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THE

# CITY of PELLA

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## STAFF MEMO TO COUNCIL

ITEM NO: B-1-a

SUBJECT: Policy and Planning Session to Discuss a Proposed Microbrewery

DATE: May 21, 2018

### BACKGROUND:

The purpose of this work session is to discuss a proposed microbrewery use under the City's zoning code. The Planning and Zoning Commission discussed this issue at their May 14, 2018 meeting. During this meeting, the Commission had questions related to allowing microbreweries to operate in the CUC (mixed use) zoning districts. In addition, there were also questions related to requiring a portion of the microbrewery's sales to be attributed to food sales. This specific question was related to allowing persons under the age of 21 to enter the proposed microbrewery with no requirement for the microbrewery to sell food.

Listed below is background information on the proposed microbrewery:

### Proposed Microbrewery Definition

The intention of the proposed microbrewery is to be a family-friendly destination attraction for the City of Pella. The primary use for the microbrewery would be the brewery component, while food sales would be an accessory use.

Listed below is the proposed zoning definition:

*Brewery, Micro: A business that brews beers, ales, and/or similar beverages on-site. This definition requires the manufacturing and packaging of beer, ales, and/or similar beverages to be the principal use and produces no more than ten thousand (10,000) barrels of beer or ale annually. The area used for brewing, including bottling and kegging, shall not exceed fifty percent (50%) of the commercial floor space. By definition, a microbrewery includes the preparation and retail sale of food and beverages as an accessory use. No class C liquor license (LC) will be allowed in conjunction with the microbrewery; having such license will classify the establishment as a "cocktail lounge" for the purposes of this definition.*

### Size and Scale Questions

At the April 23, 2018 meeting, the Planning and Zoning Commission had questions related to the size and scale of the proposed microbrewery. Specifically, whether additional regulations should be added which would dictate which zoning districts the microbrewery could be located in. In considering this option, it is important to note how the craft beer industry in Iowa defines microbreweries, brewpubs, and regional breweries. These definitions are listed below.

**Brewpub:** *A restaurant-brewery that sells 25% or more of its beer on-site. The beer is brewed primarily for sale in the restaurant and bar. The beer is often dispensed directly from the brewery's storage tanks. Where allowed by law, brewpubs often sell beer "to go" and/or distribute to off-site accounts. Note: BA re-categorizes a company as a microbrewery if its off-site (distributed) beer sales exceed 75%.*

## Size and Scale Questions (continued)

**Microbrewery:** *A brewery that produces less than 15,000 barrels (17,600 hectoliters) of beer per year with 75% or more of its beer sold off-site. Microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retail to consumer); and, directly to the consumer through carry-outs and/or on-site tap-room or restaurant sales.*

**Regional Brewery:** *A brewery with an annual beer production of between 15,000 and 6,000,000 barrels.*

Based on the definitions above, it appears the proposed microbrewery would likely be considered as a combination brewpub/microbrewery by the Craft Beer Association of Iowa. In addition, it appears large-scale breweries are defined as those which produce more than 15,000 barrels annually. This is important to consider as it relates to size and scale concerns. The proposed microbrewery being considered is limited to 10,000 barrels of production annually, or roughly 66% of the number barrels identified by the Craft Beer Association of Iowa as a small-scale brewery (less than 15,000 barrels annually is considered a small-scale brewery). Secondly, under the proposed zoning definition, the manufacturing floor cannot exceed 50% of the total area. Staff believes this requirement will also limit the production capabilities of the proposed microbrewery.

It also important to consider that the proposed microbrewery will be permitted through a special use permit process. This procedure will allow the Board of Adjustment to review the proposed location for the microbrewery and determine if it is a good fit for the surrounding area. In making this determination, the Board of Adjustment will evaluate public safety concerns including dust/pest control, odor, traffic impact, and necessary infrastructure. In addition, staff will also recommend the Board of Adjustment require a fire inspection before a special use permit is approved. This will ensure compliance with the State of Iowa Fire Code for flammable liquids, ventilation, and spill control. As Council is also aware, prior to approval of a special use permit, the Board of Adjustment is required to hold a public hearing and notify neighboring property owners of the application. This process provides a forum for any adjacent property owners who may have concerns with the proposed business. Furthermore, the Board of Adjustment has wide authority in granting special use permits including, but not limited to, operating restrictions which would include further limitations on the number of barrels manufactured annually.

