# CITY OF WEST DES MOINES
# CITY COUNCIL MEETING COMMUNICATION

**Date: February 23, 2015**

**ITEM:** Ordinance Amendment - Amend Title 9 (Zoning), Chapter 2 (Zoning Rules And Definitions) to add a definition for Tap Rooms (Beer Parlors),. Amend Title 9 (Zoning), Chapter 6 (Commercial, Office And Industrial Zoning Districts), Section 6 (Commercial, Office And Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix) to make SIC 5813 – Tap Rooms And Beer Parlors a Permitted Conditional Use in the General Industrial, Light Industrial and Business Park Zoning Districts, Amend Title 9 (Zoning), Chapter 10, Performance Standards to add regulations for tap rooms (beer parlors) in the General Industrial, Light Industrial, and Business Park Zoning Districts, and Amend Title 9 (Zoning), Chapter 15, Off Street Parking And Loading to regulate parking requirements for Tap Rooms associated with breweries – City Initiated – AO-002599-2015

**Ordinance: Approval of First Reading**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** Development Services staff received an inquiry from Fox Brewing to allow a tap room in conjunction with a proposed craft brewery on a parcel in the General Industrial district. Fox Brewing indicated that tap rooms allow for socializing and tasting the beer that the brewery produces. Staff reviewed the code to find that a brewery was an allowed use in the General Industrial, Light Industrial, and Business Park zoning districts; however, nothing in the City Code addressed tap rooms. Staff determined that because the beer is sold retail, the establishment operates similar to a bar versus free tasting with prospective retailers of the product as would be done as part of the wholesale of the beer. Per City Code, Bars (SIC 5813) are not allowed in the zoning districts in which breweries are allowed. Staff requests approval of an ordinance amendment to define tap rooms (beer parlors), to allow taps room in association with a brewery as a permitted conditional use in the General Industrial, Light Industrial, and Business Park districts (the same zoning districts that breweries are allowed), and to establish requirements for area coverage, licensing, and parking.

Plan and Zoning Commission Action:
Vote: 5-0 approval. Commissioners Crowley and Erickson absent
Date: February 17, 2015
Motion: Adopt a resolution recommending the City Council approve the ordinance amendment.

**OUTSTANDING ISSUES:** There are no outstanding issues. The following items of interest are noted in the attached Plan and Zoning Commission report (see Exhibit I):

- Request
- History
- City Council Subcommittee *(Development & Planning, January 29, 2015)*
- Staff Review and Comments
  - *Zoning Districts*
  - *Square Footage of Tap Room*
  - *Alcohol Licensing*
  - *Parking Requirements*
  - *Approval Process*
- Comprehensive Plan Consistency
- Noticing Information
- Staff Recommendations and Conditions of Approval

**RECOMMENDATION:** Based upon the preceding review and a finding of consistency with the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approve the first reading to amend City Code to regulate tap rooms associated with breweries, subject to the applicant meeting all City Code requirements.

Lead Staff Member: Kara Tragesser

**STAFF REVIEWS:**

| | |
|---|---|
| Department Director | |
| Appropriations/Finance | |
| Legal | |
| Agenda Acceptance | |

**PUBLICATION(S) (if applicable)**

| | | |
|---|---|---|
| Published In | *Des Moines Register* | |
| Date(s) Published | February 6, 2015 | |
| Letter sent to surrounding property owners | | N/A |

**SUBCOMMITTEE REVIEW (if applicable)**

| | | | |
|---|---|---|---|
| Committee | Development and Planning | | |
| Date Reviewed | January 29, 2015 | | |
| Recommendation | Yes ☒ | No ☐ | Split ☐ |

**ATTACHMENTS:**

Exhibit I - Plan and Zoning Communication
- Attachment A - Plan and Zoning Commission Resolution
- Attachment B - Proposed Rezoning Ordinance *(now Exhibit II)*

