



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

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Agenda Item _____ April 23, 2019

April 10, 2019

Honorable Board of Supervisors
Administration Building
Oakland, California 94612

Dear Board Members:

SUBJECT: SECOND READING OF AMENDMENTS TO SECTION 17.04.010 AND CHAPTER 17.06 OF TITLE 17 OF THE GENERAL ORDINANCE CODE RELATED TO MICROBREWERIES AND MICROBREWERY-RELATED USES IN THE A (AGRICULTURE) DISTRICT AND ADOPTION OF RESOLUTION APPROVING THE MITIGATED NEGATIVE DECLARATION

RECOMMENDATION:

- A. Second reading and adoption of the ordinance amending Section 17.04.010 and Chapter 17.06 of Title 17 of the General Ordinance Code related to microbreweries and microbrewery-related uses in the A (Agriculture) district; and
- B. Adopt the resolution approving the Mitigated Negative Declaration

BACKGROUND:

There has been an increased interest in promoting agri-tourism by allowing additional uses such as microbreweries and microbrewery related uses in agricultural areas. The proposed amendments to the County Zoning Ordinance would help to encourage a strong agri-tourism industry by supporting enterprises that are appropriate in agricultural areas and that are consistent with long-term, sustainable agricultural practices. Currently, the Zoning Ordinance allows wineries and olive oil mills, and in order to allow microbreweries to be allowed in agricultural areas, changes to the Zoning Ordinance are necessary.

DISCUSSION/SUMMARY:

The attached ordinance has been in development for several months, and the attached draft reflects input gathered over a two year process, including concerns raised by neighboring communities, residents and prospective business owners. The latest changes to the ordinance promote local agriculture and protect environmental resources; there is now a local ingredient requirement, and microbreweries have some additional limitations in some of the County's natural resource-heavy areas. On April 9,

2019, the Board removed language pertaining to road access requirements in order to avoid unintended impacts to existing or proposed visitor destinations in the County's agricultural areas. The ordinance attached herein reflects those changes.

Environmental Analysis

The California Environmental Quality Act (CEQA) requires that environmental review be conducted for the proposed ordinance. A Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) and an Initial Study/Draft Mitigated Negative Declaration (IS/MND) for the proposed Microbrewery Ordinances were released on August 29, 2017, for a 30-day public review period which ended on September 29, 2017.

A complete list of comments received and responses is provided in the attachments. The NOIA and IS/MND are available for review on the County website at:
<https://www.acgov.org/cda/planning/landuseprojects/microbrewery.htm>.

CONCLUSION:

This ordinance has undergone a rigorous community process with numerous changes to address local and regional concerns. The Ordinance would allow the development of microbrewery and microbrewery related uses in the A (Agricultural) District and provide new definitions for microbrewery, microbrewery related uses, on-site tasting room, and production facility.

Staff requests that the Board of Supervisors review the proposed ordinance amendments, take public comment, adopt the Mitigated Negative Declaration and conduct the second reading of the ordinance.

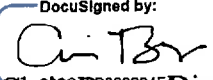
FINANCING:

There is no increase in Net County Cost as a result of this action.

VISION 2026:

The microbrewery and microbrewery related uses amendments for the General Ordinance Code meets the 10x goal pathways of Eliminate Poverty and Hunger and Healthcare for All in support of our shared vision of Safe and Livable Communities, Thriving and Resilient Communities and Healthy Environment.