Staff believes the following restrictions will likely limit the proposed microbrewery use to a small-scale manufacturing use:

- A. Special use permit requirements;
- B. The limitation of 10,000 barrels produced annually; and
- C. The restriction that no more than 50% of the floor space for microbrewery can be dedicated to the manufacturing/kegging component.

## Food Sales and Patron Age Limitation

The proposed ordinance allows food sales as an accessory use but does not require a percentage of the microbreweries gross income to be attributed to food sales. The reason for this is as follows:

- A. Potential operators have expressed concerns about being able to meet food sale requirements.

## Food Sales and Patron Age Limitation (continued)

- B. The proposed microbrewery will likely be a small-scale brewery which is subject to obtaining a special use permit from the Board of Adjustment. This means the operations of the microbrewery will be reviewed by the Board of Adjustment prior to beginning operations. In addition, the Board of Adjustment has the ability to limit operations if deemed necessary. As Council is aware, the overall intent of the special use permit process is to provide assurances the new use will 'fit in' with the existing businesses and residences surrounding the microbrewery.

Based on the above two factors, staff believes additional food sale requirements may make it difficult for a microbrewery to operate in our community.

### Proposed Patron Age Limitation

The intention of the proposed microbrewery is to be family-friendly. As a result, one of the parties interested in opening a microbrewery in Pella would like to have persons under the age of 21 allowed on the premises. Currently, city code prohibits persons under the age of 21 to be on the premises of an establishment if that establishment holds a liquor license or beer/wine permit. The exception for this prohibition is for restaurants, where more than 50% of the dollar volume of the establishment is generated from the sale and serving of food. In these instances, persons under the age of 21 can be on the premises.

In order to address this issue, staff is proposing to allow persons under the age of 21 to remain on the premises of the microbrewery if they are accompanied by an adult who is 21 years of age or older. Listed below is a proposed amendment to City Code Chapter 120.05 (11) by adding the following underlined language:

A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

11. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only or to holders of a class "B" beer permit who also hold a special class "A" beer permit when the person under twenty-one (21) years of age is accompanied on-premises by an adult twenty-one (21) years of age or older.

In considering this potential amendment to the city code, it is important to note the microbrewery would be required to hold both a class "B" and special class "A" beer permit. The class "B" beer permit allows commercial establishments to sell beer and wine coolers for on-premises consumption. It should be noted, class "B" beer permit holders cannot sell hard alcohol, as this requires a class "C" liquor license. The special class "A" beer permit allows for the manufacture of beer and high alcoholic content beer on the premises for on-premises consumption.

Finally, it appears there are numerous microbreweries in Iowa which allow persons under the age of 21 to enter the establishment.

**Proposed Zoning Districts**

The proposed ordinance also amends Table 165.12-2 Permitted Uses by Zoning Districts to include ‘microbreweries’ and allows ‘microbreweries’ to operate in all commercial zoning districts, except the Central Business District (CBD), subject to obtaining a special use permit.

Roughly half of the Planning and Zoning Commission members were concerned with allowing microbreweries to operate in the CUC (mixed use) zoning district. The reason for the concern was related to the increased possibility that microbreweries could be located in close proximity to residential properties. From staff’s perspective, we believe any potential land use conflicts between a microbrewery and residential properties will be addressed through the special use permit process. This procedure will allow the Board of Adjustment to review the proposed location for the microbrewery and determine if it is a good fit for the surrounding area. In making this determination, the Board of Adjustment will hold a public hearing and notify neighboring property owners of the application. This process provides a forum for any adjacent property owners who may have concerns with the proposed business. Furthermore, the Board of Adjustment has wide authority in granting special use permits including, but not limited to, operating restrictions.

In reviewing this issue, staff believes there are certain locations in the CUC zoning district where a microbrewery would be a good fit. Likewise, there are other areas in the CUC districts where locating a microbrewery would be very challenging due to potential land use conflicts with residential property owners. However, as stated earlier, this is the purpose of the special permit process, which is to provide additional safeguards in permitting microbreweries.

In summary, staff believes there are adequate safeguards in place with the special use permit process to address any potential land use conflicts with the proposed microbrewery.

