

# CITY COUNCIL RESEARCH DIVISION LEGISLATIVE SUMMARY



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**Bill Type and Number:** Ordinance 2021-798

**Introducer/Sponsor(s):** Council Members Diamond and Gaffney

**Date of Introduction:** October 26, 2021

**Committee(s) of Reference:** NCSPHS, R, LUZ

**Date of Analysis:** October 28, 2021

**Type of Action:** Zoning Code amendment

**Bill Summary:** The bill amends the Zoning Code in several subparts of Part 3 – Schedule of District Regulations – to designate the City Council as the quasi-judicial body that approves, approves with conditions, or denies zoning exceptions for alcohol-related uses and waivers for minimum distance requirements for liquor license locations. It adds language to the definition of “exception” providing that in the case of exceptions for alcohol-related uses, it shall constitute a rebuttable presumption that the proposed exception meets the definition of exception and the criteria in Section 656.131(c) where the proposed exception is the current lawful use or prior lawful use of the same property or a portion thereof. For purposes of this subsection “prior use” shall mean within the previous year from the date of the hearing on the exception. It also modifies language in the section regarding minimum distance requirements from churches and schools to change the granting of waivers from “may” to “shall” be granted if one or more circumstances exist that negate the necessity for compliance with the distance requirements. It amends language to change the standard for visibility of the alcohol use from the grounds of the church or school and provides that a waiver shall be granted if the church that causes the need for the waiver request is located within a zoning district or districts which allow, by right or exception, the same alcoholic beverage use that is sought by the applicant.

The bill amends the definition of “church” to specify that, for the purpose of the application of zoning regulations relating to alcoholic beverage establishments, the term does not include day care centers or private and/or secondary educational facilities, nor does it include property owned by a religious organization wherein persons do not regularly assemble for religious worship or property which is not in compliance with the current version of the zoning code, ordinance code, building code, fire code or any other applicable regulations. It amends the definition of “school” to include day care for children or after-school care for children, and excludes colleges and universities.

The bill makes a brewery which produces of up to 10,000 barrels per year of beer, mead and cider (aggregate) a permissible use by exception in a CCG-1 district. It makes an establishment which sells liquor for off-premises consumption a permitted use in CCG-2 district if the establishment is either (a) located on property which is more than one-half acre in area and for which the establishment or facility is larger than 5,000 square feet in size or (b) is immediately adjacent to a grocery store or in the same shopping center as a grocery store and is owned by the same person or entity as the grocery store or a related corporate entity to the owner of the grocery store. The bill makes an establishment or facility which includes the retail sale of beer or wine for off-premises consumption or for on-premises consumption a permitted use in a CCG-2 district. It makes an establishment or facility, that is not a restaurant, which includes the retail sale and service of all alcoholic beverages including liquor, beer or wine for on-premises consumption a permissible use by exception in a CCG-2 district. It makes a brewery which produces of up to 10,000 barrels per year of beer, mead and cider (aggregate) a permissible use by exception in a CCG-2 district.

**Background Information:** Currently the Planning Commission is the body that hears and rules on zoning exceptions and waiver requests with regard to alcoholic beverage uses and requirements. This ordinance would transfer that authority to the City Council, with the Planning Department making a recommendation on the request and the Planning Commission holding a public hearing and making a recommendation to the Council for its consideration.

**Policy Impact Area:** Zoning regulation of alcoholic beverage establishments

**Fiscal Impact:** Undetermined

**Analyst:** Clements