

DATE: April 25, 2006

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**WORK SESSION ITEM
FORT COLLINS CITY COUNCIL**

SUBJECT FOR DISCUSSION

Alcohol Beverage Tastings Ordinance Options.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does Council want an ordinance brought forward to allow retail liquor stores to offer small samples of alcohol to their patrons? If so, which option is preferred and what fees should be established for tastings?

BACKGROUND

In 2004, the Colorado General Assembly adopted, and the Governor signed into law, House Bill 04-1021 [now codified as CRS 12-47-301(10)] permitting local jurisdictions to allow retail liquor stores and liquor-licensed drugstores to conduct sample tastings of alcohol beverages (beer, wine and liquor) in their establishments without charging for such samples. This bill also requires that, if a local government desires to allow such tastings in its jurisdiction, the local governmental body must do so by ordinance.

In response to several Councilmember requests, staff reviewed tastings ordinances from other jurisdictions and weighed the advantages and disadvantages of permitting tastings in Fort Collins, the cost to the City to do so, and safety and law enforcement concerns. Staff also investigated whether Fort Collins has the option to limit alcohol beverage tastings to beer and wine.

Staff has developed three options for Council for consideration:

1. Do nothing (tastings not allowed).

This option would not require any additional funding, police enforcement or staff time and resources. However, surrounding jurisdictions have enacted ordinances allowing tastings, potentially putting the retail liquor stores within the city limits at a disadvantage.

2. Adopt an ordinance allowing only beer and wine tastings.

This option would result in minimal additional staff and police resources. It is estimated that 16+ staff hours would be required annually for administration and enforcement. The administrative costs (Deputy City Clerk, Assistant City Attorney and Municipal Judge) would be approximately \$600, depending on how

many stores apply for a permit. There are currently 29 retail liquor stores in Fort Collins.

State law prohibits the City from taking law enforcement costs into consideration when determining fees. Enforcement would be driven by complaint only. A proactive approach to enforcement (random compliance checks) would increase administrative costs to \$1200 (32+ hours).

Larimer County has opted to limit retail liquor store licensees to beer and wine tastings only and, to date, has issued two tastings permits in unincorporated Larimer County – one in south Fort Collins and one outside of Loveland. See attached spreadsheet for other jurisdictions' fees and limitations.

3. Adopt an ordinance allowing beer, wine and spirituous liquors tastings.

This option would require staff and police resources of 16+ hours annually (approximate administrative cost \$600), depending on how many stores apply for a permit. State statute allows a local jurisdiction to impose stricter requirements than the State requirements regarding the days on which tastings can be held, the duration of a tastings and the number of tastings that can be held each year per licensee.

If Council is interested in pursuing either Option 2 or 3, staff recommends the following:

- Tastings to be limited to 52 days per year per licensee (minimize chance of violations).
- Tasting samples would be served in clear containers (to facilitate visual monitoring of product samples).
- Tasting permits to be approved only for licensees who have had no previous liquor code violations in the preceding 2 years and who can demonstrate an ability to conduct the tastings in accordance with the law and without creating a safety risk to the neighborhood (proves licensee is knowledgeable and responsible in the sale and service of alcohol and would, presumably, be responsible in serving alcohol samples).
- Application for a tasting permit to require the licensee to provide a schedule of the anticipated tasting and a log of completed tastings upon renewal (ensure that licensees do not exceed allowable days and hours).
- Enforcement would be by complaint only (reactive) due to limited staff and financial resources.
- A reasonable fee be established for the issuance of a tastings permit. Staff is recommending an application fee of \$150 and a renewal fee of \$50.

ATTACHMENTS

1. State statute authorizing tastings
2. Draft ordinance restricting tastings to beer and wine
3. Draft ordinance for alcohol beverage tastings
4. Matrix of other jurisdictions fees and limitations
5. Powerpoint slides

CRS 12-47-301 Liquor/Wine tastings

(10) (a) The provisions of this subsection (10) shall only apply within a county, city and county, or municipality if the governing body of the county, city and county, or municipality adopts an ordinance or resolution authorizing tastings pursuant to this subsection (10). The ordinance or resolution may provide for stricter limits than this subsection (10) on the number of tastings per year per licensee, the days on which tastings may occur, or the number of hours each tastings may last.

(b) A retail liquor store or liquor-licensed drugstore licensee who wishes to conduct tastings may submit an application or application renewal to the local licensing authority. The local licensing authority may reject the application if the applicant fails to establish that he or she is able to conduct tastings without violating the provisions of this section or creating a public safety risk to the neighborhood. A local licensing authority may establish its own application procedure and may charge a reasonable application fee.

(c) Tastings shall be subject to the following limitations:

(I) 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 in the 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.

(II) The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to section 12-47-403 at a cost that is not less than the laid-in cost of such alcohol.

(III) The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.

(IV) Tastings shall not exceed a total of five hours in duration per day, which need not be consecutive.

(V) Tastings shall be conducted only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcohol beverages, and in no case earlier than 11 a.m. or later than 7 p.m.

