


COUNCIL COMMUNICATION

Meeting Date: July 28, 2020	Agenda Item: 10B	Agenda Location: Consent Calendar	Goal(s):	Legal Review: 	<input type="checkbox"/> 1 st Reading <input checked="" type="checkbox"/> 2 nd Reading
Subject: An ordinance amending Sections 18-93, 18-160, 18-206, 18-208, 18-596, 18-599, and 18-901 and adding Section 18-334 to the Thornton City Code, regarding regulation of small-scale facilities, which produce alcoholic beverages or alcoholic liquors.					
Recommended by: Jeff Coder <i>JBC</i>		Approved by: Kevin S. Woods <i>KW</i>		Ordinance previously introduced by: <u>Sandgren</u>	
Presenter(s): Grant Penland, Planning Director					

SYNOPSIS:

The City is experiencing a growing interest of small-scale facilities, which produce alcoholic beverages or alcoholic liquors, such as breweries, distilleries, and wineries to operate within the City. Currently, the Thornton City Code (Code) does not specifically define this use so, as an ongoing effort to promote businesses within the City, this ordinance would clearly define small-scale alcoholic beverage production facilities as Micro-Alcohol uses and establish sensible regulations to ensure compatibility with other uses within the City. Research has been done on the brewing industry as well as similar uses within surrounding communities.

RECOMMENDATION:

Staff recommends Alternative No. 1, approve the ordinance which adds a "Micro-Alcohol" use to the Code with use regulations.

BUDGET/STAFF IMPLICATIONS:

None.

ALTERNATIVES:

1. Approve the ordinance which adds a "Micro-Alcohol" use to the Code with the use regulations.
2. Amend the proposed ordinance in a manner directed by Council.
3. Do not approve the ordinance.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

Article IV of the Development Code, which regulates uses within the City, currently does not have a use, which meets the unique requirements of small-scale alcoholic beverages production facilities or Micro-Alcohol uses. Due to the production component of Micro-Alcohol uses, a Code interpretation could limit them to industrial areas of the City, which is overly restrictive considering the scale of production and amount of public traffic they generate. There are currently two businesses in the City, which fit the Micro-Alcohol use description, although, they have been categorized as Industrial Inside and Restaurant uses which are both restrictive and challenging. These businesses are Mother Tucker Brewery, located on East 120th Avenue and Satire Brewing Company, which is located on Grant Circle. These facilities have onsite production, retail sales, and consumption. With the growing interest of these types of businesses, an ordinance has been drafted that includes several restrictions which are the most appropriate for the City. The draft ordinance was introduced to Council at the May 5, 2020

Planning Session where general support for the proposal was given. Staff was directed to hold a public outreach meeting in order to gather resident input which was held via a Zoom meeting on June 3, 2020. The notice for the meeting was posted on social media accounts as well as online and those who participated were in support of the proposal.

Classification of New Use Analysis

Subsection 18-39(b)(1) of the Code requires that regulations regarding a classification of new use shall address the following information:

1. *The definition of the use.*

The proposed amendment to Section 18-901 of the Code establishes a definition for Micro-Alcohol. The following definition can be found in the proposed ordinance.

Micro-Alcohol - A facility for producing alcoholic beverages or alcoholic liquors as defined in Section 42-26, which limits the production area and conducts the retail sale and/or on-site consumption of alcohol, which is produced on the premises in compliance with applicable state and federal laws, as well as local licensing. All other alcohol production facilities are treated as an industrial use per Section 18-160.

2. *The zoning district within which the use is permitted.*

Section 18-160 of the Code contains the use chart which regulates uses within the City. It is recommended that the proposed use be allowed by right within the Community Retail, Regional Commercial, Business Park, City Center, Mixed Use, Transit Oriented Development (TOD) – Core Subdistrict, TOD – Transition Subdistrict, Eastlake Business, Eastlake Service, Eastlake TOD, Industrial, and allowed by Specific Use Permit in the Neighborhood Services and Employment Center districts as the proposed use is analogous with those currently allowed within the zoning districts. One example of a similar use currently allowed within these districts is Bar, Lounge, or Tavern. Both uses are considered to be similar as they are both intended to allow the sale and consumption of alcoholic beverages on the premises.

