



Jeff Levine, AICP  
Director, Planning & Urban Development Department

## Memorandum

**To:** Interested Parties

**From:** Tuck O'Brien, City Planning Director

**Date:** February 22, 2016

**Re:** Definition and Scope of Uses Considered Accessory to Alcoholic Beverage Manufacturing Facilities

The purpose of this memo is to provide clarity and predictability to the business community and city staff as to the scope and type of uses considered accessory or ancillary to Alcoholic Beverage Manufacturing Facilities (ABMF) under the existing Land Use Code, Chapter 14 of the Code of Ordinances of the City of Portland.<sup>1</sup> This memo incorporates input from the business owners, other stakeholders with businesses and residences in proximity to ABMF, other city departments such as Business Licensing, Economic Development and Corporation Counsel, as well as state liquor and health licensing departments. This input was solicited based on a draft memo on the issue which was distributed on January 16, 2016.

*This memorandum is intended to serve only as a clarification of language in the existing zoning code, and is not an amendment to any existing zone. Any future amendment proposed to the zoning code would need to be reviewed by the Planning Board and formally adopted by the City Council before it could take effect.*

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<sup>1</sup> Alcoholic Beverage Manufacturing Facilities include uses traditionally defined as breweries in the zoning code as well as wineries, meaderies, kambucha manufacturing distilleries and other related beverage manufacturing facilities i.e. businesses engaged in the distilling, brewing, fermenting or rectifying of liquor.

Although not the subject of this memo, it should be noted that the list of incidental accessory uses for coffee roasting facilities is essentially identical to the above (after substituting coffee roasting for AMBF and coffee as the primary product as opposed to alcoholic beverages).

This memo is primarily intended to provide clarity to businesses located in industrial zones (IIb, IL, IM, IH), where many of the uses discussed below are limited as primary uses. However, the scope of uses considered accessory to ABMF businesses applies to all such facilities in the City of Portland. Although uses such as retail and food service are allowed as permitted primary uses in most business zones in the city, they are only allowed as accessory to some permitted uses in our industrial zones. For this reason, the clarity of what is considered accessory or ancillary use to an ABMF is especially important to business located in those zones.

### **Allowed Accessory/Ancillary Uses**

The following uses are considered incidental accessory or ancillary uses to ABMF in the City of Portland:<sup>2</sup>

1. Sale of beer, wine, spirits and related beverages produced by licensee in the State of Maine.
2. Sale of Alternative Beverages- defined as non-alcoholic beverages including soft drinks, juice, teas, coffee etc.
3. Sale of merchandise branded with company or related logos, other products either derived from core ABMF activities or otherwise related to core activities.
  - a. In only the ILb, Makers' markets, as defined by and subject to the requirements of Sec. 14-232 of the code, are permitted as a permitted use accessory to ABMFs.
4. Accessory Food Service, **limited** in scope to the service of food to a lesser degree than would constitute a "full course meal" as defined under state law.<sup>3</sup> This definition allows the service of food in accessory manner but does not allow full meal service; examples of accessory food service include service of pre-packaged chips or peanuts, fresh pretzels, cookies or biscuits produced at an off-site

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<sup>2</sup> Most of the certificates of occupancy issued to the ABMF businesses include the phrase, ". . . ancillary to a permitted use." Although the zoning code does not define ancillary use, the term is synonymous with "accessory use". Section 14-47 defines accessory uses as those which are, "customarily incidental and subordinate to the location function and operation of permitted uses."

<sup>3</sup> Defined in 28-A M.R.S. Section 2(15)(R)(1): "A full course meal consists of a diversified selection of food that ordinarily cannot be consumed without the use of tableware and that cannot be conveniently consumed while standing or walking."

- facility, “nosh” such as pickled eggs or popcorn and limited soups, tapas and charcuterie.<sup>4</sup>
5. Regular tours, seminars, product releases, lectures etc. related to manufacturing activities.
  6. Properly licensed Temporary Events:<sup>5</sup>
    - a. In the ILb, Temporary Events related to a principal use are explicitly permitted for up 16 hours a week, subject to the explicit performance standards included in that zone and applicable city ordinances under Sec. 14-232 of the code.
    - b. In the IL, IM, IH zones, such Temporary Events shall be limited to no more than 20 events per calendar year.

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<sup>4</sup> All such uses, while accessory, must be properly licensed pursuant to applicable city code and state law.

<sup>5</sup> Temporary events include concerts, other lectures, talks or presentations, fundraisers, exhibitions, community gatherings and other similar activities. The City Council has explicitly adopted a broader allowance of Temporary Events for the ILb related to the nature of the ILb and the inclusion of specific performance standards. Allowance of a similar amount of temporary events in the IL, IM or IH zones would require those zones be amended by the City Council.