



**CITY OF SAINT PAUL**  
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DATE: August 7, 2013

TO: Neighborhood Planning Committee

FROM: Bill Dermody, City Planner, PED  
Ross Haddow, Zoning Intern, DSI

RE: Review of zoning study initiated by Resolution 13-256, regarding amending the zoning code text regarding alcohol production (Secs. 63.207, 65.772-82, 66.321, 66.421, and 66.521)

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## ISSUE

Councilmember Amy Brendmoen and Councilmember Russ Stark introduced Resolution 13-256 on February 13, 2013, requesting the Planning Commission's study, report, and recommendation regarding proposed amendments to commercial brewing zoning regulations. The resolution calls for facilitating the growth of small, local commercial breweries. (Please see the memo attachments for a copy of the resolution.) The study has been expanded to also address small distilleries and small wineries, as allowed for by the resolution. A significant, but limited Zoning Code amendment allowing small brewers to have taprooms was processed in March 2013 (Ord. 13-14) as directed by the resolution ahead of the full study.

The following document provides background, analysis, a summary of public input, and a recommendation for action. Due to the length and complexity of the background section, it is broken down into several subsections: legal setting, definitions, current Zoning Code classifications, existing and planned facilities, comparison to other cities – breweries, comparison to other cities – distilleries, comparison to other cities – wineries, parking, odor, truck traffic, fire, and the 5,000 barrels cutoff.

## BACKGROUND

The market for small, local breweries has expanded exponentially in recent years across the nation, including in Minnesota and in Saint Paul. Just 5 years ago, Minnesota had only 3 microbreweries and 11 brew pubs; by 2012 it had 29 microbreweries and 19 brew pubs. Additionally, many existing breweries are expanding quickly, including local producers Surly and Fulton. The recent boom is driven in part by changes in state law, but it also reflects the larger trend of shifting consumer preferences away from mainstream national brands toward "craft" brands, whether national (Sam Adams), regional (Summit), or local (Flat Earth). This

zoning study analyzes potential amendments to the Zoning Code that could allow Saint Paul to participate more fully in this growth, consistent with the Comprehensive Plan and sound planning principles.

A more recent nationwide trend of note is the growth of small, craft distilleries. For instance, in Washington, where laws and tax rates are favorable, there are now more than 60 craft distilleries. With recent changes to Minnesota tax rates, several small distilleries have expressed interest in locating in our area. Another potential growth sector is small, craft production of alcoholic cider, sake, or other beverages technically classified as “wine” under State of Minnesota law. Due to the similarities between the various types of craft alcohol production, staff has expanded the study focus to include distilleries and wineries in addition to breweries.

### **Legal Setting**

Alcohol business laws are in tremendous flux across the nation and in Minnesota, with continued change anticipated. After the end of Prohibition in 1933, state laws generally established a “three-tier” system for alcohol (production, distribution, retail), with no overlap between the tiers, as a way to prevent abuses that had occurred in the previous era of legal alcohol sales. The “three tiers” had to be completely separate business entities under these laws. The strict three-tier system has been loosened in recent decades to various degrees on a state-by-state basis. For instance, brew pubs – which produce, sell, and sometimes distribute – are now commonplace. In Minnesota, a significant 2011 amendment (popularly known as the “Surly Bill”) allowed for small brewers to operate taprooms that serve the product directly to consumers. Numerous other amendments to State of Minnesota alcohol law have been discussed and are possible in the future, including allowing small distilleries to operate taprooms and allowing brew pubs to distribute off-site.

Taxation is also in flux and could have a significant effect on the alcohol marketplace. Major tax rate decreases for small brewers and distillers have spurred market growth in Minnesota and elsewhere, while upward adjustments in the definition of “small” are often debated and possible for the future. However, states including Minnesota have also considered increasing alcohol taxes and capturing more money from the growing small brewery sector as a way to balance budgets. These taxation issues are out of the City’s control, but could drastically shape the local scene.

### **Definitions**

Definition of terms is helpful in discussing alcohol laws and concepts. The Saint Paul Zoning Code provides definitions and/or standards and conditions for *malt liquor production*, *micro and regional brewery*, *national brewery*, *small brewery as an accessory use to a bar or restaurant*, *brew on premises store*, and *bar*. *Malt liquor production* (Sec. 65.774) is a brewery that produces less than 5,000 barrels per year. A *micro and regional brewery* (Sec. 65.820) is a brewery with the capacity to produce up to 1,000,000 barrels per year. A *national brewery* (Sec. 65.821) produces over 1,000,000 barrels per year. A *small brewery accessory to a bar or restaurant* (Sec. 65.910 (1)), commonly known as a “brew pub,” is generally limited to selling its beer for consumption on the premises where it is brewed, excepting only “growlers” for off-site consumption as defined by State of Minnesota law. A *brew on premises store* (Sec. 65.611)

provides the ingredients and equipment for a customer to brew malt liquor at the store for personal or family consumption. A *bar* (Sec. 65.610) is an establishment that serves wine, beer, or intoxicating liquor for consumption on the premises between midnight and 2 a.m.; notably, a taproom or brew pub would be considered a bar if it were open past midnight and would then be subject to additional standards.

Chapter 409 of the City Code (“Licensing: Intoxicating Liquor”) provides definitions and regulations that generally mirror State of Minnesota law regarding *brew pubs*, *taprooms*, *growlers*, and several other alcohol-related terms. One notable difference between City licensing regulations and State law is that the City limits breweries to 3,500 barrels produced per year if they are to offer growlers, while the State recently raised the limit to 20,000 barrels.

State law provides several other relevant definitions, including for *taproom*, *malt liquor*, *growler*, *wine*, *distilled spirits*, *microdistillery*, and *proof gallon*. A *taproom* is a space on the premises of or adjacent to a brewery where the malt liquor product is sold and consumed on-site. *Malt liquor* is any beer, ale, or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume. A *growler* is a 64-ounce container filled by a brewer and sold directly to a customer for off-site consumption. Notably, growler sales are limited to 500 barrels annually and are only permitted by brewers of a certain size (<20,000 barrels per year) and brew pubs. A *brew pub* is not explicitly defined (the State instead uses the phrase “restaurant operated in the place of manufacture”), but regulations limit it to 3,500 barrels per year and prohibit sales to other restaurants or liquor stores, except restaurants owned by the same entity. *Wine* is the traditional product made from the normal alcoholic fermentation of grapes, but also includes vermouth, cider, perry, and sake, so long as the product contains between 0.5% and 24% alcohol by volume. *Distilled spirits* is defined to include whiskey, rum, brandy, gin, and other distilled spirits for nonindustrial use. A *microdistillery* is a distillery producing premium, distilled spirits not exceeding 40,000 proof gallons in a calendar year. A microdistillery can provide samples to customers on-site, but cannot sell its product for on-site consumption like a brewery taproom. A *proof gallon* is one liquid gallon of distilled spirits that is 50% alcohol at 60 degrees Fahrenheit.