**Summary**

Staff would like to receive input from the City Council prior to the Planning and Zoning Commission taking formal action on the proposed microbrewery ordinance.

ATTACHMENTS:	Drafted Microbrewery Ordinance, Drafted Patron Age Limitation Ordinance, Map of the Commercial Zoning Districts
REPORT PREPARED BY:	City Administration
REVIEWED BY:	CITY ADMINISTRATOR CITY CLERK
RECOMMENDATION:	Seeking Council direction

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

**AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF PELLA BY AMENDING THE ZONING ORDINANCE, 165.11 CLASSIFICATION OF USES AND TABLE 165.12-2 PERMITTED USES BY ZONING DISTRICTS, BY ADDING PROVISIONS DEFINING BREWERY, MICRO AS A USE AND PERMITTING BREWERY, MICRO IN CC COMMUNITY COMMERCIAL DISTRICT, CUC COMMERCIAL – MIXED USE URBAN CENTER, AND CPD COMMERCIAL – PLANNED DEVELOPMENT DISTRICT**

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PELLA, IOWA:

SECTION 1. TEXT AMENDMENTS. The City Code of the City of Pella is hereby amended by amending Chapter 165, Zoning Ordinance, as follows:

Amending 165.11 Classification of Uses by adding the following new provision under 5. Commercial Use Types:

II. Brewery, Micro: A business that brews beers, ales, and/or similar beverages on-site. This definition requires the manufacturing and packaging of beer, ales, and/or similar beverages to be the principal use and produces no more than ten thousand (10,000) barrels of beer or ale annually. The area used for brewing, including bottling and kegging, shall not exceed fifty percent (50%) of the commercial floor space. By definition, a microbrewery includes the preparation and retail sale of food and beverages as an accessory use. No class C liquor license (LC) will be allowed in conjunction with the microbrewery; having such license will classify the establishment as a “cocktail lounge” for the purposes of this definition.

Amending Table 165.12-2 Permitted Uses by Zoning Districts by adding Brewery, Micro as a Use Type under the category titled Commercial Use, and adding S for special use permit requirement for Brewery, Micro in the following zoning districts: CC (Community Commercial District), CUC (Commercial – Mixed Use Urban Center) and CPD (Commercial – Planned Development District).

SECTION 2. NOTATION. The Zoning Administrator shall hereby record the ordinance number and date of passage of this ordinance.

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 5. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

First Reading Passed: \_\_\_\_\_

Second Reading Passed: \_\_\_\_\_

Third Reading Passed: \_\_\_\_\_

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
James Mueller, Mayor

ATTEST:

\_\_\_\_\_  
Mandy Smith, City Clerk

I, Mandy Smith, City Clerk of the City of Pella, Iowa, do hereby certify that the foregoing ordinance was passed and approved by the City Council of the City of Pella on the \_\_\_\_ day of \_\_\_\_\_, 2018 and was published in the Pella Chronicle, a newspaper of general circulation in the said City of Pella on the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mandy Smith, City Clerk

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

**AN ORDINANCE REPEALING SECTION 120.05 (11) OF THE PELLA CITY CODE AND  
ADOPTING A NEW SECTION 120.05 (11) RELATING TO PROHIBITED SALES AND ACTS**

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PELLA, IOWA:

SECTION 1. TEXT AMENDMENTS. Section 120.05 (11) of the City Code is hereby repealed and the following new Section 120.05 (11) is adopted:

11. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only or to holders of a class "B" beer permit who also hold a special class "A" beer permit when the person under twenty-one (21) years of age is accompanied on-premises by an adult twenty-one (21) years of age or older.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

First Reading Passed: \_\_\_\_\_

Second Reading Passed: \_\_\_\_\_

Third Reading Passed: \_\_\_\_\_

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
James Mueller, Mayor

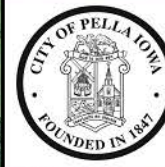
ATTEST:

\_\_\_\_\_  
Mandy Smith, City Clerk

I, Mandy Smith, City Clerk of the City of Pella, Iowa, do hereby certify that the foregoing ordinance was passed and approved by the City Council of the City of Pella on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 and was published in the Pella Chronicle, a newspaper of general circulation in the said City of Pella on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mandy Smith, City Clerk