Exhibit II - Proposed Rezoning Ordinance

**EXHIBIT I**

# CITY OF WEST DES MOINES
# PLAN AND ZONING COMMISSION

**Meeting Date:** February 17, 2015

**Item:** Ordinance Amendment - Amend Title 9 (Zoning), Chapter 2 (Zoning Rules And Definitions) to add a definition for Tap Rooms (Beer Parlors), Amend Title 9 (Zoning), Chapter 6 (Commercial, Office And Industrial Zoning Districts), Section 6 (Commercial, Office And Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix) to make SIC 5813 – Tap Rooms And Beer Parlors a Permitted Conditional Use in the General Industrial, Light Industrial and Business Park Zoning Districts, Amend Title 9 (Zoning), Chapter 10, Performance Standards to add regulations for tap rooms (beer parlors) in the General Industrial, Light Industrial, and Business Park Zoning Districts, and Amend Title 9 (Zoning), Chapter 15, Off Street Parking And Loading to regulate parking requirements for Tap Rooms associated with breweries – City Initiated – AO-002599-2015

**Request Action:** Approval of an amendment to the City Code

**Case Advisor:** Kara Tragesser, AICP

**Applicant's Request:** Development Services staff received an inquiry from Fox Brewing to allow a tap room in conjunction with a proposed craft brewery on a parcel in the General Industrial district. Fox Brewing indicated that tap rooms allow for socializing and tasting the beer that the brewery produces. Staff reviewed the code to find that a brewery was an allowed use in the General Industrial, Light Industrial, and Business Park zoning districts; however, nothing in the City Code addressed tap rooms. Staff determined that because the beer is sold retail, the establishment operates similar to a bar versus free tasting with prospective retailers of the product as would be done as part of the wholesale of the beer. Per City Code, Bars (SIC 5813) are not allowed in the zoning districts in which breweries are allowed. Staff requests approval of an ordinance amendment to define tap rooms (beer parlors), to allow taps room in association with a brewery as a permitted conditional use in the General Industrial, Light Industrial, and Business Park districts (the same zoning districts that breweries are allowed), and to establish requirements for area coverage, licensing, and parking.

**City Council Subcommittee:** This item was discussed at the January 29, 2015, Development and Planning City Council Subcommittee. The subcommittee (consisting of only John Mickelson for this discussion) was supportive of changes to the ordinance.

**Staff Review and Comment:** There are no outstanding issues. Staff notes the following:

Staff researched similar breweries with tap rooms located in the metro area to aid in determining appropriate regulations. Breweries researched were 515 Brewery in Clive, Confluence Brewing and Madhouse Brewing in Des Moines, and Firetrucker Brewing in Ankeny. These venues were researched for their zoning location, tap room services, size of tap room in relation to brewery, and process for approval.

*Zoning Districts:* The 515 Brewery, Confluence Brewing, and Madhouse Brewing are located within industrial or manufacturing zoning districts of the respective city. Firetrucker Brewery in Ankeny is located within one of Ankeny's commercial districts. All of the above breweries have tap rooms and a couple serve food as well.

*Square Footage of Tap Room:* The size of the tap room for these breweries varied at 10 percent of the total square footage of the facility, 16 percent, and 32 percent of the facility (the 515 Brewery space is classified as a restaurant). Information for the one other brewery was not readily available. Staff proposes to limit the size of the tap room to 20 percent of the gross square footage of the facility or 3,000 square feet, whichever is more restrictive. The reasoning is that the tap room is ancillary to the brewery and should be limited in square footage in comparison to the total brewery size.