Though not explicitly defined by the State or City, a beer barrel is commonly defined as containing 31 gallons and a keg as containing 15.5 gallons.

### **Current Zoning Code Classifications**

Below is a summary table of the current Zoning Code classifications for brewing uses:

**Table 1: Saint Paul Zoning Code.**

	<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>B5</b>	<b>IR</b>	<b>I1</b>	<b>I2</b>
<b>Brew Pub Restaurant</b>		P/C	P/C	P/C		P	P	P	P	P	P	P
<b>Brew Pub Bar</b>		P/C	P/C	P/C		P/C	P	P	P	P	P	P
<b>Brew on Premises Store</b>		P	P	P		P	P	P	P	P	P	P
<b>Malt Liquor Production</b>		P/C	P/C	P/C		P/C	P	P	P	P	P	P
<b>Micro and Regional Brewery</b>										P	P	P
<b>National Brewery</b>												P

P = Permitted      C= Conditional Use Permit

*A small brewery accessory to a bar or restaurant*, or “brew pub”, is allowed wherever restaurants or bars are allowed, including T2-4, B2-5, IR, I1, and I2 districts. For restaurants (including brew pubs) in the T2-4 districts, a conditional use permit is required to exceed a floor area of 15,000 square feet. Notably, restaurants do not typically come close to that size limit. For bars in the T2-4 and B2 districts, a conditional use permit is required to exceed a floor area of 5,000 square feet. Examples of brew pubs include Great Waters Brewing Company, Minneapolis Town Hall Brewery, and Rock Bottom Restaurant & Brewery.

*A brew on premises store* is allowed in the same districts as a brew pub (T2-4, B2-5, IR, I1, and I2), though without the size limitations. A prime example of a brew on premises store is the Vine Park Brewing Company.

*Malt liquor production* (maximum 5,000 barrels/year) is allowed in the same districts as a brew pub (T2-4, B2-5, IR, I1, and I2). The size limit is 15,000 square feet in the T and B2 districts, similar to the size limit for a brew pub restaurant (which is the same amount, but does not apply in B2). Examples most likely meeting the City’s definition of *malt liquor production* include Flat Earth Brewing Company, Steel Toe Brewing (St. Louis Park), Indeed Brewing Company (Minneapolis), and Dangerous Man Brewing (Minneapolis), among many others.

*Micro and regional breweries* (up to 1,000,000 barrels/year) are allowed in IR, I1, and I2 districts. Examples of breweries meeting the City’s definition of *micro and regional brewery* include Summit Brewing Company and Surly Brewing Company.

*National breweries* (over 1,000,000 barrels/year) are allowed only in the I2 district. *National breweries* meeting the City’s definition include Samuel Adams, Miller, Coors, and Budweiser.

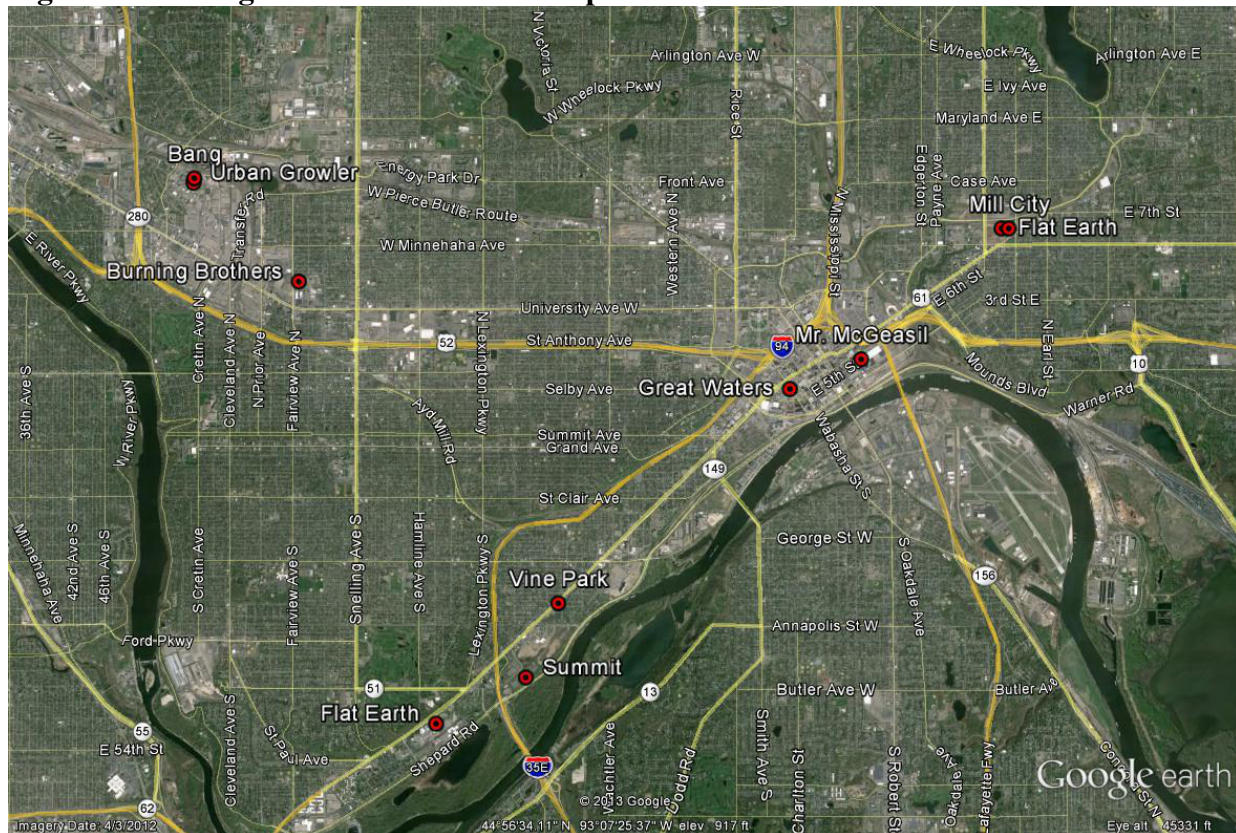
Distilleries and wineries are not currently addressed in the Zoning Code and therefore require determinations of similar use from the Zoning Administrator for each individual case. The Mill City Distillery recently received zoning approval to occupy part of the former Hamm's Brewery, which is zoned I2, making it the first modern distillery approved in Saint Paul.

