

**CITY OF DELANO
COUNTY OF WRIGHT
STATE OF MINNESOTA**

ORDINANCE NO. 13-05

**AN ORDINANCE AMENDING DELANO CITY CODE CHAPTER 5 LICENSING AND
REGULATION OF ALCOHOLIC BEVERAGES, TO REGULATE THE PROVISION OF
A BREWPUB ON-SALE/OFF-SALE LIQUOR LICENSE WITHIN THE
CITY OF DELANO**

THE CITY COUNCIL OF THE CITY OF DELANO ORDAINS:

Section 1. Chapter 5 Licensing and Regulation of Alcoholic Beverages, Section 502.01 Definitions, is hereby amended to read as follows:

Subd. 1. "Alcoholic beverage" means any beverage containing more than one-half of one percent alcohol by volume, which includes, but may not be limited to, 3.2% malt liquor, strong beer, wine and liquor.

Subd. 2. "Applicant" means any person making an application for a license under this Chapter.

Subd. 3. "Application" means a form with blanks or spaces thereon, to be filled in and completed by the Applicant as his or her request for a license, furnished by the City and required as a prerequisite to the consideration of the issuance of a license pursuant to this Chapter.

Subd. 4. "Bed and Breakfast Facility" means a place of lodging that:

- A. Provides not more than eight rooms for rent to no more than 20 guests at a time;
- B. Is located on the same property as the owner's personal residence;
- C. Provides no meals, other than breakfast served to persons who rent rooms; and
- D. Was originally built and occupied as, or was converted to, a single-family residence prior to being used as a place of lodging.

Subd. 5. "Bowling Center" is an establishment which is under the control of the single proprietor or manager where the primary business is bowling, but which, incidental to its primary bowling business, may also include other family recreational activities, sales and services and equipment sales including, but not limited to, arcade games, billiards, and food and beverages.

Subd. 6. "Brewer" is a person who manufactures malt liquor for sale.

Subd. 7. "Brewpub" is a restaurant-brewery. The beer is brewed primarily for sale in the restaurant and bar, and may be dispensed directly from the brewery's storage tanks. Brewpubs may also sell beer for off-sale consumption in growler containers.

Subd.8. "Club" is an incorporated organization under the laws of the State for civic, fraternal, social or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veteran's organization. In addition, the organization must:

- A. Have more than 30 members and have been in existence for at least three years;
- B. Have owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
- C. Be governed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

Subd. 9. "Growler" is a container used in the package and sale of malt liquor, sixty-four (64) ounces in size (or one-half gallon).

Subd.10. "Guest" means a person not a member of the club licensee but present on the club licensed premises in the company of a host member.

Subd.11. "Host Member" means a member who is entertaining a guest who, in turn, is in the member's company at all times while on the licensed premises.

Subd.12. "Hotel" is an establishment where food and lodging are regularly furnished to transients and which has:

- A. A dining room serving the general public at tables and facilities for seating at least thirty (30) guests at one time; and
- B. A minimum of ten (10) guest rooms.

Subd.13. "License" means a documented approval issued by the City to an applicant permitting the applicant to carry on and transact the business stated therein.

Subd.14. "Intoxicating Liquor" means ethyl alcohol, distilled, fermented, spirituous vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd.15. "Licensee" means an applicant, including the applicant's agents or employees who, pursuant to an approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended.

Subd.16. "Manufacturer" means any person who, by any process of manufacturing, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

Subd. 17 "Malt Liquor" is any beer, ale, or other beverage made from malt by fermentation and containing not less than one half of one percent alcohol by volume.

Subd.18. "3.2% Malt Liquor" means malt liquor containing not less than one half of one percent alcohol by volume nor more than 3.2% alcohol by weight.

Subd.19. "Member" means any person in good standing according to rules and regulations of the licensed club, wherever located, having evidence of current membership upon his person.

Subd.20. "Off-sale" means the retail sale of alcoholic beverages in original packages for consumption off or away from the premises where sold.

Subd.21. "On-sale" means the retail sale of alcoholic beverages by the glass or by the drink for consumption on the premises where sold only.

Subd.22. "Package" and "original package" mean any container or receptacle holding an alcoholic beverage, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

Subd.23. "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a seating capacity for a minimum of 125 guests or such other seating capacity as the City Council determines is adequate. If the establishment contains facilities for sporting, entertainment, recreation or cultural activities, the seating capacity may be for a minimum of 30 guests.

Subd.24. "Strong beer" means malt liquor containing more than one half of one percent alcohol by volume or more than 3.2 percent alcohol by weight.

Subd.25. "Tavern" means an establishment used exclusively for the retail sale of 3.2% malt liquor and the incidental sale of soft drinks and food.

Subd. 26. "Theater" means a building containing an auditorium in which live, dramatic, musical, dance, or literary performances are regularly presented to holders of tickets for those performances.

Subd.27. "Wholesaler" means any person engaged in the business of selling alcoholic beverages to retail dealers.

Subd.28. "Wine" means the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one half of one percent nor more than 24% alcohol by volume for nonindustrial use.

Section 2. Chapter 5 Licensing and Regulation of Alcoholic Beverages, Section 503.01 License Required, is hereby amended to read as follows:

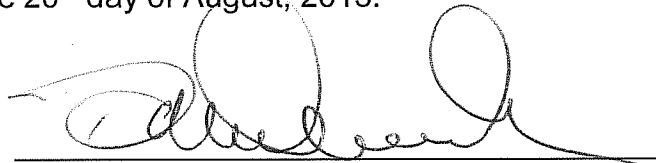
Subd. 13. Brewpub On-Sale/Off-Sale Malt Liquor License.

- A. Applicant. A brewpub, as defined in Section 502.01, Subd. 7 of this Code, shall be licensed by the State under Minn. Stat. 340A.301, Subd. 6.d.
- B. Conditions:
1. The licensee manufactures fewer than 3,500 barrels of malt liquor in a year at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted in Minn. Stat. 340A.301, Subd. 7.
 2. A brewer's total retail sales at on- and off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.
 3. The malt liquor sold off-sale must be produced and packaged on the licensed premises.
 4. The malt liquor must be packaged in sixty-four (64) ounce containers known as growlers and may have the following packaging requirements:
 - a. Growlers must bear a twist-type closure, cork, stopper or plug.
 - b. At time of sale, paper or plastic adhesive band, strip or sleeve shall be applied to the container and extend over the top of the closure, forming a seal.
 - c. The band, strip or sleeve must bear the name and address of the brewer, and the container must be identified as malt liquor, contain the name of the malt liquor, and bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless labeled otherwise.
 5. Licensee does not have competing interests with another brewery.
 6. Off-sale of malt liquor may only be made during the hours that "off-sale" of liquor is legal at exclusive liquor stores in the jurisdiction in which the brewer is located.
 7. On-sale of malt liquor only be made during the days and hours that "on-sale" of liquor may be made.
 8. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at liquor stores.

9. Brewpubs selling wine, intoxicating liquor, or beer other than those produced on-site must also secure separate appropriate licenses as identified in Section 503.01 of this Code.
10. To maintain a brewpub license, food sales must be equal to on-sale liquor sales.

THIS AMENDMENT SHALL BE IN FULL FORCE AND EFFECTIVE IMMEDIATELY FOLLOWING ITS PASSAGE AND PUBLICATION

Approved by the Delano City Council the 20th day of August, 2013.


Dale Graunke, Mayor

ATTEST:


Marlene E. Kittock, Clerk

Motion By: Jack Russek
Seconded By: Dan Vick
Graunke: Aye
Stolfa: Aye
Vick: Aye
Schansberg: Aye
Russek: Aye