



**Planning and Zoning Commission  
June 5, 2019 Meeting  
Staff Report**

**DATE:** May 29, 2019  
**TO:** Planning and Zoning Commission Members  
**FROM:** Ryan Lipp, Senior Planner

**SUBJECT:** Text Amendment – TA-2019-04 Article 4, Zoning Districts and Dimensional Regulation, Table 4.6-1, Principal Uses Permitted in Zoning Districts, Definitions, Article 5, Supplemental Use Regulations and Appendix A, – Public Hearing to consider a text amendment to Article 4, Table 4.6-1, Article 5 of the Unified Development Ordinance (UDO), and Appendix A to allow micro-breweries with on-premise consumption in the CC (Center City) and the C-2 (General Commercial) districts with specific standards.

**A. Actions Requested by Planning and Zoning Commission Members**

1. Hold Public Hearing
2. Consider Resolution to Adopt a Statement of Consistency for TA-2019-04
3. Consider motion to recommend approval of proposed text amendments by City Council

**B. Decision and Required Votes to Pass Requested Action**

Article 3.8 of the UDO addresses the procedures for processing amendments to the text of the ordinance. Per Section 3.8.2, “*Any person, board, department, or commission may apply for a change in zoning ordinance text*”. The proposed text amendment was initiated by the Planning Department.

Per Sections 3.8.3.2 and 3.8.3.3 of the UDO, a majority vote of the Planning and Zoning Commission is required to recommend approval of a text amendment. A recommendation to approve is then forwarded to City Council who shall, either approve or deny the text amendment by a majority vote.

**C. Background**

Staff is proposing to amend Article 4, Table 4.6-1, Article 5, Supplemental Use Regulation, and Appendix A to allow for micro-breweries as a permitted use in the CC (Center City) and C-2 (General Business) zoning districts with standards. This text amendment proposes to

1. Remove micro-breweries as a permitted use in the B-1 (Neighborhood Commercial), C-1 (Light Commercial) and CD (Campus Development) districts
2. Permit the use within the CC and C-2 districts
3. Add standards in Article 5.37 of the UDO (see attached for reference)
4. Add a definition for micro-breweries in Appendix A

#### **D. Fiscal Considerations**

The proposed text amendment helps foster small business investment and economic development in mixed-use corridors and the urban core.

#### **E. Policy Issues**

The proposed text amendment to the UDO is **attached** as **additions and deletions**:

#### **F. Legal Issues**

None

#### **G. Alternative Courses of Action and Staff Recommendation**

The Planning and Zoning Commission may choose to recommend approval or denial of the text amendment as presented. The Commission may also add, delete, or change any of the language as proposed.

Based on the foregoing analysis, staff recommends **approval** of the proposed text amendments to **Article 4, Table 4.6-1, and Article 5, Appendix A** of the Unified Development Ordinance.

#### **The following actions are required to recommend approval of TA-2019-04**

1. Consider Resolution to Adopt a Statement of Consistency for TA 2019-04
2. Consider motion to recommend approval of proposed text amendments by City Council.

#### **The following actions are required to recommend denial of TA-2019-04**

1. Consider Resolution to not Adopt a Statement of Consistency for TA 2019-04
2. Consider motion to recommend denial of proposed text amendments by City Council.

#### **H. Attachments**

1. Application for Text Amendment to the Unified Development Ordinance
2. Proposed UDO changes: Article 4, Article 5, and Appendix A
3. Resolution to Adopt a Statement of Consistency

#### **I. Issue Reviewed By:**

City Manager  
City Attorney  
City Engineer  
Planning Director



**Planning and Zoning Commission and Board of Adjustment  
General Application Form  
(Not for Site Plan Review Submittals)**

Type of Action Requested (Check One):

- |                        |                                     |                                  |       |
|------------------------|-------------------------------------|----------------------------------|-------|
| Variance               | _____                               | SIA Application                  | _____ |
| Conditional Use Permit | _____                               | Nonconformity Adjustment         | _____ |
| Subdivision Exception  | _____                               | Watershed Boundary Modification  | _____ |
| Zoning Text Amendment  | <input checked="" type="checkbox"/> | Zoning Map Amendment             | _____ |
| Appeal                 | _____                               | Conditional Zoning Map Amendment | _____ |

Applicant: Zachary D. Gordon, AICP      Owner: \_\_\_\_\_  
Planning Director

Address: 401 Laureate Way      Address: \_\_\_\_\_  
Kannapolis, NC 28081

Telephone: 704-920-4355      Telephone: \_\_\_\_\_

Email: zgordon@kannapolisnc.gov      Email: \_\_\_\_\_

Legal relationship of applicant to property owner: N/A

Property Location/Address: N/A

Tax Parcel Number: N/A      Zoning District: N/A      Acreage of Site: N/A

Zachary D. Gordon      \_\_\_\_\_  
Applicant Name (Print)      Property Owner Name (Print)

[Signature] 5/22/2019      \_\_\_\_\_  
Applicant Signature & Date      Property Owner Signature & Date