<p>Legend: R = Permitted use by right S = Use permitted by specific use permit L = Limited use permitted by right T = Use permitted by temporary use permit</p>	Agricultural	Residential Estate	Single-Family Detached	Single-Family Attached	Multifamily	Manufactured Home	Eastlake Residential	Neighborhood Service	Community Retail	Regional Commercial	Business Park	City Center	Office/Institutional	Employment Center	Mixed Use	TOD - Core Subdistrict	TOD - Transition Subdistrict	Eastlake Business	Eastlake Service	Eastlake Office	Eastlake TOD	Industrial
	Use	Residential Districts						Nonresidential Districts														
	Part IX. Retail and Personal Service Uses.																					
	<u>Micro-Alcohol</u>							S	R	R	R	R		S	R	R	R	R	R		R	R

<p>Legend: R = Permitted use by right S = Use permitted by specific use permit L = Limited use permitted by right T = Use permitted by temporary use permit</p>	Agricultural	Residential Estate	Single-Family Detached	Single-Family Attached	Multifamily	Manufactured Home	Eastlake Residential	Neighborhood Service	Community Retail	Regional Commercial	Business Park	City Center	Office/Institutional	Employment Center	Mixed Use	TOD - Core Subdistrict	TOD - Transition Subdistrict	Eastlake Business	Eastlake Service	Eastlake Office	Eastlake TOD	Industrial
	Residential Districts						Nonresidential Districts															
Use	Additional provisions. See Sec. 18-334																					

3. *The required off-street parking.*

Section 18-596 of the Code establishes off-street parking requirements for individual uses. It is recommended that the off-street parking requirements for the proposed Micro-Alcohol use be consistent with the standards currently established for Bar, Lounge, or Tavern and Warehouse uses. These standards require any customer service floor area to have one parking space for each 100 square feet of floor area and any alcohol production and storage areas to have one parking space for each 1,000 square feet of floor area. In addition to the proposed amendment to Section 18-596 of the Code, it is also proposed to amend Section 18-599 of the Code to allow Micro-Alcohol uses to utilize the join-use parking requirements currently established in the Code.

4. *The required off-street loading.*

Section 18-596 also regulates the required off-street loading standards for uses. It is recommended the proposed use meets the standards currently established for Bar, Lounge, or Tavern which is no loading spaces for buildings 0 to 5,000 square feet, one loading space for buildings 5,001 to 50,000 square feet and one additional loading space for each additional 100,000 square feet of building square footage.

5. *Any additional provisions reasonably necessary to regulate the use.*

The proposed ordinance includes administrative revisions to the existing language in Section 18-93 of the Code to remove alcoholic beverage production as a high-risk use in order to allow the use within commercial areas. In addition to this change, several use restrictions are included in Section 18-334 of the proposed ordinance to help prevent the allowed production area from causing potential impacts to adjacent properties. The proposed use restrictions are as follows:

- a. On-premise consumption or retail sales of commodities produced on-site are required.
- b. Music, entertainment, or facilities for dancing may be provided under this use.
- c. Food may be prepared and served under this use.

- d. The maximum gross floor area for production, bottling, packaging, storing, and other manufacturing related activities shall be 6,000 square feet.
- e. If the use abuts any lot that is used exclusively for residential purposes, loading shall not be allowed between the hours of 9:00 p.m. and 7:00 a.m.
- f. This use is exempt from the provisions of Section 18-300.
- g. No outdoor storage of spent materials and comparable nontoxic byproducts of the production process shall be allowed unless stored outdoors for not more than 72 hours, provided that the temporary storage area grain is:
 - i. Located in the interior side or rear yard, except where the adjoining property is used or zoned for residential uses.
 - ii. Enclosed within a suitable container, secured and screened behind a solid, opaque fence, or wall measuring a minimum five feet in height.
 - iii. No outdoor storage using portable storage units, cargo containers, or tractor-trailers is allowed.

The proposed size restrictions are intended to keep Micro-Alcohol uses at an appropriate scale for commercial areas. Any other alcohol production facilities such as those, which are larger than the Micro-Alcohol use allows, are treated as an industrial use per Section 18-160 of the Code. To allow additional flexibility for those uses, language is proposed to be added to the Industrial – Inside requirements in Sections 18-206 and 18-208 of the Code that states retail sale and/or on-site consumption of alcohol, which is produced on the premises, is permitted as an accessory use. This will allow larger facilities within industrial districts to have a taproom if desired.

Zoning Amendment Analysis

The proposed Zoning Amendment complies with the following criteria, which Council may consider when evaluating an amendment to the text of the Code, as found in Subsection 18-41(c)(5) of the Code:

1. *The impact of the amendment on the character of the community.*

The proposed Zoning Amendment supports a use which would provide a service to the greater community. In addition, the introduction of a Micro-Alcohol use is appropriate for the Community Retail, Regional Commercial, Business Park, City Center, Mixed Use, TOD – Core Subdistrict, TOD – Transition Subdistrict, Eastlake Business, Eastlake Service, Eastlake TOD, Industrial, Neighborhood Services, and Employment Center zoning districts as it is compatible with the existing uses currently permitted.