The full permitted use tables are located within the Zoning Code as Table 66.321 (Traditional Neighborhood Districts), Table 66.421 (Business Districts), and Table 66.521 (Industrial Districts).

### **Existing and Planned Facilities**

Saint Paul currently has four alcohol production facilities, with four new facilities and a relocation/expansion planned in 2013. Great Waters Brewing Company, classified as a *small brewery accessory to a restaurant*, is zoned B4. Summit, a *micro and regional brewery*, is zoned I1. Flat Earth, a malt *liquor production* facility, is zoned I1. Vine Park, a *brew on premises store*, is zoned B1. A relocated/expanded Flat Earth and Mill City Distillery are planned for the former Hamm's Brewery, zoned I2. New *malt liquor production* facilities, Bang Brewing Company and Urban Growler Brewing Company, are planned on neighboring parcels in St. Anthony zoned I2. Another *malt liquor production* facility, Burning Brothers, is planned in Hamline-Midway on property zoned T3. Other new distilleries and a new malt liquor production facility have inquired about property in Saint Paul, but have not yet announced their planned locations.

**Figure 1: Existing and announced alcohol production facilities in Saint Paul.**





### **Comparisons To Other Cities - Breweries**

Staff researched regulation and location characteristics of breweries in other cities locally and throughout the United States, focusing especially on Minneapolis, Duluth, Dallas, Denver, Portland, and Seattle because of their similarities to Saint Paul. Key findings include that Saint Paul has rather permissive zoning regulations for small breweries compared to many cities nationally and that the primary comparison cities noted above are similarly permissive.

Generally, Saint Paul's regulations make it possible for small breweries ("malt liquor production") and brew pubs to exist in almost any mixed use, commercial, or industrial district, excepting only the most restrictive districts intended to serve just the surrounding neighbors (B1 and T1), heavy industry (I3), or non-production uses (OS and BC). Many other cities still limit breweries of any size to industrial areas, and some cities limit brew pubs to commercial zones.

Though Saint Paul's regulations are already rather welcoming to breweries, there are several ideas that can be drawn from the primary comparison cities. Minneapolis, distinctively, allows small breweries in their C1 Neighborhood Commercial District, but they have a much more restrictive floor area limit without needing a conditional use permit (1,200 sq. ft. vs. 15,000 sq. ft. in Saint Paul's most similar district). Only one brewery (Dangerous Man) is currently located in a C1 District – it is relatively new, but Minneapolis staff interviewed are not aware of any noise, traffic, or odor issues thus far.

**Figure 2: Dangerous Man Brewing Co. is in a C1 zone adjacent to residences and a church.**



Denver’s regulations stand out as the most permissive – the districts that allow breweries are similar to Saint Paul, but without similar size/output limits specified in their form-based zoning code (a limit of 60,000 barrels per year, vs. 5,000 in Saint Paul, applies only in their mixed use districts). Denver’s larger, established microbreweries are mostly located in industrial areas or near the baseball stadium, though newer ones are located in a variety of settings, including mixed use. None of the newer breweries located near residential properties appear to be producing more than 5,000 barrels per year, and so no lessons can yet be drawn about their land use compatibility at such a capacity.

Nearly all cities nationwide allow microbreweries in industrial districts and brew pubs in commercial/mixed use districts. Also, the primary comparison cities (other than Duluth) allow brew pubs in industrial districts, just as Saint Paul does. The summary table below addresses the more variable regulations regarding breweries in commercial/mixed use districts.

**Table 2: Breweries in Commercial or Mixed Use Districts.**

	Allowed?	Maximum Barrels/ Year	Maximum Sq Ft	Notes
Mpls	Yes	none	1,200	Includes C1 Neighborhood Commercial District
Duluth	Some	none	none	Allowed districts are clustered d'town/lakefront
Dallas	w/ CUP	none	10,000	CUP also required for bars, sometimes required for restaurants and brewpubs
Denver	Yes	60,000 or none	none	CUP if w/in 500 feet of resid. in non-mixed use districts; barrel limit only applies in mixed use districts
Portland	Yes	none	5,000 or 10,000	
Seattle	Yes	none	10,000 or 20,000*	
Saint Paul	Yes	5,000	15,000*	

\* Maximum does not apply in more intense districts (B3-B5 in Saint Paul, equivalent in Seattle)