*Alcohol Licensing:* To further define a tap room, research was done into the licensing of tap rooms and breweries. The State of Iowa does not regulate tap rooms per se, but rather has different classifications for the alcohol licenses

associated with breweries and establishments selling beer, wine, and spirits. To operate a brewery with wholesale distribution requires a Class A Native Beer permit (NAB) and to serve beer on the premises, an establishment needs to have a Class B beer license. Staff feels that the tap room, being ancillary to the brewery, needs to be located in a brewery with a NAB permit to help ensure that the tap room in not simply a bar by another name. The State issues the NAB permits with City review, while the City approves the Class B license. Further, staff recommends that the tap rooms have a Class B beer only permit to further ensure that the tap rooms operate as intended for the consumption of beer only. Staff would further recommend that the number or variety of beers be restricted to only those produced at the brewery itself, plus a limited number of beers not manufactured on-site to allow for opportunities for micro-breweries to work together to market their products. Staff would recommend that the Class B beer only permits be conditioned to allow for up to five (5) beers not brewed on-site to be served. These regulation are proposed in order to keep the intent of the code and the intent for the tap rooms in line so that bars remain as not allowed in these zoning districts.

*Parking Requirements:* Of the other communities surveyed, parking was the biggest issue identified. Manufacturing uses within the general industrial district generally require a 3 parking spaces per 1,000 sq. ft. parking ratio; a brewery would have this parking requirement. For a drinking place, the parking ratio increases to 1.5 parking spaces per 100 square feet of gross area. Staff recommends that the parking requirements for tap rooms be the same for other drinking places to accommodate the patrons of the tap room in addition to those spaces needed for the brewery.

*Approval Process:* For the City of Clive, the brewery with tap room is considered a permitted conditional use. For the City of Des Moines, bars and tap rooms are allowed in the manufacturing district because Des Moines has pyramidal zoning where uses in less intense zoning districts are allowed in the more intense zoning districts.

Staff proposes that tap room be reviewed through the Permitted Conditional Use permit process. This will enable a review of the licensing, the parking, and the size limitations that are proposed to be included in the ordinance. It will also allow for the establishment of Conditions of Approval or restrictions should the Board of Adjustment determine such is necessary for a particular site.

**Comprehensive Plan Consistency:** The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

**Noticing Information:** On February 6, 2015, notice of the February 17, 2015, Plan and Zoning Commission and February 23, 2015 City Council public hearings for this project was published in the *Des Moines Register*.

**Staff Recommendation and Conditions of Approval:** Staff recommends the Plan & Zoning Commission approve a resolution recommending to the City Council approval of the ordinance amendment.

Attachments:

Attachment A – Proposed Resolution

Exhibit A – Proposed Ordinance

**RESOLUTION NO. PZC-15-008**

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN ORDINANCE TO AMEND TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS) TO ADD A DEFINITION FOR TAP ROOMS (BEER PARLORS), AMEND TITLE 9 (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICTS), SECTION 6 (COMMERCIAL, OFFICE AND INDUSTRIAL USE REGULATIONS), SUBSECTION C, TABLE 6.1 (USE MATRIX) TO MAKE SIC 5813 – TAP ROOMS AND BEER PARLORS A PERMITTED CONDITIONAL USE IN THE GENERAL INDUSTRIAL, LIGHT INDUSTRIAL AND BUSINESS PARK ZONING DISTRICTS, AMEND TITLE 9 (ZONING), CHAPTER 10, PERFORMANCE STANDARDS TO ADD REGULATIONS FOR TAP ROOMS (BEER PARLORS) IN THE GENERAL INDUSTRIAL, LIGHT INDUSTRIAL, AND BUSINESS PARK ZONING DISTRICTS, AND AMEND TITLE 9 (ZONING), CHAPTER 15, OFF STREET PARKING AND LOADING TO REGULATE PARKING REQUIREMENTS FOR TAP ROOMS ASSOCIATED WITH BREWERIES**

