

AGENDA ITEM SUMMARY

December 4, 2018

City Council

STAFF

Bronwyn Scurlock, Legal
Sara Gonzales, Council Agenda Coordinator

SUBJECT

First Reading of Ordinance No. 157, 2018, Amending Chapter 3, Articles I, II, and III, and Chapter 12, Article III of the Code of the City of Fort Collins Regulating Alcohol to Align Alcohol Code Statutory References with State Law.

EXECUTIVE SUMMARY

The purpose of this item is to amend City Code provisions related to alcohol to align with state law.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

In the 2018 legislative session, the Colorado Legislature relocated the laws related to the regulation of alcohol from Title 12, C.R.S. to a new Title 44, as part of the organizational recodification of Title 12.

The current proposed ordinance changes all referenced City Code provisions from Title 12, C.R.S. to Title 44 to be in alignment with state law.

PUBLIC OUTREACH

There was no outreach conducted because these changes merely amend the City Code citations to be in alignment with state law citations. There are no substantive changes to the alcohol laws.

ORDINANCE NO. 157, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 3, ARTICLES I, II, AND III, AND CHAPTER 12, ARTICLE III OF
THE CODE OF THE CITY OF FORT COLLINS REGULATING ALCOHOL TO ALIGN
ALCOHOL CODE STATUTORY REFERENCES WITH STATE LAW

WHEREAS, in the 2018 legislative session, the Colorado General Assembly relocated the laws related to the regulation of alcohol from Title 12, Colorado Revised Statutes to a new Title 44, as part of the organizational recodification of Title 12; and

WHEREAS, staff recommends amending City Code citations to the state alcohol laws to be consistent with the renumbered state laws; and

WHEREAS, the Council has determined that the proposed amendments are in the best interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 3-1 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-1. - Definitions.

(a) The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

...

Party-in-interest shall mean:

- (1) Any party-in-interest as defined in Section ~~12-47-311(5)(b)~~ 44-3-311(5)(b), C.R.S.;
- (2) Any representative of a bona fide organized neighborhood group which encompasses part or all of the neighborhood under consideration; or
- (3) Any member of the City staff, including, but not limited to, the City Manager, the City Attorney or the Chief of Police or representative thereof.

...

Section 3. That Section 3-3 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-3. - Violations; penalty.

Penalties for violations of this Chapter shall be as provided in § 1-15 and shall be in addition to any special penalty provided for in this Chapter or by the laws of the State. Notwithstanding any other penalty that may be levied, any licensee who violates, or any licensee whose employees violate, any of the terms of this Chapter or of ~~Title 12, Articles 46, 47 and 48~~ **Title 44, Articles 3, 4 and 5**, C.R.S., or the rules and regulations related thereto, shall be subject to suspension or revocation of his or her license pursuant to the laws of the State, the imposition of a fine in lieu of suspension under the provisions of Section ~~12-47-601(3)~~ **44-3-601(3)**, C.R.S., written reprimand or such other penalty as the Authority deems appropriate. Monies received through the payment of fines in lieu of suspension shall be deposited into the general fund of the City.

Section 4. That Section 3-52 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-52. - Public notice of hearings.

The applicant shall cause to be posted the public notice required pursuant to Section ~~12-47-311~~ **44-3-311**, C.R.S., for all hearings to be held on applications for the sale of malt, special malt, vinous or spirituous liquors and fermented malt beverages. The applicant shall provide to the City Clerk evidence of such posting, which shall consist of a photograph of the posted sign in place together with a signed statement evidencing posting.

Section 5. That Section 3-82 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-82. - Late renewal application.

Pursuant to Section ~~12-47-302(2)~~ **44-3-302(2)**, C.R.S., and the regulations adopted pursuant thereto by the State, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of applicable fees. A licensee who files a late renewal application and pays the applicable fees may continue to operate until both the Authority and the State have taken final action to approve or deny such licensee's late renewal application. The Authority shall not accept a late renewal application more than ninety (90) days after the expiration of a licensee's permanent annual license. Any licensee whose permanent annual license has been expired for more than ninety (90) days must apply for a new license and shall not sell or possess for sale any alcohol beverage until all required licenses have been obtained.