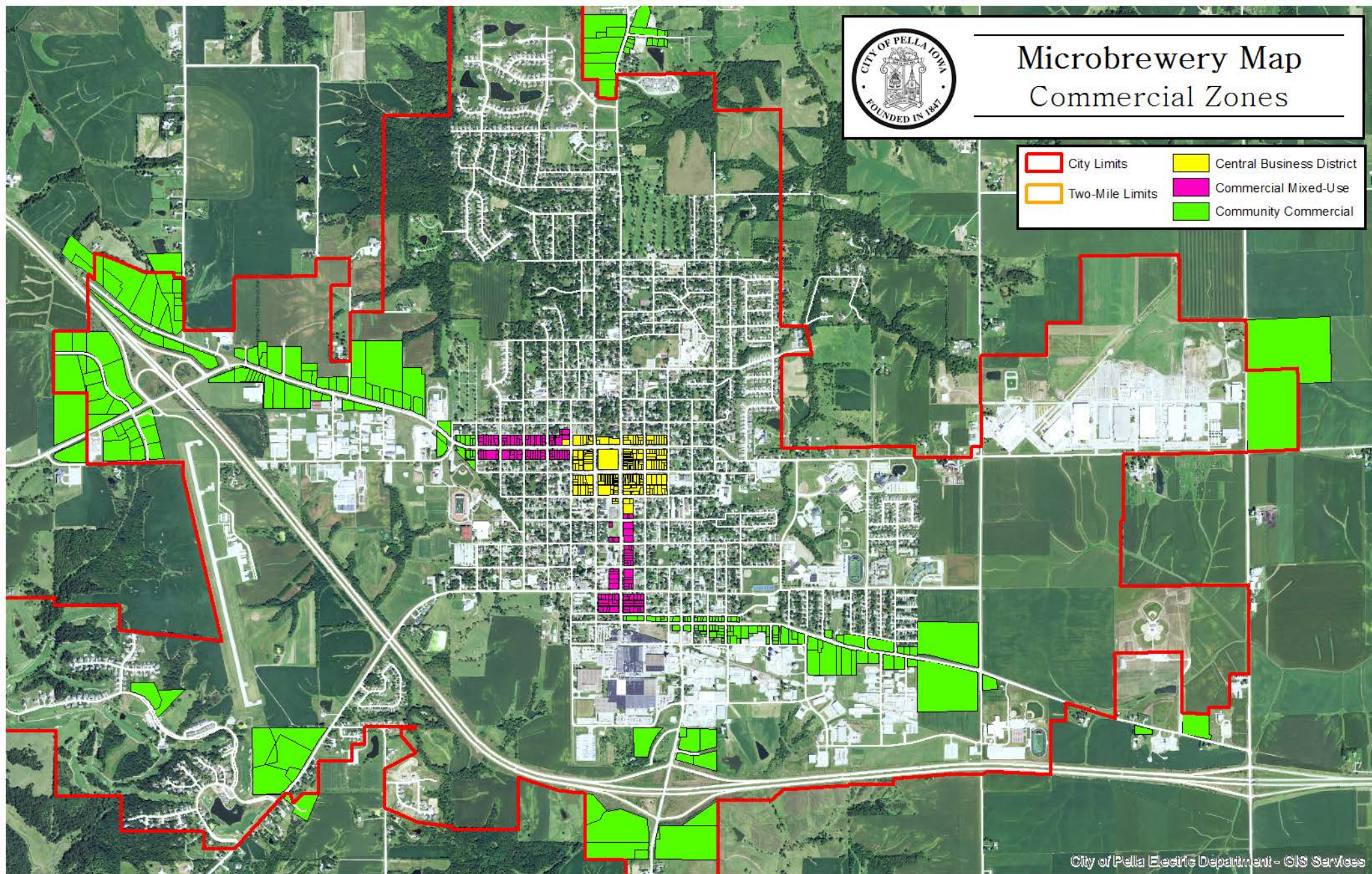




# Microbrewery Map

## Commercial Zones

- |                 |                           |
|-----------------|---------------------------|
| City Limits     | Central Business District |
| Two-Mile Limits | Commercial Mixed-Use      |
|                 | Community Commercial      |



City of Pella Electric Department - GIS Services

Map Created By: Zoning Administrator  
825 Broadway Street, Lower Level  
Ph: (641) 628-0043 Ext. 2



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