**WHEREAS,** pursuant to the provisions of Title 9, Chapter 1 et seq, and Title 10, Chapter 1 et seq, of the West Des Moines Municipal Code, staff requests an amendment to Title 9 (Zoning), Chapter 2 (Zoning Rules And Definitions) to add a definition for Tap Rooms (Beer Parlors), to amend Title 9 (Zoning), Chapter 6 (Commercial, Office And Industrial Zoning Districts), Section 6 (Commercial, Office And Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix) to make SIC 5813 – tap rooms and beer parlors a permitted conditional use in the General Industrial, Light Industrial and Business Park zoning districts, to amend Title 9 (Zoning), Chapter 10, Performance Standards to add regulations for tap rooms (beer parlors) in the General Industrial, Light Industrial, and Business Park Zoning districts, and to amend Title 9 (Zoning), Chapter 15, Off Street Parking And Loading, to regulate parking requirements for tap rooms associated with breweries;

**WHEREAS,** studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS,** this Commission held a duly-noticed hearing to consider the application for an amendment to ordinance;

**WHEREAS,** this Commission did consider the application for an amendment to ordinance;

**NOW, THEREFORE,** THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings for approval in the staff report or as amended orally at the Plan and Zoning Commission public hearing are adopted.

SECTION 2. The AMENDMENT TO ORDINANCE (AO-002599-2014) is recommended to the City Council for approval, as stated in the staff report or as amended in the attached Exhibit A.

PASSED AND ADOPTED on February 17, 2015.

Erica Andersen, Chairperson
Plan and Zoning Commission

ATTEST:

Tim Taylor
Recording Secretary

S:___Development Projects\Ordinance Amendments\Beer Parlors_Tap Rooms\AO-002599-2015_SR_Tap Room Beer Parlor Ordinance Amendment_PZ_02-17-2015_.doc

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on February 17 2015 by the following vote:

AYES: Andersen, Bronw, Costa, Cownie, Hatfield
NAYS: -0-
ABSTENTIONS: -0-
ABSENT: Crowley, Erickson

ATTEST:

Tom Taylor
Recording Secretary

S:___Development Projects\Ordinance Amendments\Beer Parlors_Tap Rooms\AO-002599-2015_SR_Tap Room Beer Parlor Ordinance Amendment_PZ_02-17-2015_.doc

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on February 17 2015 by the following vote:

AYES:
NAYS:
ABSTENTIONS:
ABSENT:

ATTEST:

_____
Recording Secretary

**EXHIBIT II**

Prepared by: KTragesser, West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

**ORDINANCE NO.**

**TO AMEND TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS) TO ADD A DEFINITION FOR TAP ROOMS (BEER PARLORS), AMEND TITLE 9 (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICTS), SECTION 6 (COMMERCIAL, OFFICE AND INDUSTRIAL USE REGULATIONS), SUBSECTION C, TABLE 6.1 (USE MATRIX) TO MAKE SIC 5813 – TAP ROOMS AND BEER PARLORS A PERMITTED CONDITIONAL USE IN THE GENERAL INDUSTRIAL, LIGHT INDUSTRIAL AND BUSINESS PARK ZONING DISTRICTS, AMEND TITLE 9 (ZONING), CHAPTER 10, PERFORMANCE STANDARDS TO ADD REGULATIONS FOR TAP ROOMS (BEER PARLORS) IN THE GENERAL INDUSTRIAL, LIGHT INDUSTRIAL, AND BUSINESS PARK ZONING DISTRICTS, AND AMEND TITLE 9 (ZONING), CHAPTER 15, OFF STREET PARKING AND LOADING TO REGULATE PARKING REQUIREMENTS FOR TAP ROOMS ASSOCIATED WITH BREWERIES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

**Section 1. Amendment.** Title 9: Zoning, Chapter 2: Zoning Rules and Definitions, is hereby amended to place in alphabetical order the following definitions:

BEER PARLOR (TAP ROOM): an area within a brewery devoted to the sale and consumption of a limited variety of malt beverages typically brewed on-site (SIC 5813 Tap Rooms and Beer Parlors and SIC 2082 Manufacturing of Malt Beverages). This definition only applies to tap rooms that are ancillary to and included in a brewery, with the brewery being the primary use. Any other establishment for the sale and consumption of beer will be considered a bar for the purposes of this definition.

