

# Site Selection for Your Suds: Purchase Agreement, Leasing and Zoning Considerations

## Article #7 of Hopping on the Brewery Bandwagon Series

Selecting a site for a brewery or brewpub is an important step for a brewer. Whether the brewer is looking to purchase or lease property, there are provisions that the brewer should include in its contract. In addition, the brewer needs to be aware of the land use designation and zoning of a property to ensure that a brewery or brewpub is a permitted use on the property. A brewer, as either a buyer or tenant, should analyze zoning ordinances, regulations and often private development agreements to determine the licenses, permits and approvals that may be required for its operation.

## Purchase Agreement and Lease Provisions

If the brewer would like to purchase property for its operations, the brewer should make its purchase contingent on the brewer's ability to obtain required permits, licenses and any other necessary approvals (including obtaining a rezoning, conditional use permit, variance or other municipal approval if required for the operation of a brewery or brewpub). The same considerations apply when a brewer is seeking to lease a property for its operations; the brewer will want the lease to be contingent on the brewer obtaining the same permits, licenses and approvals. The brewer's obligation to close under a purchase agreement, or lease property as a tenant under a lease, should be conditioned upon the brewer obtaining its required approvals (generally within a specified period of time). The purchase agreement or lease should contain a termination right in the event the required approvals cannot be obtained. The brewer, as a buyer or tenant, should also consider whether the seller or landlord controls any space or property adjacent to the brewery or brewpub property, and whether the brewer should request that the seller's or landlord's adjacent property be restricted from certain uses (such as incompatible uses or competing uses).

## Zoning and Land Use

In Wisconsin, a brewer may establish a brewery or brewpub on a property only if local zoning allows such a use. Municipalities may have zoning ordinances that restrict or prohibit the operation of a brewery or brewpub on certain properties.

### POSTED:

Jun 8, 2015

### RELATED PRACTICES:

#### [Corporate Law](#)

<https://www.reinhartlaw.com/practices/corporate-law>

#### [Intellectual Property](#)

<https://www.reinhartlaw.com/practices/intellectual-property>

#### [Litigation](#)

<https://www.reinhartlaw.com/practices/litigation>

#### [Real Estate](#)

<https://www.reinhartlaw.com/practices/real-estate>

### RELATED SERVICES:

#### [Food and Beverage](#)

<https://www.reinhartlaw.com/services/food-and-beverage>



It is important that the brewer determine the zoning of the property up front to understand what approvals may be required to operate a brewery or brewpub. For example, the zoning of the property may prohibit the use entirely, in which case the brewer would need to seek a rezoning of the property, and possibly an amendment to the land use designation of the property under the municipality's comprehensive plan. The property's zoning may require that a brewery or brewpub obtain a conditional or special use permit, which means that approval of the use requires additional, discretionary, municipal approvals.

These are just some of the issues that a brewer should consider and analyze when selecting a site for its brewery or brewpub. If you have questions about selecting a site for your suds, contact your Reinhart attorney or any member of the Real Estate or Food and Beverage team.

*Stay tuned for the series' next article on food safety regulations.*

*These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.*