### **Comparisons To Other Cities - Distilleries**

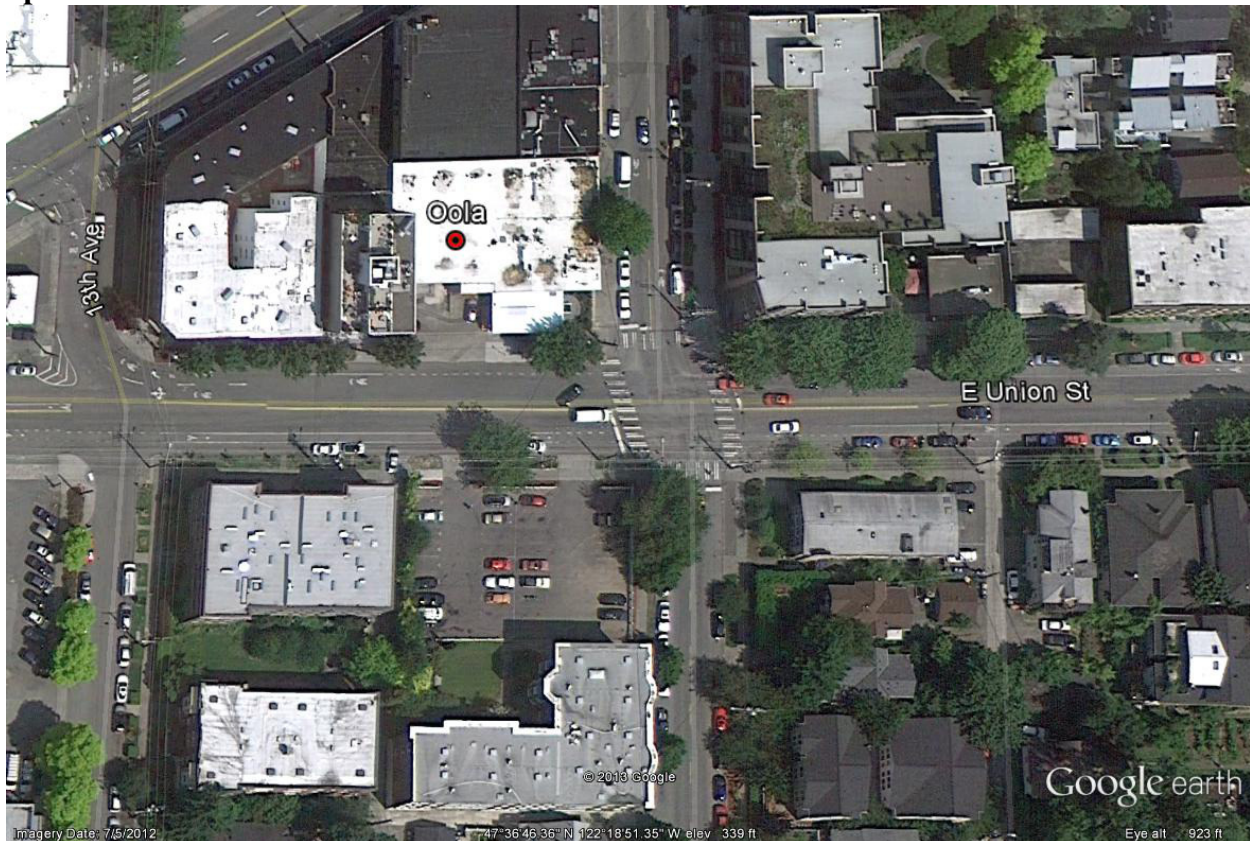
Though some small, craft distilleries have existed for decades, they are generally more of an emerging concept than craft breweries. There were only 323 craft distillers in the country in 2012 based on an American Distilling Institute directory, with nearly half (149) of them concentrated in six states: California, Colorado, New York, Oregon, Texas, and Washington. The major urban concentrations of craft distillers (5+ businesses) were in Portland and Seattle.

Nationwide, zoning regulations that specifically mention small or micro distilleries address them both qualitatively and quantitatively. Quantitative limits identified range from 5,000 gallons per year (Evanston, IL, which also requires a taproom to meet the definition) to 660,000 gallons per year (Nashville). Proof-gallons are also used as a measure in other locations.



The leading distillery cities (Portland and Seattle) do not specifically address small distilleries in their codes. Rather, distilleries are considered subsets of production or light manufacturing uses, much like breweries; all uses fitting the broader production/manufacturing categories are allowed in most commercial and mixed use districts so long as they abide by size restrictions. Some of the distilleries in Portland and Seattle are immediately adjacent to residential uses. Research into property complaints and interviews with city staff have revealed no land use impacts regarding distillery operations. Anecdotally, Portland staff note that distilleries tend to have more of a retail goods element than breweries.

**Figure 3: Oola Distillery in Seattle is surrounded to the south, west, and east by apartments.**



### **Comparisons To Other Cities - Wineries**

Staff research has not discovered any major cities that specifically address small, local wineries (or producers of sake, hard cider, etc.) in urban locations. Some cities, such as those noted above, would likely classify small wineries in the broader production or light manufacturing categories. Sake is addressed in State of Minnesota law to clarify that it can be sold in growlers similarly to that sold by small brewers, a response to a specific situation in Minneapolis.

Minneapolis has one sake producer (Moto-i) that is located in a commercial district and functions much like a brew pub, with the sake production being accessory to a restaurant. Portland, Seattle, and Minneapolis, incidentally, each have a hard cider producer in the process of opening this year.



### **Parking**

Parking can become a concern when a brewery adds a taproom due to the increased customer traffic it typically presents. Current practice is to require the production portion of the facility to provide parking based on the limited production/manufacturing Zoning Code entries, while the taproom portion is treated like a restaurant. The same practice would likely apply to distilleries or wineries (sake, cider, etc.) with taprooms, should the State of Minnesota law allow for it. Limited production/manufacturing uses must provide 1 space per 1,000 sq. ft. gross floor area or 1 space per 2,000 sq. ft. if more than 50% of production floor space is occupied by automated machinery. Restaurant uses must provide 1 space per 400 sq. ft. Staff recommends clarifying this current practice through new language in the Zoning Code. The parking requirements are summarized in Table 63.207 of the Zoning Code.

Any taproom or brew pub restaurant that became a *bar* by definition would become subject to the parking regulations applied to bars. A bar is required to provide 1 space per 150 sq. ft. gross floor area.

Notably, Minneapolis currently calculates parking for breweries in industrial areas as if it were a 100% production use, regardless of any taproom space – a significant difference from Saint Paul practice.

### **Odor**

In general, manufacturing processes that create noxious odors detected beyond property lines are often limited to industrial districts. Some non-manufacturing uses regularly found in commercial districts, however, frequently generate smaller-scale odors discernable beyond the property line – particularly restaurants with fryers. The question of whether an odor should be limited to industrial areas seems to be a matter of preferences and expectations, which may be best measured by neighbor complaints. Staff research has found that small breweries, distilleries, and wineries in urban areas do not normally generate odor-based complaints.

Breweries, distilleries, and wineries (sake, cider, etc.) do have the potential to generate odor. Breweries, distilleries, and sake producers, in particular, will generate some odor similar to a bakery when the product is cooked (brewed) and still non-alcoholic. (Sake is actually brewed even though the State of Minnesota classifies it as a “wine”.) This type of cooking odor can be quite noticeable with larger brewers, like Summit. Staff research has found no odor-related complaints against small brewers or distillers in Saint Paul or the primary comparison cities. It is not clear at what operation size the brewing odor becomes plainly noticeable.

A distinctive odor potential from wineries or distilleries comes from drying/rotting byproduct – the problem identified with the former industrial ethanol plant on West 7<sup>th</sup>. Certain distilled liquors, generally those with more flavor, can also produce odors during the aging process. So long as waste products are not left to dry on-site, small wineries and distilleries are not expected to generate significant odors beyond what would be expected from a similarly sized bakery or brewery. Small distilleries in the primary comparison cities have not generated odor complaints.

