



CITY OF APPLETON

MEMORANDUM

Date: September 25, 2024
To: City Plan Commission
From: Lindsey Smith, Principal Planner
Subject: Informational Presentation of Proposed Draft Municipal Code Text Amendments –

Chapter 9 Licenses, Permits and Business Regulations: Sec. 9-262 Conduct of business generally; and

Chapter 23 Zoning: Sec. 23-22 Words and terms defined, Sec. 23-35 Transition rules, Sec. 23-66 Special use permits and special regulations, Sec. 23-112 C-1 neighborhood mixed use district, Sec. 23-113 C-2 general commercial district, and Sec. 23-114 CBD central business district

GENERAL INFORMATION

The Community Development Department Planning staff collaborated with the City Attorney's Office on the following proposed draft Chapter 9 Licenses, Permits and Business Regulations and Chapter 23 Zoning text amendments.

PURPOSE OF MUNICIPAL CODE TEXT AMENDMENTS

1. Continue to improve usability and organization of the land use regulations listed in Chapter 9 Licenses, Permits, and Business Regulations and Chapter 23 Zoning.
2. Further implement adopted goals and policies of the Comprehensive Plan listed below.

BACKGROUND

On March 15, 2017, the Common Council adopted a 5-year update to the City of Appleton *Comprehensive Plan 2010-2030*. The *Comprehensive Plan* includes several recommendations on potential changes to the City's Zoning Ordinance. Listed below are related excerpts from the *Comprehensive Plan 2010-2030*. In order to align with these recommendations, Community Development Department staff has prepared draft amendments to various sections of the Zoning Ordinance.

OBJECTIVE 9.1 Economic Development:
Implement the Appleton Economic Development Strategic Plan.

Business Retention & Expansion:

Streamline permitting process. Continue fast-track permitting. Review commercial permitting processes and streamline where appropriate to assure that permits are issued in a predictable and professional manner, and customers receive clear communication.

PROPOSED DRAFT TEXT AMENDMENTS

The text recommended to be added is underlined. The text recommended for deletion is identified by ~~striketrough~~. Staff commentary is identified in *italics* to provide insight/analysis regarding that specific amendment/change.

The proposed text amendment includes the removal of uses relating to consumption of alcohol as a special use to a permitted use in the C-1, C-2, and CBD zoning districts.

The City does not have a great deal of discretion to deny a Special Use Permit application for uses relating to consumption of alcohol in accordance with Wisconsin Act 67. Staff is proposing uses related to consumption of alcohol as a permitted use rather than by special use permit which requires newspaper and neighborhood notices and a public hearing. Businesses intending to serve alcohol on their premises must obtain an alcohol license from the City Clerk’s Office. Community Development Staff participates in alcohol license review pursuant to the Alcohol Policy process, which requires License Committee and Common Council action.

Comments: The amendment eliminates terms that were specific to alcohol consumption uses. The term amusement arcade is being added into the definition of commercial entertainment.

ARTICLE II. DEFINITIONS

Sec. 23-22. Words and terms defined.

~~**Amusement arcade** means a use in which fifteen (15) or more pinball machines, video games or other similar player operated amusement devices (see §9-126) are maintained. Principal uses which require a special use permit are not considered an amusement arcade (e.g. taverns, neighborhood recreation centers).~~

Commercial entertainment means a use that provides services related to the entertainment field within an enclosed building. Examples include: theaters, motion picture theaters, miniature golf, skate park, bowling alleys, pool and billiard halls, amusement arcade, concerts or music halls and similar entertainment activities.

~~**Painting/Craft Studio with alcohol sales** means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and alcoholic beverages for consumption while they paint and/or make crafts.~~

Painting/Craft Studio without alcohol sales means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that may offers customers the opportunity to purchase food, alcoholic and/or non-alcoholic beverages for consumption while they paint and/or make crafts.

Restaurant (with alcohol) means a use involving a business establishment, ~~with a valid liquor license issued by the City,~~ with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state ~~in individual serving or in non-disposable containers.~~

Restaurant (without alcohol) ~~means a use involving a business establishment, without a liquor license issued by the City, with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state in individual serving or in non-disposable containers.~~

Comments: The amendment provides clarification that existing special use permits are null and void if moved from special use to a permitted use.

ARTICLE III. GENERAL PROVISIONS

Sec. 23-35. Transition rules.

(f) Previously Approved Special Use Permits.

(1) When a special use is no longer listed in the applicable use table, All special use permits approved prior to the effective date of this chapter or subsequent amendments to this chapter shall remain in full force and effect under the terms and conditions of the special use permit approval. Any expansions or change of use of a previously approved special use permit may require compliance with the nonconforming building, structure, use and lot and/or special use permit provisions of this chapter.

(~~1~~)~~(2)~~ When a special use becomes a permitted use in the applicable use table. All special use permits approved prior to the effective date of this chapter or subsequent amendments to this chapter, are no longer needed and become null and void. The provisions of the special use permits are no longer applicable for uses that are now listed as a principal permitted use in the corresponding zoning district.

ARTICLE IV. ADMINISTRATION

Sec. 23-66. Special use permits and special regulations.

(f) Guarantees, validity period and revocation.

(1) Expiration of special use permits.

d. A special use permit shall expire when a special use becomes a principal permitted in the applicable use table in the respective zoning district.

Comments: The amendment removes reference to special use permits in special regulations section.

(h) **Special regulations.** The following special regulations shall apply to uses listed below, whether listed a principal permitted use, special use or accessory use in this chapter. This subsection shall not be construed to conflict with or modify the provisions contained in Wisconsin Statutes §§66.0404 and 66.0406 (2021-22), as amended from time to time.