2. *The effect of the amendment on the orderly development of the community.*

The proposed Zoning Amendment classifies a new land use and establishes associated restrictions for the use, which will improve the orderly development of the community. The introduction of a Micro-Alcohol use supports cohesive development opportunities and the ideals of orderly community growth and integration of the development within commercial and business park areas.

3. *The consistency between the proposed amendment and the Comprehensive Plan.*

The proposed Zoning Amendment supports the applicable goals and objectives outlined in the Comprehensive Plan:

Section 6.2 – Important needs

- Options – Everyone, no matter their trade or profession, can find work close to home.
- Market Capture – Meet Thornton citizen’s needs for retail and service activity.
- Broad Tax Base – Cultivate a strong and diverse tax base that will support high level of service to Thornton Citizens.

Policy 6.2.1 - Promote the development and maintenance of healthy, sustainable, and viable commercial centers.

4. The proposed amendment's consistency with the purposes of the Code as outlined in Section 18-3.

The proposed amendment is consistent with the purposes of the Code as it is consistent with the Comprehensive Plan and promotes the health, safety, and general welfare of the City. The development standards in the Code and the use restrictions proposed in the Zoning Amendment will adequately prevent any potential adverse impacts associated with the use.

PUBLIC NOTIFICATION:

A public notice of the hearing was published on the City’s official website and at City Hall, the Margaret W. Carpenter Recreation Center, and the Thornton Active Adult Center on July 2, 2020.

INTRODUCED BY: Sandgren

AN ORDINANCE AMENDING SECTIONS 18-93, 18-160, 18-206, 18-208, 18-596, 18-599, AND 18-901 AND ADDING SECTION 18-334 TO THE THORNTON CITY CODE, REGARDING REGULATION OF SMALL-SCALE FACILITIES, WHICH PRODUCE ALCOHOLIC BEVERAGES OR ALCOHOLIC LIQUORS.

WHEREAS, the City is a home-rule municipality organized and existing under the provisions of Colorado Constitution Article XX; and

WHEREAS, pursuant to the Constitution, and as further authorized by State Statutes, including, but not limited to C.R.S. 31-15-401, the City has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its residents; and

WHEREAS, such police powers include the power to regulate the nature and type of businesses allowed within such community; and

WHEREAS, the City desires to include “Micro-Alcohol” as a use allowed by right within the Community Retail, Regional Commercial, Business Park, City Center, Mixed Use, Transit Oriented Development (TOD) – Core Subdistrict, TOD – Transition Subdistrict, Eastlake Business, Eastlake Service, Eastlake TOD, and Industrial and allow by Specific Use Permit in the Neighborhood Services and Employment Center districts, as the proposed land use is appropriate within these districts and is harmonious with other land uses presently allowed within these districts such as Bar, Lounge, or Tavern and Restaurant without Drive-in or Drive-through; and

WHEREAS, the City desires to establish criteria for “Micro-Alcohol” uses in order to mitigate potential impacts on nearby residential and non-residential land uses; and

WHEREAS, the City finds these amendments to the Thornton City Code are necessary to promote the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. Subsection 18-93(b)(2) of the Thornton City Code is hereby amended by the additional of the words double-underlined and the deletion of the words stricken to read as follows:

Sec. 18-93(b)(2). – Business Park (BP) District.

(b) Additional provisions.

- (2) A high risk or hazardous industrial use means any industrial use whose operation, in the opinion of the fire chief, involves a higher

than average risk to public health and safety. The following uses, activities, operations, and processes are declared to be high risk or hazardous industrial uses and allowed only as industrial-inside uses by special use permit (SUP) in the BP District. However, this list shall not be considered exclusive nor comprehensive. Any use listed below or a use that is not listed may be determined by the director to be classified as a high risk or hazardous industrial use or classified as a use that is prohibited under paragraph (1) above.

~~a. Alcoholic beverage production plants.~~

~~ab.~~ Chemicals, including, acetylene, aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black or bone black, cleaning or polishing preparations, creosote, exterminating agents, hydrogen or oxygen, industrial alcohol, potash, plastic materials or synthetic resins, rayon yarns, or hydrochloric, picric, or sulfuric acids or derivatives.

~~be.~~ Excelsior or packing materials production plants.

~~cd.~~ Graphite or graphite products production plants.

~~de.~~ Insecticides, fungicides, disinfectants, or related industrial or household chemical compounds production plants.

~~ef.~~ Linoleum or oil cloth production plants.