### **Truck Traffic**

A near-universal land use impact of breweries, distilleries, and wineries is truck traffic, including both inbound delivery of raw materials and outbound delivery of product. The correlation of production and truck traffic is not linear – an annual capacity of an additional 1,000 barrels does not equal a certain amount of additional truck traffic. Small producers have more irregular patterns and generally higher levels of traffic per unit, but often via smaller vehicles with less land use impact like vans or personal trucks. That is, the product is often delivered on-demand for each individual customer (restaurant, liquor store, etc.). Larger regional brewers – our area does not yet have any regional distillers or wine producers – have more regular and larger deliveries, often via semi-truck, typically coordinated through a major distributor who can store the product in their own warehouse. Brewers of an intermediate size often use box trucks.

Staff research has found that there is not enough consistency in brewery facility operations to allow prediction of the increase in truck traffic for a given increase in production. Complicating variables include type of vehicle used (van vs. box truck vs. semi-truck), fullness of vehicle, mix of product containers (can/bottle vs. keg), and amount of on-site storage for grain supplies and finished product. However, the following approximate idealized figures may still be helpful: 1,000 barrels per year = 19 barrels per week = 264 cases (24-packs of cans or bottles) per week = 0.44 box trucks full of outbound product per week (if all in cans or bottles) = 0.2 semi-trucks full of outbound product per week. The idealized figures can be used to generate best-case scenarios (e.g. a 5,000 barrel per year facility could generate as little as 2.2 outbound box trucks per week). It should be emphasized that the idealized figures have not been found to reflect reality – they are at best a starting point for analysis.

### **Fire**

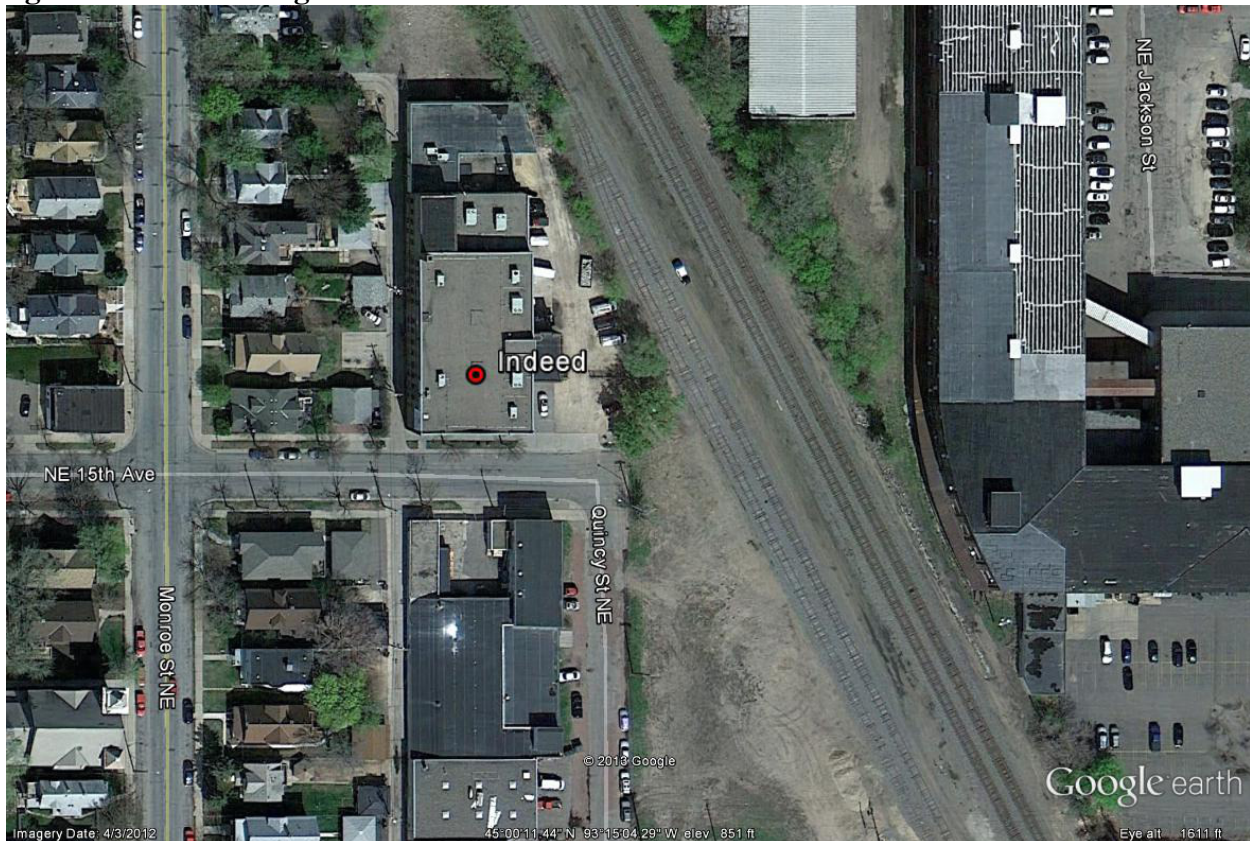
Fire risk is more difficult to measure and predict than other land use impacts because fire is chronologically irregular rather than an ongoing event. Thus, the lack of fire events in similar situations elsewhere is not necessarily predictive. Fire is of particular concern with regard to distilleries' flammable product and breweries'/distilleries' grain storage. The Fire Code addresses both of these concerns and would be applied at the time of building permits. Staff research has not discovered fire to have been an issue with existing small distilleries in urban areas, though fire risk has been used as rationale for limiting distilleries to industrial districts in some jurisdictions. In the primary comparison cities, fire risk does not appear to have been explicitly addressed through zoning.

### **5,000 Barrels Cutoff**

Given current regulations for *malt liquor production* that limit it to 5,000 barrels per year, staff research has particularly focused on the land use impacts of breweries approximately that size or somewhat larger in comparable cities. There are few examples of breweries in that size range across the country that have maintained that size for any length of time. Indeed Brewing of Minneapolis is in the process of doubling its capacity from approximately 3,800 barrels per year to 7,600, with no further expansions announced; thus far, no negative land use impacts have been reported. Indeed Brewing could be an exception to the norm and worth future examination. One niche brewery in Portland has been producing 10,000 barrels/year since about 2010 without land use conflicts, though it is in an industrial-type building not near residential uses. Generally,

breweries producing over approximately 3,000 or 4,000 barrels per year tend to have expansion plans to produce well over 10,000 barrels. Whether the *malt liquor production* limit is set at 5,000 barrels per year, 10,000 barrels, or somewhere in between, the current national market conditions would predict that a brewery exceeding one of those limits would soon surpass all of them – it appears to be within a transition range for breweries expanding their market area reach. It is difficult to predict whether future market conditions would be similar. Also, niche submarkets are particularly difficult to predict since their success will hinge on untested consumer preferences, rather than superiority in the more stable mainstream market.

