



Agenda Statement

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File created: 2/17/2017 **In control:** Planning and Zoning Commission
On agenda: 2/22/2017 **Final action:**
Title: Ordinance No. 17-02 Amending Title 17 Zoning of the Valdez Municipal Code Related to Breweries, Wineries and Distilleries

Sponsors:

Indexes:

Code sections:

Attachments: 1. Brewery Ordinance

Date	Ver.	Action By	Action	Result
2/22/2017	1	Planning and Zoning Commission	approved	Fail

ITEM TITLE:

Ordinance No. 17-02 Amending Title 17 Zoning of the Valdez Municipal Code Related to Breweries, Wineries and Distilleries

SUBMITTED BY: Lisa Von Bargaen, CED Director

FISCAL NOTES:

Expenditure Required: N/A
Unencumbered Balance: N/A
Funding Source: N/A

RECOMMENDATION:

Approve Ordinance No. 17-02 amending Title 17 Zoning of the Valdez Municipal Code related to breweries, wineries, and distilleries

SUMMARY STATEMENT:

The Planning & Zoning Commission held a public hearing on this item on February 8, 2017. There was no public comment. The rest of this agenda statement remains unchanged from February 8th.

For the past couple of years individuals in Valdez have expressed an interest in opening breweries in the community. Despite having had one in Old Town, New Town has yet to be home to any commercial "adult beverage" developer. Late last fall the City received an application for a brewery through the Alcohol Beverage Control Board (ABC Board). Applications are required to get approval from the local municipality. The Council approved the application pending amendments to the zoning

code. Currently breweries are not allowed in any zoning district.

The attached draft ordinance amends Title 17 (Zoning) of the of the Valdez Municipal Code to allow Breweries, Wineries, Distilleries and Brew Pubs as permitted uses in the Central Business and General Commercial Zoning Districts. It also provides for Breweries, Wineries, and Distilleries in the Light Industrial Zoning Districts, also as permitted uses. The definitions of these four types of facilities are included in the definitions section of the zoning code by adopting, by reference, the existing State definitions. The definitions and descriptions of all four facilities are outlined below in this agenda statement.

This is a public hearing, designed to take input from the public on this matter. The three zoning districts contemplated for change encompass significant area around the community. Notice had to be sent to everyone owning property within a 300-foot radius of the zoning districts. The mailing was sent to more than 500 commercial and residential property owners.

Please see the State definitions below. The City is not recommending any changes or additions to the existing State license standards.

Sec. 04.11.130. Brewery license. (a) A brewery license authorizes the holder to operate a brewery where beer is manufactured and bottled or barreled for sale.

(b) The holder of a brewery license may sell beer in quantities of

(1) not more than five gallons a day to an individual who is present on the licensed premises for consumption off the premises;

(2) more than five gallons a day to a person who is licensed under this title, or in another state or country.

(c) The holder of a brewery license may permit a person to sample small portions of the brewery's product free of charge unless prohibited by [AS 04.16.030 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp).

(d) The biennial brewery license fee is \$1,000.

(e) Unless prohibited by [AS 04.16.030 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp), a holder of a brewery license may sell not more than 36 ounces a day of the brewery's product to a person for consumption on the premises if

(1) the brewery does not allow live entertainment, televisions, pool tables, dart games, dancing, electronic or other games, game tables, or other recreational or gaming opportunities on the premises where the consumption occurs;

(2) the brewery does not provide seats at the counter or bar where the product is served; and

(3) the room where the consumption occurs is not open before 9:00 a.m. and serving of the product ends not later than 8:00 p.m.

Sec. 04.11.135. Brewpub license. (a) A brewpub license authorizes the holder of a beverage dispensary license to

(1) manufacture on premises licensed under the beverage dispensary license not more than 465,000 gallons of beer in a calendar year;

(2) sell beer manufactured on premises licensed under the beverage dispensary license for consumption on the licensed premises or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;

(3) sell beer manufactured on the premises licensed under the beverage dispensary license in quantities of not more than five gallons a day to an individual who is present on the licensed premises for consumption off the premises;

(4) provide a small sample of the brewpub's beer manufactured on the premises free of charge unless prohibited by [AS 04.16.030 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp);

(5) sell beer manufactured on the premises licensed under the beverage dispensary license to a person

licensed as a wholesaler under [AS 04.11.160 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp); sales under this paragraph may not exceed 37,200 gallons in a calendar year, including sales under (6) of this subsection; and

(6) sell not more than 6,200 gallons in a calendar year of beer manufactured on the premises to a person who is licensed under this title, or in another state or country, if the premises licensed under the beverage dispensary license are located in a community with a population of 75,000 or more.