Section 6. That Section 3-83 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-83. - Temporary permit.

(a) The Authority may, in accordance with the provisions of Section ~~12-47-303~~44-3-303, C.R.S., issue a temporary permit to a transferee of an alcohol beverage license issued by the Authority. Such temporary permit shall authorize a transferee to continue selling alcohol beverages as permitted under the permanent license during the period in which an application to transfer the ownership of the license is pending.

(b) If the next regularly scheduled meeting of the Authority will not be held within five (5) working days of the receipt by the City Clerk of an application for a temporary permit under this Section, the City Clerk shall issue the temporary permit requested by such an application provided the Clerk first determines the following:

(1) That the applicant is in compliance with all applicable provisions of Section ~~12-47-303~~44-3-303, C.R.S.; and

...

Section 7. That Section 3-83.5 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-83.5. - Special event permit.

(a) The City Clerk may, pursuant to Section ~~12-48-101~~44-5-101 et seq., C.R.S., and the Colorado Code of Regulations 1 C.C.R. 203-2, 47-1000 through 47-1020, approve an application for a special event permit for the sale, by the drink only, of fermented malt beverages, or of malt, spirituous or vinous liquors to qualified organizations and political candidates. Such special event permit shall authorize a permittee to sell such alcohol beverages at the location and for the duration of time specified on the issued permit.

(b) If the City Clerk receives an objection to the issuance of a special event permit from one (1) or more parties in the designated neighborhood as determined by the City Clerk's Office, the matter will be scheduled for a hearing before the Authority at its next regularly scheduled meeting, at which time the Authority shall consider any and all objections, and it may, pursuant to Section ~~12-48-101~~44-5-101 et seq., C.R.S., and the Colorado Code of Regulations 1 C.C.R. 203-2, 47-1000 through 47-1020, either approve or deny the special event permit application.

(c) If the City Clerk decides to deny the application for a special event permit applied for under this Section, and the applicant wishes to contest the denial, the applicant shall be entitled to a hearing before the Authority at its next regularly scheduled meeting, at which time the Authority shall consider whether the City Clerk properly applied the law pursuant to Section ~~12-48-101~~44-5-101 et seq., C.R.S., and the Colorado Code of Regulations 1 C.C.R. 203-2, 47-1000 through 47-1020, and whether to uphold the decision of the City Clerk or overturn it and approve the special event permit application.

Section 8. That Section 3-84 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-84. - Optional premises licenses.

(a) The Authority shall have the power to issue optional premises licenses and optional premises for hotel and restaurant licenses in accordance with the provisions of ~~Title 12, Article 47~~ **Title 44, Article 3**, C.R.S., and the provisions of this Section. The provisions of this Section shall be considered in addition to all other standards applicable to the issuance of licenses under the Colorado Liquor Code and this Chapter. The optional premises license and the optional premises for hotel and restaurant licenses shall collectively be referred to as an "optional premises license" unless otherwise specified herein.

(b) An optional premises license may only be considered when the premises to be licensed is located upon an outdoor sports and recreational facility as defined in Section ~~12-47-103(22)~~ **44-3-103(33)**, C.R.S.; provided, however, that the type of outdoor sports and recreational facilities which may be considered for an optional premises license shall be limited to golf courses.

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(g) Pursuant to Section ~~12-47-310~~ **44-3-310**, C.R.S., no alcohol beverages may be served on the optional premises unless the licensee has provided written notice to the state and local licensing authorities forty-eight (48) hours prior to serving alcohol beverages on the optional premises. Such notice must contain the specific days and hours on which the optional premises are to be used. In this regard, there shall be no limitation on the number of days which a licensee may specify in each notice. However, no notice may specify any date of use which is beyond the current license period.