**Figure 4: Indeed Brewing Company in Minneapolis is located adjacent to residences in a light industrial zoning district.**



## ANALYSIS

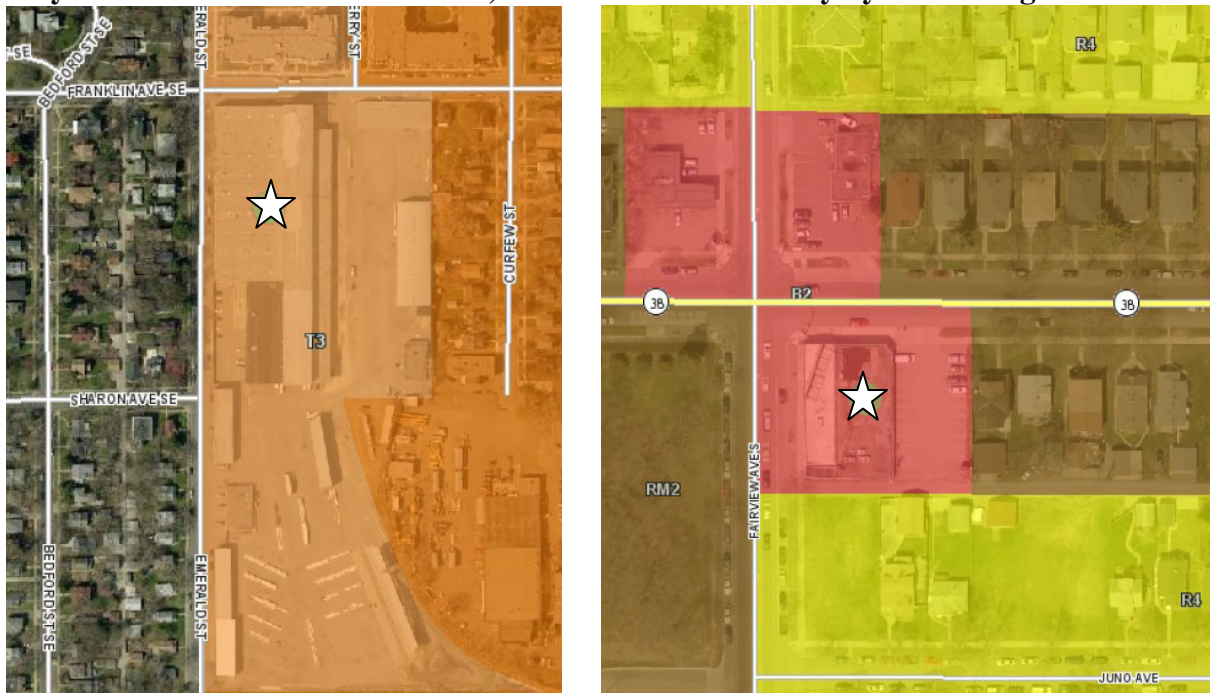
Several issues have been identified for analysis in consideration of potential zoning amendments, as addressed below. An analysis of Comprehensive Plan conformity follows.

### Issue #1

**Should the limit of 5,000 barrels per year be adjusted for *malt liquor production*?**

*Malt liquor production* is limited to 5,000 barrels in the T2-4 and B2-5 districts. It is also limited to 15,000 square feet in T2-4 and B2 districts. The primary land use concern with increasing the 5,000 barrel limit is the anticipated increase in heavy truck traffic. However, as noted above, it is impossible to predict the amount of truck traffic based solely on production levels without knowing other details about the particular business operations. Also, it is noted that properties in the affected zoning districts have varying attributes (e.g. distance to residential, location of truck docks) that would significantly influence a brewery's land use impact. For example, please see Figures 5 and 6 below.

**Figures 5 and 6: Properties below show situations (zoned T3 and B2) that could support very different levels of truck traffic, but are treated similarly by the Zoning Code.**



Due to the significant variety of land use settings among the affected districts, and due also to the inability to predict levels of heavy truck traffic, a conditional use permit is the best option for accommodating production levels above 5,000 barrels per year in the T2-4 and B2-5 districts. Variables that could be considered through a conditional use permit include presence/location of truck docks, distance to residential uses, and building orientation.

Under the conditional use permit option, any hard upper limit should be set high enough to include production levels that might be deemed appropriate at the best-suited sites located in traditional neighborhood and business districts. It is recommended that the hard limit be set at 20,000 barrels per year.

One reason that raising the 5,000 barrels per year limit might not be desirable is that it could reduce demand for underutilized industrially zoned sites. Related to this, it could entrench production-style uses on sites that were rezoned to traditional neighborhood districts specifically to incentivize a transition from industrial uses to mixed commercial/residential uses. The



recommendation to allow a conditional use permit option predicts that moderately higher production facilities can be compatible with, and perhaps encourage, the mixed uses envisioned for these zoning districts.

### **Issue #2**

**Should breweries, including *malt liquor production* or *brew on premises stores*, be allowed in additional zoning districts?**

*Malt liquor production* and *brew on premises stores* are currently allowed in all non-residential districts except T1, B1, OS, BC, and I3. The Zoning Code asserts that the T1 and B1 districts are intended to provide uses that primarily serve the nearby residential areas, while the OS district is intended for non-production service uses, the BC district is for residences converted to low-impact businesses, and I3 is reserved for objectionable or hazardous uses. Certainly, as generally unobjectionable production uses that do not locate in residential buildings, they are not appropriate in the OS, BC, or I3 districts. These uses do serve surrounding residences, as intended for the T1 and B1 districts, but they also generally serve a much larger market area, drawing from other neighborhoods and often other cities. Therefore, these uses are not appropriate in the T1 or B1 districts. No changes to the allowable districts for these uses are proposed.

*National breweries* should continue to be permitted in only the I2 district because of their significant truck traffic and odor impacts. *Micro and regional breweries*, likewise, produce impacts that are more appropriate in industrial districts (IR, I1, I2) than business districts such as B5 or B4.