(b) Except as provided under [AS 04.11.360 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp)(10), the brewpub license is not transferable, shall remain the property of the state, and is not subject to any form of alienation.

(c) The biennial brewpub license fee is \$500.

(d) Notwithstanding (a) of this section, the holder of a brewpub license who, under the provisions of [AS 04.11.450 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp)(b), formerly held a brewery license and a restaurant or eating place license and who, under the former brewery license, manufactured beer at a location other than the premises licensed under the former restaurant or eating place license may

(1) manufacture not more than 465,000 gallons of beer in a calendar year on premises other than the premises licensed under the beverage dispensary license;

(2) provide a small sample of the manufactured beer free of charge at the location the beer is manufactured unless prohibited by [AS 04.16.030 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp); and

(3) sell the beer authorized to be manufactured under this subsection

(A) on the premises licensed under the beverage dispensary license or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;

(B) to a wholesaler licensed under [AS 04.11.160 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp); sales under this subparagraph may not exceed 37,200 gallons in a calendar year, including sales under (D) of this paragraph;

(C) to an individual who is present on the premises described under (A) of this paragraph, or where the beer is manufactured, in quantities of not more than five gallons a day for consumption off the premises; and

(D) to a person licensed under this title, or in another state or country, if the premises where the beer is manufactured are located in a community with a population of 75,000 or more; sales under this subparagraph may not exceed 6,200 gallons in a calendar year.

(e) Notwithstanding (a) of this section, a brewpub license authorizes the holder of a restaurant or eating place license to (1) manufacture on premises licensed under the restaurant or eating place license not more than 465,000 gallons of beer in a calendar year; (2) sell beer manufactured on premises licensed under the restaurant or eating place license for consumption on the licensed premises; (3) sell beer manufactured on the premises licensed under the restaurant or eating place license in quantities of not more than five gallons a day for consumption off the premises to an individual who is present on the licensed premises; and (4) provide a small sample of the brewpub's beer manufactured on the premises free of charge unless prohibited by [AS 04.16.030 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp). A person who holds a brewpub license under this subsection may not hold more than one brewpub license.

Sec. 04.11.140. Winery license. (a) A winery license authorizes the holder to operate a winery where wine is manufactured and bottled or barreled for sale.

(b) The holder of a winery license may sell wine in quantities of

(1) not more than five gallons

(A) to an individual who is present on the licensed premises; or

(B) by shipping to an individual if the shipment is not to an area that has prohibited the importation or possession of alcoholic beverages under this chapter or to an area that has limited the importation or possession of alcoholic beverages unless the sale complies with the limitation;

(2) more than five gallons to a person who is licensed under this title, or in another state or country.

(c) The holder of a winery license may permit a person to sample small portions of the wine free of charge unless prohibited by [AS 04.16.030 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp).

(d) The biennial winery license fee is \$500.

Sec. 04.11.170. Distillery license. (a) A distillery license authorizes the holder to operate a distillery where alcoholic beverages are distilled and bottled or barreled for sale.

(b) A distillery license authorizes the holder to sell alcoholic beverages in

(1) quantities of not more than one gallon a day to a person who is present on the licensed premises for consumption off the premises;

(2) any amount to a person who is licensed under this title or in another state or country.

(c) The biennial distillery license fee is \$1,000.

(d) The holder of a distillery license may permit a person to sample small portions of the distillery's product free of charge unless prohibited by [AS 04.16.030 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp).

(e) Unless prohibited by [AS 04.16.030 <http://www.legis.state.ak.us/basis/statutes.asp>](http://www.legis.state.ak.us/basis/statutes.asp), a holder of a distillery license may sell not more than three ounces a day of the distillery's product to a person for consumption on the premises if

(1) the distillery does not allow live entertainment, televisions, pool tables, dart games, dancing, electronic or other games, game tables, or other recreational or gaming opportunities on the premises where the consumption occurs;

(2) the distillery does not provide seats at the counter or bar where the product is served; and

(3) the room where the consumption occurs is not open before 9:00 a.m. and serving of the product ends not later than 8:00 p.m.