defined herein) to the list of special uses that may be authorized by ordinance, with a microbrewery, if so authorized, being a use that will allow the sale of beer and ale produced on the premises of the microbrewery for on-premises consumption subject to certain conditions, and such amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee as set forth in Section 109.57(c) of the Alcoholic Beverage Code; and

**WHEREAS**, the City Planning and Zoning Commission and the City Council, in accordance with State law and the ordinances of the City, have given the required notices and have held the required public hearings regarding amending the Zoning Ordinance as set forth herein and as hereinafter described; and

**WHEREAS**, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at the said public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City recommended to the City Council the amendment to the Zoning Ordinance as set forth in this Ordinance; and

**WHEREAS**, after due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing conducted by the City Council and all other relevant information and materials received by the City Council, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendment. The Code of Ordinances of the Town of Addison, Texas is hereby amended by amending Appendix A – Zoning, the same being the City’s comprehensive Zoning Ordinance, in part as follows (additions are underlined; deletions are ~~struck through~~; where asterisks (\*\*\*\*\*) are used, the same represents text that is not included herein and is not amended or modified by this Ordinance):

A. Article XX, Special Uses, of the said Appendix A – Zoning is amended by amending Section 1 (Special uses in specified districts) thereof by adding to subsection A. of Section 1 a new paragraph (39) to read as follows:

**ARTICLE XX. SPECIAL USES**

**Section 1. Special uses in specified districts.**

A. The city council may, after public hearing and proper notice to all parties affected, and, after recommendation from the planning and zoning commission containing such requirements and safeguards as are necessary to protect adjoining property, authorize by ordinance the location of any of the following in the following specified districts:

\* \* \* \* \*

(39) Microbrewery in any district other than a planned development district; in a planned development district, a microbrewery may be authorized if such use is specifically allowed in the ordinance establishing the planned development district.

\* \* \* \* \*

B. Article XXX, Definitions, of the said Appendix A – Zoning is amended by amending Section 1 (Terms defined) thereof by adding a new subsection 72.1 to read as follows:

**ARTICLE XXX. DEFINITIONS**

**Section 1. Terms defined.**

Certain words in this appendix are defined for the purpose hereof as follows:

\* \* \* \* \*

72.1 *Microbrewery* means an establishment:

- (a) located at premises and that holds at those premises:

(i) both a valid brewer's self-distribution permit and a valid manufacturer's self-distribution license issued by the State of Texas, and whose annual production of beer and ale, combined, at the premises does not exceed 125,000 barrels, and whose sales of beer and ale, combined, at the same premises does not exceed 40,000 barrels annually; and/or

(ii) both a valid brewer's permit and a valid manufacturer's license, and whose annual production of beer and ale, combined, at the premises does not exceed a total of 225,000 barrels, and whose total combined sales of beer and ale produced on the same premises under the said permit and license to ultimate consumers on the premises for responsible consumption on the premises does not exceed 5,000 barrels annually, and whose sale to such ultimate consumers takes place only between 8 a.m. and midnight on any day except Sunday and between 10 a.m. and midnight on Sunday; and

(b) that is in compliance at all times with the applicable permits and licenses described in subsection (a) and with all applicable laws, rules and regulations of the State and with the Charter and ordinances of the town, and that promptly provides to the town information requested, and in form and format determined, by the town to determine such compliance.

\* \* \* \* \*

Section 3. Purpose. The amendment to zoning herein made has been made in accordance with the comprehensive plan of the City for the purpose of promoting the health, safety and welfare of the community, and with consideration of the reasonable suitability for the particular use and with a view of conserving the value of the buildings and encouraging the most appropriate use of land within the community.

Section 4. No Other Amendment; Savings. Except for the amendment and change made herein, Appendix A - Zoning of the City's Code of Ordinances is not otherwise amended hereby, and all other provisions thereof shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

Section 5. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 6. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid, void, unlawful or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares

that it would have passed such remaining portions of this Ordinance despite such invalidity, voidness, unlawfulness or unconstitutionality, which remaining portions shall remain in full force and effect.

Section 7. Effective date. This Ordinance shall become effective from and after its passage and approval and after publication as provided by law.

**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this \_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Todd Meier, Mayor

ATTEST:

By: \_\_\_\_\_  
Chris Terry, City Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
John Hill, City Attorney