### **Issue #3**

**How should distilleries be defined and regulated?**

Distilleries are not currently addressed in the Zoning Code. The land use impacts of small distilleries are similar to those of small breweries, including truck traffic and odor, but with the additional concern of heightened fire risk. The Fire Code addresses the heightened fire risk of distilleries and would be applied at the time of building permits. Therefore, truck traffic and odor concerns should be the primary determinants of the appropriate zoning districts for distilleries.

Small distilleries have been proven to be compatible in urban areas with regard to truck traffic and odor concerns. It is recommended, therefore, that small distilleries be allowed similarly to *malt liquor production* in traditional neighborhood and business districts because of the similar observed land use impact in comparison cities. An appropriate cap for such a small distillery might be 40,000 proof gallons per year, which is the current State of Minnesota definition for a *microdistillery*, a classification that enjoys significantly lower tax rates than larger distilleries. Proof gallons are an appropriate measurement unit since producers must pay taxes based on them.

#### **Issue #4**

##### **How should wineries be defined and regulated?**

A winery should be defined in reference to State of Minnesota law, which currently includes production of the traditional product made from grapes, as well as vermouth, cider, perry, and sake, all of a certain alcohol content. Referring to State law, rather than repeating it, would allow the Zoning Code to remain current if minor changes are made to the State law, such as reclassifying sake as malt liquor, adding products to the list of *wines*, or adjusting the allowable alcohol content.

Staff research has found that most traditional grape-based wineries do not locate in urban areas. However, cider and sake producers do sometimes locate in urban areas and could be part of a growing trend. Staff research has discovered no reason to anticipate that small wineries will have a significantly different impact than *malt liquor production*; therefore, small wineries should be permitted in the same zoning districts and subject to the same conditions. The applicable production limits should be converted from barrels to gallons, since gallons is the measurement unit used for paying taxes and should be readily available.

The proper zoning classification for larger wineries is unclear. Other similarly sized cities do not generally address wineries in their zoning regulations. Additionally, it is not clear whether larger wineries should be an industrial use or an agricultural use. It is recommended, therefore, that large wineries not be addressed in the Zoning Code at this time.

#### **Issue #5**

##### **How should parking for taprooms be addressed?**

The taproom portion of a facility is required, as a matter of practice, to provide parking at the same rate as restaurants. This practice should be incorporated into the Zoning Code for clarity and predictability. The most logical place for this item is within the parking table (“Minimum Required Off-Street Parking By Use”) in Sec. 63.207.

#### **Issue #6**

##### **Are changes necessary to the definition of *small brewery as an accessory use to a bar or restaurant* (brew pub) in anticipation of any changes to State of Minnesota law that would allow them to sell to liquor stores and restaurants/bars?**

In Saint Paul, any such future small breweries that want to sell beer to liquor stores or restaurants would have to be reclassified under the Zoning Code as *malt liquor production* and abide by those regulations, including (currently) a maximum 5,000 barrels produced per year in certain districts. This is because both the State and City regulations require brew pubs to sell only for on-site consumption (excepting only growlers). A State law change allowing brew pubs to sell to liquor stores and restaurants could force other cities to contend with brew pubs, which usually locate in dense retail locations, morphing into 15,000 barrel-per-year breweries with production-type activities (forklifts, pallets, trucks, etc.). Fortunately, no change is needed to Saint Paul’s Zoning Code in order to deal with those issues. Additionally, Saint Paul provides a reasonable

and practical alternative for this potential business through the *malt liquor production* classification.

#### **Issue #7**

##### **Are changes necessary to differentiate a taproom from a bar?**

Currently, a brewery of any size in Saint Paul can open a taproom to serve its product on-site. It is plausible that such a taproom could become extremely popular to the point that production is arguably an accessory use. However, the Zoning Code appears to suitably handle this situation in its current form. In 2012, the Zoning Code was amended to specifically define a *bar* as being open between midnight and 2:00 a.m., indicating that those hours of operation trigger the need for heightened land use regulation such as increased parking provision. A taproom would be considered a *bar* if it were open during those hours.

#### **Issue #8**

##### **What naming structure should be used?**

Several brewers and distillers have expressed a desire for better clarity in City regulations. One small clarifying change recommended herein is to rename *malt liquor production* as *craft brewery* to be in line with *micro and regional brewery* and *national brewery*. Likewise, the smaller distilleries and wineries will be called *craft* for consistency. Another possibility considered was the term *nano* (*nano-brewery*, etc.), but that connotes a much smaller facility to many in the industry (i.e. under 500 barrels produced per year). The term *artisan* was also considered, but it also connotes a much smaller facility.

#### **Comprehensive Plan**

The Comprehensive Plan calls for implementation of the Economic Development Strategy, a document that contains six broad initiatives intended to strategically benefit economic development in the city. One of the initiatives is a “streamlined development process,” with clear and consistently applied regulations. The proposed text amendments further that initiative by removing an unnecessary regulation on alcohol production.

Additionally, Strategy 1.50 of the Comprehensive Plan’s Land Use Chapter calls for facilitating “the redevelopment of commercial areas where existing buildings are no longer considered functional to accommodate viable retail and businesses.” Though the proposed text amendments are not location-specific, they could facilitate such redevelopment by allowing new types of businesses (small distilleries, small wineries, and somewhat larger breweries) to be considered in these areas.

Similarly, Strategy 2.2 of the Land Use Chapter calls for promoting “the redevelopment of outmoded and non-productive sites and buildings so they can sustain existing industries and attract emerging industries.” Allowing new types of businesses at such locations would help implement this strategy.

Meanwhile, the proposed text amendments do not contradict any Comprehensive Plan goals relating to protection of neighborhoods. Citywide parking, Fire Code, Building Code, and licensing procedures will still need to be followed.

## **PUBLIC INPUT**

Numerous existing and potential Saint Paul brewers and distillers have informed the study through background interviews. Many of them favor making the City's regulations clear and transparent, so as to avoid surprises or uncertainty down the line. Also, several expressed a desire for flexibility to accommodate future expansions of their businesses and/or changes in State of Minnesota law.

## **STAFF RECOMMENDATION**

Staff recommends that the NPC recommend that the Planning Commission release this study and proposed amendments for public review on August 23, 2013 and schedule a public hearing on October 4, 2013.

