



## Agenda Item Summary

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**File ID:** 19-0257

**PH-6**

**Meeting Date:** 1/29/2019

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**PLACEMENT:** Public Hearings

**TITLE:**

**SECOND PUBLIC HEARING TO CONSIDER ADOPTION OF ORDINANCE AMENDING ARTICLE 3, ZONING DISTRICTS, LAND DEVELOPMENT REGULATIONS, MARTIN COUNTY CODE REGARDING MICROBREWERIES AND CRAFT DISTILLERIES**

**EXECUTIVE SUMMARY:**

The Board of County Commissioners ("Board") is requested to adopt proposed amendments to the Land Development Regulations to permit microbreweries and craft distilleries in zoning districts that allow restaurants.

**DEPARTMENT:** Growth Management

**PREPARED BY:** **Name:** Elysse A. Elder  
**Title:** Senior Assistant County Attorney

**REQUESTED BY:** Nicki van Vonno, AICP, Growth Management Department Director

**PRESET:**

**PROCEDURES:** None

**BACKGROUND/RELATED STRATEGIC GOAL:**

The proposed ordinance amends Article 3, Zoning Districts, of the Land Development Regulations to expand the zoning districts that permit microbreweries and craft distilleries. Currently, since these types of businesses involve the manufacturing of distilled spirits and malt beverages, they are only permitted in industrial zoning districts. The Growth Management Department, the Community Redevelopment Agency and the Office of Tourism and Marketing encourage and support the expansion of permitted zoning districts for these businesses. Microbreweries and craft distilleries have become very popular in Florida and have assisted in redeveloping areas by attracting tourists and other complimentary businesses. The proposed ordinance amends the definition of restaurant to include microbreweries and craft distilleries in Article 3, Division 1 and Division 7, Category "C" Zoning Districts. As a result, with the limited exceptions delineated in the proposed ordinance, microbreweries and craft distilleries will be allowed in zoning districts that permit restaurants. In particular, they would be allowed in CO (Commercial Office), COR1 (Commercial Office/Residential), COR2 (Commercial Office/Residential), LC (Limited Commercial), GC (General Commercial), WRC (Waterfront Resort Commercial), WGC (Waterfront General Commercial), LI (Limited Industrial) and GI (General Industrial) in the current zoning districts. In Category "C" zoning districts, microbreweries and craft distilleries would be permitted in HB-1 (Limited Business District), B-1 (Business District), B-

2 (Business-Wholesale Business District), B-3 (Rural Business District), M-1 (Industrial District), M-2 (Industrial District) and M-3 (Industrial District). The proposed amendment also outlines the Standards for Specific Uses for both microbreweries and craft distilleries in Division 3, which is also incorporated by reference into Divisions 5, 6 and 7. This proposed ordinance was unanimously approved by the Land Planning Agency on December 6, 2018. The first public hearing on this proposed Ordinance was held at the January 8, 2019 Board meeting.

### **ISSUES:**

Pursuant to Section 125.66 (4)(b), Florida Statutes, the Board must consider the proposed changes to the zoning code at two public hearings. This is the second public hearing and was scheduled by the Board at the January 8, 2019 Board meeting based on a unanimous vote by the Board. Section 125.66 (4)(b), Florida Statutes, is set forth below:

In cases in which the proposed ordinance or resolution changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the board of county commissioners shall provide for public notice and hearings as follows:

1. The board of county commissioners shall hold two advertised public hearings on the proposed ordinance or resolution. At least one hearing shall be held after 5 p.m. on a weekday, unless the board of county commissioners, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

### **LEGAL SUFFICIENCY REVIEW:**

This is a legislative matter. Legislative decisions are those in which the local government formulates policy rather than applying specific rules to a particular situation. A local government's approval or denial of an issue in its legislative capacity is typically subject to a fairly debatable standard of review. Fairly debatable means that the government's action must be upheld if reasonable minds could differ as to the propriety of the decision reached. Decisions subject to the fairly debatable standard of review need only be rationally related to a legitimate public purpose, such as the health, safety, and welfare of the public, to be valid. Given this broad discretion, only decisions that are arbitrary and capricious or illegal are subject to serious legal challenge.

### **RECOMMENDED ACTION:**

#### **RECOMMENDATION**

Move that the Board adopt the proposed ordinance.

#### **ALTERNATIVE RECOMMENDATIONS**

Move that the Board direct staff to complete further work on the proposed amendments and to return to the Board at a subsequent meeting.

**FISCAL IMPACT:****RECOMMENDATION**

None

Funding Source	County Funds	Non-County Funds
Subtotal		
Project Total		

**ALTERNATIVE RECOMMENDATIONS**

None

**DOCUMENT(S) REQUIRING ACTION:**

- ☐ Budget Transfer / Amendment   ☐ Chair Letter   ☐ Contract / Agreement  
☐ Grant / Application   ☐ Notice   ☒ Ordinance   ☐ Resolution  
☐ Other:

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