(19) **Microbrewery/Brewpubs and Craft-Distilleries.**

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. A total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- c. A total of not more than 100,000 proof gallons of intoxicating liquor shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- ~~d. Tasting rooms require a Special Use Permit in the C-1, C-2 and CBD Zoning District.~~
- e. Tasting rooms are accessory uses to a Microbrewery/Brewpubs and Craft-Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
- f. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(20) **Brewery and Distilleries.**

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Brewery and Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
- c. Retail sales of business merchandise on the brewery and distillery premises shall be an accessory use to the brewery and distillery manufacturing operations ~~or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(20)b.~~
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(21) **Winery.**

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Winery located in the Ag, M-2 and M-1 Zoning District and requires a Special Use Permit.
- c. Retail sales of business merchandise on the winery premises shall be an accessory use to the winery manufacturing operations ~~or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(21)b.~~
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

Comments: The amendment include the zoning district tables that are proposing to remove bar, tavern, craft-distillery, microbrewery/brewpub, tasting rooms, winery, paint/crafting studio with alcohol sales, and restaurants with alcohol sales as a special use to a permitted use. These uses will continue to have the same special provisions that would have been applicable for the uses.

ARTICLE VI. COMMERCIAL DISTRICTS

Sec. 23-112. C-1 neighborhood mixed use district.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-1 district.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> • <u>Bar or Tavern pursuant to §23-66(h)(6)</u> • <u>Craft-Distillery pursuant to §23-66(h)(19)</u> • <u>Microbrewery/Brewpub pursuant to §23-66(h)(19)</u> • Painting/Craft studio without alcohol sales • <u>Restaurants (without alcohol)</u> • <u>Tasting rooms pursuant to §23-66(h)(19, 20, or 21)</u> • <u>Winery pursuant to §23-66(h)(21)</u>

(e) **Special uses.** Special uses in the C-1 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> • Bar or Tavern pursuant to §23-66(h)(6) • Craft-Distillery pursuant to §23-66(h)(19) • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Painting/Craft studio with alcohol pursuant to §23-66(h)(6) • Restaurants with alcohol pursuant to §23-66(h)(6) • Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21) • Winery pursuant to §23-66(h)(21) • Amusement Arcade

Sec. 23-113. C-2 general commercial district.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> • <u>Bar or Tavern pursuant to §23-66(h)(6)</u> • <u>Craft-Distillery pursuant to §23-66(h)(19)</u> • <u>Microbrewery/Brewpub pursuant to §23-66(h)(19)</u> • <u>Painting/Craft studio pursuant to §23-66(h)(6) without alcohol sales</u> • <u>Restaurants pursuant to §23-66(h)(6) (without alcohol)</u> • <u>Tasting rooms pursuant to §23-66(h)(19, 20, or 21)</u> • <u>Winery pursuant to §23-66(h)(21)</u>

(e) **Special uses.** Special uses in the C-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> • Bar or Tavern pursuant to §23-66(h)(6) • Craft-Distillery pursuant to §23-66(h)(19) • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Painting/Craft studio with alcohol pursuant to §23-66(h)(6) • Restaurants with alcohol pursuant to §23-66(h)(6) • Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21) • Winery pursuant to §23-66(h)(21) • Amusement Arcade

Sec. 23-114. CBD central business district.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the CBD:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> • <u>Bar or Tavern pursuant to §23-66(h)(6)</u> • <u>Craft-Distillery pursuant to §23-66(h)(19)</u> • <u>Microbrewery/Brewpub pursuant to §23-66(h)(19)</u> • <u>Painting/Craft studio pursuant to §23-66(h)(6) without alcohol sales</u> • <u>Restaurants pursuant to §23-66(h)(6) (without alcohol)</u> • <u>Tasting rooms pursuant to §23-66(h)(19, 20, or 21)</u> • <u>Winery pursuant to §23-66(h)(21)</u>

(e) **Special uses.** Special uses in the CBD district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> • Bar or Tavern pursuant to §23-66(h)(6) • Craft Distillery pursuant to §23-66(h)(19) • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Painting/Craft studio with alcohol pursuant to §23-66(h)(6) • Restaurants with alcohol pursuant to §23-66(h)(6) • Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21) • Winery pursuant to §23-66(h)(21) • Amusement Arcade

CHAPTER 9 – LICENSES, PERMITS AND BUSINESS REGULATIONS

ARTICLE VI. FOOD AND FOOD SERVICE ESTABLISHMENTS

DIVISION 4. SIDEWALK CAFES

9-262. Conduct of business generally.

(b) If a permit holder is going to serve alcoholic beverages within the parameters of the sidewalk café, the permit holder shall also be subject to the following:

(1) The permit holder must hold a Class B license.

(2) The description for the premise on the Class B license must include the parameters of the sidewalk café.

~~(3) The permit holder must obtain a Special Use Permit.~~

(34) The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.

~~(45)~~ A licensed operator working for the permit holder must serve the alcoholic beverages in the sidewalk café.

~~(56)~~ Customers are not allowed to carry alcoholic beverages outside the sidewalk café.

RECOMMENDATION

Based upon the above analysis, staff recommends the Plan Commission review the draft Municipal Code text amendments included in this report, discuss and receive public input on the proposed changes, and direct staff to make any revisions and prepare the necessary public hearing notices for the proposed text amendments to Chapter 9 Licenses, Permits, and Business Regulations and Chapter 23 Zoning.

NOTE: Chapter 9 Licenses, Permits, and Business Regulations and Chapter 23 Zoning text amendments initiated directly by Plan Commission will be processed in accordance with Section 23-65(c), Zoning Text Amendments. This process would include future review and action by Plan Commission (after informal hearing), as well as review and action by Common Council (after public hearing).