



Agenda Statement

File #: ORD 17-0004 **Version:** 1
Type: Ordinance **Status:** Passed
File created: 2/22/2017 **In control:** City Council
On agenda: 3/21/2017 **Final action:** 3/21/2017
Title: #17-04 - Amending Title 17 of the Valdez Municipal Code Related to Breweries, Wineries and Distilleries. Second Reading. Adoption.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Brewery Ordinance.pdf, 2. BreweryZoningDistrictsMap.pdf

Date	Ver.	Action By	Action	Result
3/21/2017	1	City Council	approved	Pass
3/7/2017	1	City Council	introduced on first reading	Pass

ITEM TITLE:

Approval of Ordinance #17-04 Amending Title 17 of the Valdez Municipal Code Related to Breweries, Wineries and Distilleries. Second Reading. Adoption.

SUBMITTED BY: Lisa Von Bargaen, CED Director

FISCAL NOTES:

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

RECOMMENDATION:

Approve Ordinance #17-04 Amending Title 17 of the Valdez Municipal Code Related to Breweries, Wineries and Distilleries at second reading for adoption.

SUMMARY STATEMENT:

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 notification of an application for a brewery through the Alcohol Beverage Control Board (ABC Board). The ABC Board is required to provide notification of intent to issue or renew a liquor license to the local government body for the purpose of providing an opportunity for the governing board to comment or object to the issuance of the license by the ABC Board. The Council voted to express no objection to the application pending amendments to the zoning code. Currently breweries are not allowed in any zoning district.

The attached 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 through adoption, by reference, of the existing State definitions. The definitions and descriptions of all four facilities are outlined below in this agenda statement.

The three zoning districts contemplated for change encompass significant areas around the community. Notice had to be sent to everyone owning property within a 300-foot radius of the different zoning districts. The mailing was sent to more than 500 commercial and residential property owners.

The Planning & Zoning Commission held a public hearing on this amendment to the zoning map on February 8th. The Commission received no public comment on the matter. The Commission took action on the amendments on February 22nd. There was no public comment during the discussion of this item. There were only four Commissioners in attendance at the meeting. The motion failed with a vote of 3 Yeah/1 Nay. The Commissioner who cast the dissenting vote did not provide an explanation prior to the vote.

These proposed amendments are in conformance with the Comprehensive Plan as follows:

The overall goal of the Comp Plan states: “To create an atmosphere that will encourage stable economic development in Valdez while enhancing the quality of life. Improvements should be made to all elements that give the community its’ character. This would include enhancing the economic productivity and diversification of the region to assure continued economic prosperity; providing for public safety and the economic welfare of the community when siting future industrial, commercial, residential, and public land uses; enhancing the scenic beauty, uniqueness and historic significance of the Valdez area; and opening up new land for residential, commercial, and industrial land.”

Goal - Economic Development: Encourage the development of a broad-based economy in Valdez.

Objective - Strive to create an atmosphere in the community that is conducive to commercial and industrial development.

Goal - Commercial-Business Land Use: Provide safe, convenient, and attractive business areas that do not unduly create traffic, lighting, noise, or other unnecessary impacts on adjacent residential neighborhoods.

Goal - Industrial Land Use: Provide for industrial land uses so that they limit impacts on adjacent land uses and the environment, and yet have safe and convenient access to the major transportation facilities they require.

Please see the State definitions below. The staff is not recommending any changes or additions to the existing State license standards. There is also no consideration of additional local fees or taxes - beyond what the State already requires.

AS 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>](#).
- (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>](#), 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.

AS 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>](#);
 - (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>](#); 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>](#)(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>](#)(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>](#); 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>](#); 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>](#).

A person who holds a brewpub license under this subsection may not hold more than one brewpub license.

AS 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>>](#).

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

AS 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>>](#).

(e) Unless prohibited by [AS 04.16.030 <<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.