Very truly yours,

DocuSigned by:

Chris Bazar, Director
Community Development Agency

ORDINANCE 2019-_____

AN ORDINANCE AMENDING SECTION 17.04.010 AND CHAPTER 17.06 OF TITLE 17 OF THE GENERAL ORDINANCE CODE OF THE COUNTY OF ALAMEDA REGARDING MICROBREWERIES AND MICROBREWERY RELATED USES

SECTION I

The Board of Supervisors makes the following findings in support of this ordinance:

1. The Alameda County Zoning Ordinance permits certain land uses as of right in the Agriculture District and allows other land uses subject to a conditional use permit; and
2. The Zoning Ordinance currently allows wineries and olive oil mills as permitted uses in the Agriculture District and allows winery and olive oil mill related uses as conditionally permitted uses in the Agriculture District; and
3. The County has studied potentially allowing brewery uses in the Agriculture District and has determined that, similar to wineries and olive oil mills, microbreweries and microbrewery-related uses would also constitute appropriate uses in the Agriculture District; and
4. The proposed amendments to the Zoning Ordinance would help to encourage a strong agri-tourism industry by supporting enterprises that are appropriate in agricultural areas and that are consistent with long-term, sustainable agricultural practices and operations, in order to increase the economic viability of working farms and ranches, and to promote economic diversification in the County's agricultural areas; and
5. In adopting the East County Area Plan (ECAP) in 1994 and Measure D in 2000, the Board of Supervisors and the voters established an urban growth boundary and associated goals and policies to protect agricultural and open space uses while allowing some limited development, including "agricultural processing facilities," "agriculture enhancing commercial uses" and "visitor-serving commercial uses"; and
6. Microbreweries are agricultural processing facilities, similar to wineries and olive presses, in that they process an agricultural food product into a derivative food product; and
7. Microbreweries and microbrewery related uses are agriculture enhancing commercial uses, similar to sampling rooms and bed and breakfasts, in that they will showcase an agricultural derivative product produced on site and will promote agri-tourism in the region; and
8. Microbreweries and microbrewery related uses are visitor-serving commercial facilities similar to wineries, inns, and food and beverage stores, in that they will promote local agricultural products and will promote agri-tourism in the region; and
9. The scale of the microbrewery use, in terms of both production quantity and physical size, will be limited such that the use is clearly subordinate to the area's agricultural production and to limit the visual and economic impacts that would otherwise be associated with a larger scale and more industrial brewery operation; and

10. Microbrewery and microbrewery related uses must comply with all local ordinances, regulations, guidelines, standards and requirements of all local agencies and departments including obtaining and maintaining applicable County and State permits and licenses; and
11. The County will coordinate with adjacent cities to minimize impacts to the incorporated cities; and
12. A Notice of Intent to Adopt a Mitigated Negative Declaration (NOIA) and an Initial Study/draft Mitigated Negative Declaration (IS/MND) for the proposed microbrewery ordinance was released on August 29, 2017 for a 30-day public review period which ended on September 29, 2017. The Planning Commission approved an earlier version of the proposed microbrewery ordinance and adopted the IS/MND on October 16, 2017; and
13. The minor revisions to the proposed microbrewery ordinance reflected in this ordinance do not constitute a substantial revision of the project analyzed in the IS/MND, pursuant to Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines; therefore, recirculation of the IS/MND for additional public review is not required and the IS/MND adequately analyzes the environmental impacts of this ordinance.

SECTION II

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Alameda, as follows:

Title 17 of the General Ordinance Code of the County of Alameda is amended as follows:

17.04.010 – Definitions.

Section 17.04.010 of the Alameda County General Code is hereby amended to insert the following definitions in alphabetical order:

“Microbrewery” means a commercial facility for manufacture, blending, fermentation, processing, and packaging of malt liquor that produces less than ten thousand (10,000) barrels (310,000 U.S. gallons) of beer annually. At all times, microbreweries must have a current and applicable California Alcohol Beverage Control License.

“Microbrewery related uses” means various uses accessory to a microbrewery which must be clearly incidental and subordinate to the primary microbrewery use. The term includes various temporary, cultural and social events (catered banquets, receptions, concerts, food and beer festivals, etc.) that would not compromise the primary agricultural operation or appearance of the property.

“Tasting room, on-site” means an establishment where wine, beer, or olive oil produced on the premises are served to the public for on-site consumption; also may include off-sales of beer, wine or olive oil produced on the premises.

“Olive Oil Mill” means a commercial, bonded facility for the processing of olives into olive oil.