TAP ROOM (BEER PARLOR): an area within a brewery devoted to the sale and consumption of a limited variety of malt beverages, (SIC 5813 Tap Rooms and Beer Parlors and SIC 2082 Manufacturing of Malt Beverages). This definition only applies to tap rooms that are ancillary to and included in a brewery, with the brewery being the primary use. Any other establishment for the sale and consumption of beer will be considered a bar for the purposes of this definition.

**Section 2. Amendment.** Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning Districts), Section 6 (Commercial, Office and Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix) is hereby amended by adding the text in bold lettering:

| SIC CODES | RC | CMC | NC | CVC | SC | VJC | VJHB | WR | BP | VJLI | LI | GI | OF | PCP | OS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 5813 Drinking Places | Pc | Pc | Pc | | Pc | | Pc | Pc | | | | | | | |
| **SIC 5813 Tap Room/Beer Parlor in conjunction with brewery** | | | | | | | | | Pc | | Pc | Pc | | | |

**Section 3.** **Amendment.** Title 9 (Zoning), Chapter 10 (Performance Measures), Section 4 (Specific Use Regulations), Paragraph J is hereby amended by adding the text in bold lettering:

J. The Following Standards Shall Apply To All Uses Within The Business Park District Unless Noted Otherwise In This Title:

**8. Tap Rooms or Beer Parlors shall only be allowed by approval of a permitted conditional use permit to operate in conjunction with a brewery. The brewery must have a Native Beer Brewery (NAB or NAAB) permit issued through the State of Iowa and a Class B beer license approved by the City of West Des Moines. The tap room shall occupy no more that 20 percent of the gross square footage of the brewery or be no greater than 3,000 sq. ft. whichever is more restrictive. The Class B beer license shall be restricted to serving only those beers brewed on-site, plus a maximum of five (5) additional micro-brewery beers that are brewed off-site. No class LC liquor permit will be allowed in conjunction with the tap room; having such license will classify the establishment as a bar.**

**Section 4.** **Amendment.** Title 9 (Zoning), Chapter 10 (Performance Measures), Section 4 (Specific Use Regulations), Paragraph K is hereby amended by adding the text in bold lettering:

K. The Following Standards Shall Apply To All Industrial Districts Unless Noted Otherwise Within This Title:

**9. Tap Rooms or Beer Parlors shall only be allowed by approval of a permitted conditional use permit to operate in conjunction with a brewery. The brewery must have a Native Beer Brewery (NAB or NAAB) permit issued through the State of Iowa and a Class B beer license approved by the City of West Des Moines. The tap room shall occupy no more than 20 percent of the gross square footage of the brewery or be no greater than 3,000 sq. ft. whichever is more restrictive. The Class B beer license shall be restricted to serving only those beers brewed on-site, plus a maximum of five (5) additional micro-brewery beers that are brewed off-site. No class LC liquor permit will be allowed in conjunction with the tap room; having this license will classify the establishment as a bar.**

**Section 5.** **Amendment.** Title 9 (Zoning), Chapter 15 (Off Street Parking and Loading), Section 7-E is hereby amended by adding the text in bold lettering:

| | |
|---|---|
| 58 Eating and drinking places | |
| 5813 Drinking places | • 1.5 spaces per 100 square feet of GFA |
| **5813 Tap Rooms/Beer parlor** | • **1.5 spaces per 100 square feet of GFA in addition to that parking required of SIC 2082: Malt Beverages** |

**Section 6. Repealer.** All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

**Section 7. Savings Clause.** If any section, provision, sentence, clause, phrase 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 provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**Section 8. Violations and Penalties.** Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

**Section 9. Other Remedies.** In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

**Section 10. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2015, and approved this _____ day of _____, 2015.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T Jacobson
City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2015, and was published in the Des Moines Register on _____, 2015.

_____
Ryan T. Jacobson
City Clerk