~~fg.~~ Lumber, plywood, veneer, or similar wood products production plants.

~~gh.~~ Processing of miscellaneous metal alloys or foil, including solder, pewter, brass, bronze, or tin, lead, gold foil, or similar products.

~~hi.~~ Production or processing of paint, varnishes, or turpentine.

~~ij.~~ Production or processing of paper.

~~jk.~~ Production or processing of porcelain products including bathroom or kitchen equipment or similar products.

~~kl.~~ Raw plastics.

~~lm.~~ Production or processing of soaps or detergents.

~~ma.~~ Stone products, including abrasives, asbestos, stone screenings, and sand or lime products.

~~ne.~~ Any other uses designated as a high risk or hazardous industrial use by the county, state or federal government.

2. Section 18-160 of the Thornton City Code is hereby amended by the addition of the words double-underlined to read as follows:

Sec. 18-160. - Use chart.

This chart identifies the uses allowed in the listed zoning districts. Additional regulations may be referenced in the chart or in the zoning district regulations in

Article III. The applicable off-street parking and loading requirements are listed in Division 6 of Article V of this chapter.

Legend: <i>R = Permitted use by right</i> <i>S = Use permitted by Specific Use Permit</i> <i>L = Limited use permitted by right</i> <i>T = Use permitted by Temporary Use Permit</i>	Agricultural	Residential Estate	Single-Family Detached	Single-Family Attached	Multifamily	Manufactured Home	Eastlake Residential	Neighborhood Service	Community Retail	Regional Commercial	Business Park	City Center	Office/Institutional	Employment Center	Mixed Use	TOD – Core Subdistrict	TOD – Transition Subdistrict	Eastlake Business	Eastlake Service	Eastlake Office	Eastlake TOD	Industrial	
	Use	Residential Districts							Nonresidential Districts														
	Part IX. Retail and Personal Service Uses.																						
	<u>Micro-Alcohol</u>								<u>S</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>		<u>S</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>		<u>R</u>	<u>R</u>
	<u>Additional Provisions. See Sec. 18-334.</u>																						

3. Section 18-206 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

DIVISION 4. - INDUSTRIAL USES
Sec. 18-206. - General provisions for industrial uses.

(a) A high risk or hazardous industrial use, as defined in this chapter, is permitted by specific use permit only.
 (b) The following uses, activities, operations, and processes are declared to be high risk or hazardous industrial uses; however, this list shall not be considered exclusive:

- (1) Asphalt or asphalt products.
- ~~(2) Alcoholic beverages.~~
- ~~(2)(3)~~ Brick, tile, or clay.
- ~~(3)(4)~~ Cement.
- ~~(4)(5)~~ Charcoal, lampblack, or fuel briquettes.
- ~~(5)(6)~~ Chemicals, including, acetylene, aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black or bone black, cleaning or polishing preparations, creosote, exterminating agents, hydrogen or oxygen, industrial alcohol, potash, plastic materials or synthetic resins, rayon yarns, or hydrochloric, picric, or sulfuric acids or derivatives.
- ~~(6)(7)~~ Coal, coke, or tar products.
- ~~(7)(8)~~ Excelsior or packing materials.
- ~~(8)(9)~~ Fertilizers.

- ~~(9)(10)~~ Gelatin, glue, or size.
- ~~(10)(11)~~ Graphite or graphite products.
- ~~(11)(12)~~ Gypsum.
- ~~(12)(13)~~ Heavy metal casting or foundry products including ornamental iron works or similar products.
- ~~(13)(14)~~ Insecticides, fungicides, disinfectants, or related industrial or household chemical compounds.
- ~~(14)(15)~~ Linoleum or oil cloth.
- ~~(15)(16)~~ Lumber, plywood, veneer, or similar wood products.
- ~~(16)(17)~~ Matches.
- ~~(17)(18)~~ Miscellaneous metal alloys or foil, including solder, pewter, brass, bronze, or tin, lead, gold foil, or similar products.
- ~~(18)(19)~~ Paint, varnishes, or turpentine.
- ~~(19)(20)~~ Paper.
- ~~(20)(21)~~ Porcelain products including bathroom or kitchen equipment or similar products.
- ~~(21)(22)~~ Raw plastics.
- ~~(22)(23)~~ Rubber, natural or synthetic, including tires, tubes, or similar products.
- ~~(23)(24)~~ Soaps or detergents.
- ~~(24)(25)~~ Stone products, including abrasives, asbestos, stone screenings, and sand or lime products.
- ~~(25)(26)~~ Any other uses designated as a high risk or hazardous industrial use by the county, state or federal government.