"Winery" means a commercial, bonded facility for the fermentation and processing of grapes or other produce into wine, or the refermentation of still wine into sparkling wine.

"Production Facility, wine, beer, or olive oil" means a commercial area for wine, beer or olive oil making, bottling, and storage. Production facilities may include crushing, pressing, blending or similar treatments of grapes, olives, hops or similar agricultural products required for making wine, beer or olive oil; cooperage; fermentation tanks; on-site aboveground disposal of wastewater; aging, processing and storage of wine, beer or olive oil in bulk; bottling and storage of bottled wine, beer or olive oil; office, marketing and laboratory uses.

17.06.030 – Permitted Uses

Subsection E of Section 17.06.030 of the Alameda County General Code is hereby amended to read as follows:

E. Winery, microbrewery or olive oil mill:

1. Includes accessory uses such as administrative offices, visitor centers, on-site tasting rooms, production and maintenance facilities, cooperage, and marketing activities, provided such uses are consistent with General Plan policies and any other use permit limitations.
2. The uses may include a visitor center: a day use facility which may include winery, microbrewery, or olive oil mill tours and on-site tasting, retail sales of wine, beer, or olive oil and related items, display of historical or educational items related to the wine region, or art, etc. not to exceed thirty (30) percent of the floor area of the production facility of the winery, microbrewery, or olive oil mill.
3. Permanent kitchen facilities are not allowed.
4. The sale of food, complementary food service, or provision of picnic facilities is limited to cold foods prepared off-site, such as but not limited to bread, cheese, crackers, sandwiches or salads, in conjunction with wine, beer, or olive oil tasting and sales, provided such food service remains incidental and subordinate to the tasting and sales.
5. An Administrative Conditional Use Permit (ACUP) may be requested for one (1) temporary mobile outdoor business as an accessory or incidental use to the winery, microbrewery or olive oil mill. The mobile outdoor business must adhere to County Environmental Health requirements.
6. The design for the facilities for the accessory uses permitted by this section, including all signage, must balance, maintain and enhance the visual quality of the agricultural land.
7. In addition to the provisions in subsections 1-7 above, microbrewery uses must comply with the following requirements:
 - a) Microbreweries are not allowed in the Resource Management (RM) land use designation as defined in the East County Area Plan.
 - b) Microbrewery visitor center hours are limited to a maximum of 24 hours per week from Sunday through Saturday and shall close by 10 p.m.

Additional and extended hours may be obtained through a Conditional Use Permit (CUP).

- c) A minimum of fifteen percent (15%) of the non-water ingredients used in the beer making process must be grown in Alameda County.

17.06.040 – Conditional uses - Board of zoning adjustments.

Subsection O of Section 17.06.040 of the Alameda County General Code is amended to read as follows:

O. Winery, microbrewery, or olive oil mill related uses, except in the Resource Management (RM) land use designation as defined in the East County Area Plan.

SECTION III

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, _____, 2019 by the following called vote:

AYES:

NOES:


EXCUSED:

President of the Board of Supervisors
County of Alameda, State of California

ATTEST: ANIKA CAMPBELL-BELTON,
Clerk of the Board of Supervisors, County of Alameda

By _____

Approved as to Form:
DONNA R. ZIEGLER, County Counsel

By:  _____
Heather M. Littlejohn
Deputy County Counsel

**THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA,
STATE OF CALIFORNIA**

**THE FOLLOWING RESOLUTION WAS ADOPTED April 23, 2019:
NUMBER R- 2019-**

**RESOLUTION ADOPTING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
(IS/MND) PREPARED FOR THE ZONING ORDINANCE AMENDMENTS ALLOWING
MICROBREWERIES AND MICROBREWERY RELATED USES**

WHEREAS, the County of Alameda did initiate the preparation of the proposed amendments to Chapter 17.06 and Sections 17.04.010 of Title 17 of the Alameda County Ordinance Code (“Ordinances”); and