*The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee, and five (5) copies of any required site plans for staff review must be submitted by the deadline. However, to remain on the next meeting agenda, fifteen (15) copies of such plans, determined by staff to conform to all ordinance standards, must be submitted at least ten (10) days before the meeting date. All fees are nonrefundable and help to cover administrative and notification costs.*

For Staff Use Only:

Filing Fee: \_\_\_\_\_      Receipt # \_\_\_\_\_

Application No.: \_\_\_\_\_      Date Submitted (Complete): \_\_\_\_\_



**CITY OF KANNAPOLIS**

**AN APPLICATION TO AMEND THE TEXT OF  
THE UNIFIED DEVELOPMENT ORDINANCE**

I Zachary D. Gordon, AICP, hereby make application for an amendment to the following section(s) of the Unified Development Ordinance:

Article 4, Table 4.6-1, Article 5 and Appendix A

In the space provided below, or on a separate sheet, present your requested text for the Ordinance provisions in question:

**See attached Staff Report**

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State your reasons for amending the text of the Ordinance:

**See attached Staff Report**



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Signature of applicant

**Fee:** Please refer to fee schedule to determine applicable fees. All fees are nonrefundable and help to cover administrative and notification costs.

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TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS

\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

P - Permitted Use

S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)

C - Conditional Use

(-) Prohibited Use

ZONING DISTRICTS

USE	NAICS	AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R^	CD*	I-1*	I-2
Equestrian Boarding & Riding Arenas, Commercial	81291, 71131	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Equipment Rental & Leasing (with indoor storage)	53321, 5324	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	-
Equipment Rental & Leasing (with outdoor storage)(§ 11.1)	53231, 5324	-	-	-	-	-	-	-	-	-	-	-	P/S	-	(24)P/S	P/S	-
Electronics & Appliance Rental	53221	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Electronics, Camera & Appliance Stores	443	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Electronic Gaming Operations (§ 5.31) <sup>(23)</sup>	-	-	-	-	-	-	-	-	-	-	-	-	C/S	-	-	P/S	P/S
Farmer's Market	44523	P	-	-	-	-	-	-	P	-	P	-	P	-	-	-	-
Fitness & Recreational Sports Centers <sup>(2)</sup>	713490	-	-	-	-	-	-	-	C	-	P	P	P	-	P	P	-
Florist	4531	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Formal Wear & Costume Rental	53222	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Furniture & Home Furnishings	442	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-
Furniture/Party Supply/Sporting Goods Rental	53229	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-
Game Preserves	7114	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
General Merchandise Stores (less than 25,000 sq. ft.)	452	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Gift, Novelty & Souvenir Stores	45322	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Grocery/Food Stores (excl. convenience stores)	4451, 4452	-	-	-	-	-	-	-	C	-	P	P	P	-	P	-	-
Heavy Truck, RV, and Semi-Trailer Leasing <sup>(1)</sup>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P
Hobby, Toy & Game Stores	45112	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Hotel, Motels & Extended Stay Lodging Facilities	72111	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-
Ice Vending Operations	-	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	P/S	P/S
Jewelry, Luggage and Leather Goods	4483	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Lawn & Garden Supply (with outdoor storage) (§ 11.1)	4442	-	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	P/S	-
Lawn & Garden Supply (with no outdoor storage)	4442	-	-	-	-	-	-	-	P	-	P	P	P	-	P	P	-
Liquor Sales (ABC stores)	4453	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-
LP Gas & Heating Oil Dealers	45431	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	-
Manufactured Home Sales (§ 5.23)	45393	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	-	-
Micro-brewery (less than 5,000 sq. ft.) (§5.37)	-	-	-	-	-	-	-	-	P	-	P/S	P	P/S	-	P	-	-
Miniature Golf course	713990	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-
Mini-warehousing/Self-storage Leasing (§ 5.15) <sup>(15)</sup>	53113	-	-	-	-	-	-	-	-	-	-	-	C/S	-	-	C/S	C/S
Motion Picture Theaters (excl. drive-in)	512131	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-
Motion Picture Theaters, drive-in	512132	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-
Motorcycle, Boat & RV Dealers, New & Used	4412	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-
Musical Instrument & Supplies	45114	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Nurseries	44422	P	-	-	-	-	-	-	-	-	-	C	P	-	P	-	-
Office Supplies & Stationery Stores	45321	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Parking Lots & Structures, Commercial	-	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	P
Pawnshops (subject to NCGS, Chapter 91A)	522298	-	-	-	-	-	-	-	-	-	C	C	P	-	-	-	-
Pet & Pet Supply Stores	45391	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Pharmacies, Health & Personal Care Stores	446	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Photography Studios	54192	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-

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## 5.37 MICRO-BREWERY

### 5.37.1 APPLICABILITY.

The provisions of this Section shall apply to any micro-brewery establishment as defined in Appendix A and allowed in Table 4.6-1 (See Article 4) subject to the provisions below.