Section 9. That Section 3-85 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-85. - Distance restrictions.

The distance restrictions imposed by Section ~~12-47-313(d)(I)~~ **44-3-313(1)(d)(I)**, C.R.S., prohibiting the sale of malt, vinous or spirituous liquor within five hundred (500) feet of the principal campus of any college or university, are eliminated for any class of retail license except the retail liquor store license and the liquor-licensed drugstore license, but only with respect to the distance between the proposed licensed premises and the properties owned by the State Board of Agriculture for the benefit and use of Colorado State University. Except as said distance restrictions are hereby eliminated with respect to properties of Colorado State University, said distance restrictions shall continue in full force and effect as they pertain to any other public or parochial school or the principal campus of any other college, university or seminary.

Section 10. That Section 3-87 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-87. - Malt, vinous and spirituous tastings authorized; permit required.

(a) Tastings on the licensed premises of a retail liquor store licensee or of a liquor-licensed drugstore licensee are authorized to be conducted within the City in accordance with Section ~~42-47-301(10)~~44-3-301(10), C.R.S., and subject to the provisions of this Chapter.

...

(e) The Authority shall establish procedures for obtaining a tasting permit, which procedures shall include, without limitation, conducting a noticed public hearing before the Authority at which hearing the applicant must establish that the applicant is able to conduct tastings without violating the provisions of this Chapter. The Authority may deny the application and any renewal application if it finds that the applicant has violated any provision of the Colorado Liquor Code, Colorado Code of Regulations or this Code pertaining to alcohol sales and service in the previous two (2) years, if the applicant has not established the ability to conduct tastings in accordance with the provisions of this Chapter or if the Authority finds that the proposed tastings would create a public safety risk to the neighborhood. The notice required for the public hearing shall be the posted and published as required by Section ~~42-47-311~~44-3-311, C.R.S.

...

Section 11. That Section 3-88 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-88. - Limitations on tastings.

Tastings within the City shall be subject to the following limitations:

(1) Tastings shall be conducted only by a person who has completed a server training program that meets the standards established by the liquor enforcement division of the Colorado Department of Revenue and who is either a retail liquor store licensee or a liquor-licensed drugstore licensee or an employee of a licensee, and only on a licensee's licensed premises;

(2) The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub or winery licensed pursuant to Section ~~42-47-403~~44-3-403, C.R.S., at a cost that is not less than the laid-in cost for such alcohol;

Section 12. That Section 3-89 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 3-89. - Violations.

(a) A violation of a limitation specified in §§ 3-87 and 3-88 of this Article or a permit issued thereunder or in Section ~~42-47-301(10)~~44-3-301(10), C.R.S., by a retail liquor store or a liquor-licensed drugstore licensee, whether by the licensee's employees, agents or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.

(b) Retail liquor store and liquor-licensed drugstore licensees conducting a tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to those licensees by the Authority. The Authority shall conduct a hearing with regard to any violation of § 3-87 and/or § 3-88 of this Article in accordance with this Code, the Authority's rules and regulations and Section ~~12-47-601~~44-3-601, C.R.S.

(c) Nothing in this Chapter shall affect the ability of a Colorado winery licensed pursuant to Section ~~12-47-402~~44-3-402 or ~~12-47-403~~44-3-403, C.R.S., to conduct a tasting pursuant to the authority of Section ~~12-47-402(2)~~44-3-402(2) or ~~12-47-403(e)~~44-3-403, C.R.S.

Section 13. That Section 12-56 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-56. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Bar shall mean any area that is operated and licensed under ~~Article 47 of Title 12~~ Title 44, Article 3, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food, if any, is secondary to the consumption of such beverages.

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Introduced, considered favorably on first reading, and ordered published this 4th day of December, A.D. 2018, and to be presented for final passage on the 18th day of December, A.D. 2018.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 18th day of December, A.D. 2018.

Mayor

ATTEST:

City Clerk