WHEREAS a draft Initial Study/Mitigated Negative Declaration (“IS/MND”) was prepared by the County to evaluate the potential environmental impact of the Ordinances pursuant to the California Environmental Quality Act (“CEQA”). The draft IS/MND in its entirety was circulated for public review as required by CEQA for a period of 30 days, beginning August 29, 2017; and

WHEREAS subsequent to the public review period, minor revisions were made to the IS/MND, which revisions do not constitute a substantial revision pursuant to Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines; and, therefore, recirculation of the IS/MND for additional public review is not required; and

WHEREAS this Board did hold a public hearing on the Ordinances and the IS/MND at the hour of 9:30 AM on Tuesday, the twenty-third day of April 2019, in the Board Chambers, County Administration Building, 1221 Oak Street, Oakland, for which notice was given as required by law and at which the Board took public testimony; and

WHEREAS this Board has reviewed the IS/MND together with any comments received during the public review process and on the basis of the record before the Board finds that there is no substantial evidence that the proposed microbrewery Ordinances will have a significant effect on the environment; and

WHEREAS the documents and other material which constitute the record of proceedings upon which this Board’s decision is based are located at the offices of the County of Alameda’s Planning Department at 224 West Winton Avenue, Hayward, California, 94544;

NOW THEREFORE BE IT RESOLVED, that this Board of Supervisors finds, on the basis of the whole record before it, that there is no substantial evidence that the proposed microbrewery Ordinances will have a significant effect on the environment; and

BE IT FURTHER RESOLVED that this Board of Supervisors finds that an Initial Study/Mitigated Negative Declaration is the appropriate and proper environmental analysis for the proposed ordinance amendments and complies with the requirements of CEQA; and

BE IT FURTHER RESOLVED that this Board of Supervisors finds that the Initial Study/Mitigated Negative Declaration was duly prepared by the County of Alameda and reflects the lead agency’s independent judgment and analysis; and

RESOLUTION NO. R-2019-___

APRIL 23, 2019

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BE IT FURTHER RESOLVED that this Board of Supervisors does hereby adopt the Initial Study/Mitigated Negative Declaration for the microbrewery Ordinances; and

BE IT FURTHER RESOLVED that this Board of Supervisors does hereby adopt the Mitigation Monitoring and Reporting Program set forth in Exhibit A to this Resolution.

BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA

RESOLUTION NO. R-2019-___

APRIL 23, 2019

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THE FOREGOING was PASSED and ADOPTED by a majority vote of the Board of Supervisors of the County of Alameda this 23th day of April, 2019 to wit:

AYES:

NOES:

EXCUSED:

PRESIDENT, BOARD OF SUPERVISORS

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

DocuSigned by:
By: Heather Littlejohn
Heather M. Littlejohn
Deputy County Counsel

File No: _____
Agenda No. _____
Document No. _____



I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Supervisors, County of Alameda, State of California

ATTEST:
Clerk of the Board
Board of Supervisors

By: _____
Deputy

Mitigation Monitoring and Reporting Program

Zoning Ordinance Amendment to Allow Microbreweries *County of Alameda Community Development Agency*

Introduction

The purpose of this program is to describe the mitigation monitoring process for the project and to describe the role and responsibilities of the County of Alameda's Community Development Agency (CDA) for its implementation under the California Environmental Quality Act (CEQA).

The purpose of a mitigation monitoring program is to ensure that measures adopted to mitigate or avoid significant environmental impacts are implemented. This document is prepared in compliance with CEQA Guidelines §15097. CDA views the mitigation monitoring program as a working guide to facilitate not only the implementation of mitigation measures, but also the monitoring and compliance activities of CDA and monitors it may designate.