### 5.37.2 CRITERIA.

**5.37.2.1** Any micro-brewery establishment shall provide a tap room that is oriented towards the street or main pedestrian entrance of the building. Tap rooms shall be open for business no less than one quarter of the time each week the business facility is operating.

**5.37.2.2** Micro-breweries in the CC and C-2 district shall not exceed five thousand (5,000) square feet gross floor area.

**5.37.2.3** Outdoor storage of goods and materials shall not be permitted.

**5.37.2.4** No loading or distribution activities shall take place outside the enclosed building between the hours of 9:00 pm and 7:00 am when the micro-brewery is located within 200 feet of any residential or institutional use.

**5.37.2.5 Noise Ordinance.** All events shall comply with City of Kannapolis Noise Ordinance.

thereof.

**MATERIALS RECOVERY FACILITY** - Any site used for the separation of recyclable materials from nonhazardous waste streams, or where commingled recyclable materials are sorted into distinct categories. For purposes of this definition, the phrase "recyclable materials" shall be defined as set forth in NCGS § 130A-290, which is incorporated herein by this reference.

**MEDICAL CLINIC** - An office occupied and used for a Health Care Provider or Chiropractor.

**MENTAL HEALTH FACILITY** - Any individual, association, group or other entity at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers, and includes any "area facility," "licensable facility," "private facility," "residential facility," "State facility," "24-hour facility," Veterans Administration facility as defined in NCGS § 122C-3. (Source: NCGS § 122C-3).

**MEZZANINE** - One or more intermediate levels between the floor and ceiling of a story, meeting the requirements of § 503.2.3 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**MICRO-BREWERY**-An establishment where beer and malt beverages are manufactured on premise and then sold, to consumers at the brewery, to wholesalers, to retailers, and to exporters in accordance with state statues. (Source: Authorization of Brewery Permit, NCGS § 18B-1104). See § 5.37 of this Ordinance.

**MINE** - An area of land and all private ways and roads appurtenant thereto, structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed or constructed on, under, or above the surface of such land by any person, used in, or to be used in, or resulting from (including the reclamation of mined areas or the storage of materials in mined areas), or to facilitate the work of exploring for, developing of, or extracting by any means or method in such area all minerals, inorganic and organic, from their natural deposits. The term "mine" also includes all mineral processing and milling facilities except those used in the processing of source materials as defined in the Atomic Energy Act of 1954, as amended. (Source: Mine Safety and Health Act of North Carolina, NCGS § 74-24.2) See § 5.19 of this Ordinance.

**MINI-WAREHOUSE** - Buildings which are composed of contiguous individual rooms which are rented to the public for the storage of personal property and which have independent access and locks under the control of the tenant; but excluding the storage of explosive, corrosive or noxious materials, such as dust, fumes, or noise that could be dangerous, injurious, distasteful, pernicious or obnoxious to man, other organisms or properties; and further excluding any other use otherwise permitted in the Zoning District in which the Mini Warehouse is located. See § 5.15 of this Ordinance.

**MINING** – Defined as: a.) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; or b.) Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location. The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use. "Mining" does not include: (i) Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area; (ii) Mining operations where the affected land does not exceed one acre in area; (iii) Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land; (iv) Excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining; (v) Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area. (Source: The Mining Act of 1971, NCGS § 74-49)



**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY WITH REGARD TO  
TEXT AMENDMENT TA-2019-04**

**WHEREAS**, Section 160A-383 (2013) of the North Carolina General Statutes specifies that the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive and any other officially adopted plan that is applicable; and

**WHEREAS**, the text amendment to **Article 4, Zoning Districts and Dimensional Regulation, Table 4.6-1, Principal Uses Permitted in Zoning Districts, Article 5, Supplemental Use Regulations, and Appendix A, Definitions** of the Unified Development Ordinance (UDO) to allow micro-breweries with on-premise consumption in the CC (Center City) and C-2 (General Business) zoning districts, is consistent with policy 5.1.4 Support Small Businesses and policy 5.6.1 Facilitate Development of Urban Centers, of the *Move Kannapolis Forward 2030 Comprehensive Plan*, because it helps foster small business investment and economic development in mixed-use corridors and the urban core; and

**WHEREAS**, the Planning and Zoning Commission conducted a Public Hearing on June 5, 2019 for consideration of text amendment Case# TA-2019-04 as submitted by the Planning Department staff;

**NOW, THEREFORE BE IT RESOLVED** that the Planning and Zoning Commission finds the text amendment as represented in Case TA-2019-04 is consistent with the *Move Kannapolis Forward 2030 Comprehensive Plan*, as well as state statutes, reasonable, and in the public interest, and is recommended for approval by the City Council based on consideration of the application materials, information presented at the Public Hearing, and the recommendation provided by Staff.

**Adopted this the 5<sup>th</sup> Day of June 2019;**

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Scott Trott, Chairman  
Planning and Zoning Commission

Attest:

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Pam Scaggs, Recording Secretary  
Planning and Zoning Commission