4. Section 18-208 of the Thornton City Code is hereby amended by the addition of the words double-underlined to read as follows:

Sec. 18-208. - Industrial—Inside.

- (a) Caretaker's quarters are permitted as an accessory use. One parking space shall be provided per 500 square feet of floor area of caretaker's quarters, up to a maximum of two parking spaces for each caretaker's quarters.
- (b) In the Mixed Use District and the Transit Oriented Development District, this use shall not exceed 10,000 square feet and must include a retail outlet. Outside storage is not permitted.
- (c) The use is prohibited within the Core Subdistrict of the TOD district.
- (d) Retail sale and/or on-site consumption of alcohol which is produced on the premises is permitted as an accessory use and is subject to Section 18-162, except for the area limitations. Compliance with applicable state and federal laws, as well as local licensing, is required.

5. Section 18-334 of the Thornton City Code is hereby enacted to read as follows:

Sec. 18-334. – Micro-Alcohol

- a. On-premise consumption or retail sales of commodities produced on-site are required.
- b. Music, entertainment, or facilities for dancing may be provided under this use.
- c. Food may be prepared and served under this use.
- d. The maximum gross floor area for production, bottling, packaging, storing, and other manufacturing related activities shall be 6,000 square feet.
- e. If the use abuts any lot that is used exclusively for residential purposes, loading shall not be allowed between the hours of 9:00 p.m. and 7:00 a.m.
- f. This use is exempt from the provisions of Section 18-300.
- g. No outdoor storage of spent materials and comparable nontoxic byproducts of the production process shall be allowed unless stored outdoors for not more than 72 hours, provided that the temporary storage area grain is:
 - i. Located in the interior side or rear yard, except where the adjoining property is used or zoned for residential uses.
 - ii. Enclosed within a suitable container and secured and screened behind a solid, opaque fence or wall measuring a minimum five feet in height.
 - iii. No outdoor storage using portable storage units, cargo containers, or tractor trailers is allowed.

6. Section 18-596 of the Thornton City Code is hereby amended by the addition of the words double-underlined to read as follows:

Sec. 18-596. - Off-street parking and loading requirements chart.

Off-Street Parking and Loading Requirements		
Use	Required off-street parking	Required off-street loading
<u>Micro-Alcohol</u>	<u>One space for each 100 square feet of customer service floor area.</u> <u>One space for each 1,000 square feet other floor area.</u>	<u>/a/</u> <u>0—5,000 sf – none</u> <u>5,001—50,000 – 1</u> <u>Each additional 100,000 or fraction thereof</u> <u>- 1 additional</u>

7. Subsection 18-599(a)(4) of the Thornton City Code is hereby amended by the addition of the words double-underlined to read as follows:

Sec. 18-599. - Joint-use parking.

- (a) *Mixed use projects.* In order to provide adequate off-street parking for large-scale mixed use development projects, the following are excluded in the calculation of off-street parking requirements:
- (4) Fifty percent of the required parking for the following uses, when developed on the same lot with an office use with more than 250,000 square feet of floor area or a hotel or motel use with more than 250 guest rooms:
- a. Bar, lounge or tavern.
 - b. Micro-Alcohol.
 - ~~cb.~~ Clubs and lodges (nonprofit).
 - ~~de.~~ Commercial amusement (inside).
 - ~~ed.~~ Country club with private membership.
 - ~~fe.~~ Personal service uses.
 - ~~gf.~~ Private recreation center, club or area.
 - ~~hg.~~ Public park, playground, or golf course.
 - ~~ih.~~ Restaurant without drive-in or drive-through.
 - ~~ji.~~ Theater.

8. Section 18-901 of the Thornton City Code is hereby amended by the addition of the words double-underlined to read as follows:

Sec. 18-901. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Micro-Alcohol – A facility for producing alcoholic beverages or alcoholic liquors as defined in Section 42-26, which limits the production area and conducts the retail sale and/or on-site consumption of alcohol, which is produced on the premises in compliance with applicable state and federal laws, as well as local licensing. All other alcohol production facilities are treated as an industrial use per Section 18-160.

9. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

10. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.
11. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.
12. This ordinance shall take effect on July 28, 2020.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on July 14, 2020.

PASSED AND ADOPTED on second and final reading on _____, 2020.

CITY OF THORNTON, COLORADO

Jan Kulmann, Mayor

ATTEST:

Kristen N. Rosenbaum, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

Luis A. Corchado, City Attorney

PUBLICATION:

Posted at City Hall, Margaret W. Carpenter Recreation Center, and Thornton Active Adult Center after first and second readings.

Published on the City's official website after first reading on July 15, 2020, and after second and final reading on _____, 2020.