Project Background

The Zoning Ordinance Amendment to Allow Microbreweries (the "Ordinance Amendment") was the subject of an Initial Study/Mitigated Negative Declaration ("IS/MND") released for public review on August 29, 2017 for a 30-day public review period. The IS/MND determined that the implementation of the regulations set forth in the Ordinance Amendment would have no impact or less than significant impacts requiring no mitigation in the following areas:

- Aesthetics/Visual
- Agriculture and Forest Products
- Biological Resources
- Climate Change and Greenhouse Gas Emissions
- Cultural Resources
- Geology/Soils
- Hazards/Hazardous Materials
- Hydrology/Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population/Housing
- Public Services
- Recreation
- Transportation and Traffic
- Utilities and Service Systems

The IS/MND determined that mitigation measures would be required in two environmental resource areas to reduce potential impacts to a less-than-significant level. They are as follows:

- Air Quality
- Tribal Cultural Resources

The IS/MND concluded that with implementation of the mitigation measures identified in the document, all potentially significant impacts would be reduced to levels of less than significant.

Roles and Responsibilities

As the lead agency under CEQA, the County of Alameda is required to monitor the project to ensure that the adopted mitigation measures are implemented effectively. The County Board of Supervisors is responsible for adopting the Mitigated Negative Declaration and the Ordinance Amendment which would allow microbreweries in the A (Agriculture) Zoning District in the unincorporated areas of Alameda County. The Director of the County's Community Development Agency, in consultation with other County departments and agencies, will oversee and administer the permit application review and approval processes and will be responsible for verifying compliance with the mitigation measures included in the MND and the Mitigation Monitoring and Reporting Program (the "MMRP") as set forth below.

**Zoning Ordinance Amendment to Allow Microbreweries
Mitigation Monitoring and Reporting Program**

Commitments and Mitigation Measures	Timing	Implementation Responsibility	Verification	
			Monitoring Action	Monitoring Responsibility Date/Initials
<p>Air Quality</p> <p>Mitigation Measure AQ-1: Construction Period Dust Suppression – Best Management Practices</p> <p>The Project shall demonstrate compliance with the following basic construction mitigation measures or best management practices (BMPs):</p> <ol style="list-style-type: none"> All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. All stockpiles of debris, soil, sand and any other material that can be windblown shall be covered. Trucks transporting these materials shall be covered. All paved construction areas and adjacent streets shall be damp swept daily. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways. Vegetation shall be replanted in disturbed areas as soon as possible after completion of construction. All haul trucks transporting soils, sand, or other loose material off-site shall be covered. All visible mud or dirt tracks on adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 	<p>During construction of a microbrewery facility</p>	<p>Holders of a Conditional Use Permit for the development of microbrewery related uses and contractors used for the construction of the facility</p>	<p>Observation of construction work in progress</p>	<p>County CDA (Planning Director or his/her designee)</p>

**Zoning Ordinance Amendment to Allow Microbreweries
Mitigation Monitoring and Reporting Program**

Commitments and Mitigation Measures	Timing	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date/Initials
<p>h. All vehicle speeds on unpaved roads shall be limited to 15 mph.</p> <p>i. All roadways, driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>j. Construction equipment shall be shut off when not in use to minimize idling times. Signage shall be placed for construction workers at all access points onto the site.</p> <p>k. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>l. A publicly visible sign shall be posted at the site with the telephone number and person to contact at the Lead Agency regarding dust complaints. This contact person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p>					
Tribal Cultural Resources					
<p>Mitigation Measure TRC-1: Unanticipated Discovery of Tribal Cultural Resources</p> <p>In the event that cultural resources of Native American origin are identified during construction, Alameda County shall consult with a qualified archaeologist and begin or continue Native American consultation procedures. If Alameda County determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in</p>	<p>During construction of a microbrewery facility</p>	<p>Holders of a Conditional Use Permit for the development of microbrewery related uses and</p>	<p>Observation of construction work in progress</p>	<p>County CDA (Planning Director or his/her designee)</p>	

**Zoning Ordinance Amendment to Allow Microbreweries
Mitigation Monitoring and Reporting Program**

Commitments and Mitigation Measures	Timing	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date/Initials
accordance with state guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.		contractors used for the construction of the facility			