### **Attachments**

1. Proposed Zoning Code Amendments
2. City Council Resolution 13-256



# Draft Zoning Code Amendments

## ARTICLE II. - 63.200. PARKING REQUIREMENTS

Table 63.207 Minimum Required Off-Street Parking By Use

Land Use	Minimum Number of Parking Spaces
<i>Commercial Uses</i>	
Restaurant, <del>C</del> offee shop, tea house, deli, <u>taproom</u>	1 space per 400 sq. ft. GFA

## ARTICLE V. 65.400. COMMERCIAL USES

### Division 10. 65.770. Limited Production, Processing and Storage

#### Sec. 65.77~~42~~. ~~Malt liquor production.~~ Brewery, craft.

A facility with a capacity to manufacture twenty thousand (20,000) or fewer barrels of alcoholic and nonalcoholic malt liquor a year. This definition excludes small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use.

*Standards and conditions* ~~in traditional neighborhood and business districts:~~

- (a) In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.
- (b) ~~Fewer than five thousand (5,000) barrels of malt liquor shall be produced in a year.~~ In all traditional neighborhood and business districts, a conditional use permit is required for facilities with the capacity to manufacture more than five thousand (5,000) barrels of malt liquor a year in order to ensure operational and design compatibility with the particular location.

#### Sec. 65.773. Distillery, craft.

A facility that manufactures distilled spirits, as defined by Minn. Stat. § 340A.301, with a capacity to manufacture forty thousand (40,000) or fewer proof gallons a year.

*Standards and conditions:*

In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.

#### Sec. 65.77~~24~~. Finishing shop.

**Sec. 65.77~~35~~. Limited production and processing.**

**Sec. 65.77~~56~~. Plastic products.**

**Sec. 65.77~~67~~. Printing and publishing.**

**Sec. 65.77~~78~~. Recycling collection center.**

**Sec. 65.77~~89~~. Recycling drop-off station.**

**Sec. 65.77~~98~~90. Warehousing and storage.**

**Sec. 65.781. Winery, craft.**

A facility that manufactures wine, as defined by Minn. Stat. § 340A.301, with a capacity of six hundred twenty thousand (620,000) or fewer gallons a year.

Standards and conditions:

(a) In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.

(b) In all traditional neighborhood and business districts, a conditional use permit is required for facilities with the capacity to manufacture more than one hundred fifty-five thousand (155,000) gallons a year in order to ensure operational and design compatibility with the particular location.

**Sec. 65.78~~02~~. Wholesale establishment.**

## ARTICLE III. 66.300. TRADITIONAL NEIGHBORHOOD DISTRICTS

**Table 66.321. Principal Uses in Traditional Neighborhood Districts**

Use	T1	T2	T3	T4	Development Standards
<b>Commercial Uses</b>					
<i>Limited Production and Processing</i>					
<del>Malt liquor production</del> <u>Brewery, craft</u>		P/C	P/C	P/C	✓
<u>Distillery, craft</u>		<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>✓</u>
<u>Winery, craft</u>		<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>✓</u>

## ARTICLE IV. 66.400. BUSINESS DISTRICTS

**Table 66.421. Principal Uses in Business Districts**

Use	OS	B1	BC	B2	B3	B4	B5	Development Standards
<b>Commercial Uses</b>								
<i>Limited Production, Processing and Storage</i>								
<del>Malt liquor production</del> <u>Brewery, craft</u>				P/C	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	✓
<u>Distillery, craft</u>				<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	✓
<u>Winery, craft</u>				<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	✓

## ARTICLE V. 66.500. INDUSTRIAL DISTRICTS

**Table 66.521. Principal Uses in Industrial Districts**

Use	IR	I1	I2	I3	Development Standards
<b>Commercial Uses</b>					
<i>Limited Production and Processing</i>					
<del>Malt liquor production</del> <u>Brewery, craft</u>	P	P	P		
<u>Distillery, craft</u>	<u>P</u>	<u>P</u>	<u>P</u>		
<u>Winery, craft</u>	<u>P</u>	<u>P</u>	<u>P</u>		



## Legislation Text

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**File #:** RES 13-256, **Version:** 1

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### Title

Initiating a comprehensive study of zoning regulations pertaining to commercial brewing.

### Body

WHEREAS, the Council of the City of Saint Paul finds that the zoning code's present land use definitions and development standards were adopted at various times and for various purposes intended principally to regulate large commercial brewing operations; and

WHEREAS, the City Council recognizes an increasing trend towards small, local commercial breweries; and

WHEREAS, it appears to the City Council that the zoning code's present standards which regulate large commercial brewing operations may be unnecessarily burdensome to the evolving small-scale commercial brewing industry and the entrepreneurs who need zoning approvals from the City in order to establish small-scale commercial breweries; and

WHEREAS, the City Council desires to support the growth of small, local commercial breweries by undertaking a study to consider text amendments to the zoning code which would clarify, harmonize, and update regulatory language, including a reexamination of definitions based on commercial brewery production limit cut-offs and zoning districts appropriate for locating small commercial brewing businesses; and

WHEREAS, pursuant to Minn. Stat. § 462.357, Subd. 4, the Council may initiate amendments to the zoning code and for the purpose of facilitating the growth of small, local commercial breweries the Council desires to do so; now

THEREFORE, BE IT RESOLVED, that the Council of the City of Saint Paul hereby refers to the planning commission for study, the proposed amendment to Leg. Code § 65.774 as set forth below, and zoning code sections: 65.910; 65.610; 65.774; 65.820; and 65.821; and to receive from the commission a report and recommendation on the said amendment specified sections, and any other zoning code sections which the commission believes may facilitate the Council's intentions, all in accordance with Minn. Stat. § 462.357, Subd. 4; and

BE IT FURTHER RESOLVED, that the Council, in its desire to assist small, local commercial breweries by enabling these breweries to obtain tap room licenses pursuant to Minn. Stat. § 340A.301, Subd. 6b, the Council specifically commends the following proposed amendment to Leg. Code § 65.774, entitled "malt liquor production" to the commission for its study, report, and recommendation as follows:

### Sec. 65.774. Malt liquor production

#### *Standards and conditions in traditional neighborhood and business districts.*

(a) In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.



(b) Fewer than five thousand (5,000) barrels of malt liquor shall be produced in a year.

~~(c) The malt liquor shall not be sold to customers for consumption on the site where manufactured.~~

AND, BE IT FINALLY RESOLVED, that the Council requests the Commission's review, report, and recommendation on the proposed text amendment to Leg. Code § 65.774 no later than 60 days from the date of reference of this resolution to the commission, as provided under Minn. Stat. § 462.357, Subd. 4.