(VI) The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.

(VII) The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the tasting.

(VIII) The licensee shall not serve a person who is under twenty-one years of age or who is visibly intoxicated.

(IX) The licensee shall not serve more than four individual samples to a patron during a tasting.

(X) Alcohol samples shall be in open containers and shall be provided to a patron free of charge.

(XI) Tastings may occur on no more than four of the six days from a Monday to the following Saturday, not to exceed one hundred four days per year.

(XII) No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting. The licensee shall bear the financial and all other responsibility for a tasting.

(d) A violation of a limitation specified in this subsection (10) or of section 12-47-801 by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents, or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.

(e) A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee.

(f) Nothing in this subsection (10) shall affect the ability of a Colorado winery licensed pursuant to section 12-47-402 or 12-47-403 to conduct a tasting pursuant to the authority of section 12-47-402 (2) or 12-47-403 (2) (e).

ORDINANCE NO. , 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
BEER AND WINE ONLY

WHEREAS, in 2004, the Colorado General Assembly adopted and the governor signed into law House Bill 04-1021 (now codified at CRS 12-47-301(10), permitting local jurisdictions to allow retail liquor stores and liquor-licensed drugstores to conduct sample tastings of liquor and malt and vinous (beer and wine) beverages in their establishments without charging for such samples; and

WHEREAS, House Bill 04-1021 requires that an ordinance be enacted by any local jurisdiction that wishes to allow such beer and wine tastings; and

WHEREAS, the City Council desires to adopt an ordinance authorizing the beer and wine tasting of malt and vinous beverages (beer and wine) at retail liquor stores and liquor-licensed drugstores within the City subject to certain limitations.

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

Section 1. That the Code of the City of Fort Collins is hereby amended by the addition of a new Section 3-87 which shall read in its entirety as follows:

Sec. 3-87. Beer and wine tastings authorized; permit required.

(a) Beer and wine 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 C.R.S. 12-47-301(10) and subject to the provisions of this Chapter.

(b) The Authority is authorized to issue beer and wine tasting permits in accordance with the requirements of this Chapter.

(c) It shall be unlawful for any person to conduct beer and wine tastings within the city without having first received a permit issued in accordance with the section.

(d) Retail liquor store licensees and liquor-licensed drugstore licensees desiring to conduct tastings shall submit a tasting permit application to the city clerk accompanied by a One Hundred and Fifty dollar (**\$150.00**) application fee. The City Council may change this fee by resolution.

(e) The Authority shall establish the procedures for obtaining a beer and wine 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 beer and wine 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 liquor code, rules and regulations, and the city code pertaining to alcohol sales and service in the previous two years, if the applicant has not established the ability to conduct beer and wine tastings in accordance with the provisions of this Chapter, or if the Authority finds that the proposed beer and wine tastings would create a public safety risk to the neighborhood. The notice required for the public hearing shall be the posted and published notices required by C.R.S. Section 12-47-311.

(f) The forms for the beer and wine tasting permit application, the renewal application, and the beer and wine tasting permit shall be those proscribed by the Authority. These forms shall include, without limitation, a schedule of the dates and times of the beer and wine tastings to be conducted on the licensed premises and by whom during the term of the permit. The licensee may deviate from the approved schedule provided that: (1) the licensee gives the city clerk and the city's liquor enforcement officer seven (7) days prior written notice of such deviation; and (2) such deviation does not violate any provision of this Chapter, the Colorado Liquor Code, Code of regulations or any other state law or municipal ordinance or regulation. An applicant for a beer and wine tasting permit must also include with the filing of the initial and any renewal application, and keep current with the city clerk's office at all times, written proof that the licensee and each employee of the licensee who will be conducting the beer and wine tastings have completed a server training program for beer and wine tastings that meets the standards required by state law.

(g) Renewal of beer and wine tasting permits shall be concurrent with the renewal of licenses for retail liquor stores and liquor-licensed drugstores. A licensee's initial beer and wine tasting permit shall expire on the same date as the date of the licensee's retail liquor store or liquor-licensed drugstore license expires. The initial beer and wine tasting permit application fee shall not be prorated if the permit expires in less than a year. Beer and wine tasting permit renewal forms shall be submitted to the City Clerk accompanied by a Fifty dollar (\$50) renewal fee. The City Council may change this fee by resolution.

(h) Beer and wine tasting permits shall be conspicuously and prominently posted by the licensee on the licensed premises at all times during business hours.

(i) A beer and wine tasting permit shall only be issued to a retail liquor store or a liquor-licensed drugstore licensee whose license is valid, not subject to a current or pending enforcement action by the city or the state and in full force and effect.

Sec. 3-88. Limitations on beer and wine tastings.

(a) Beer and wine tastings within the city shall be subject to the following limitations:

- (1) Beer and wine 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 beer and wine tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to C.R.S. Section 12-47-403 at a cost that is not less than the laid-in cost for such alcohol;
- (3) the size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor;
- (4) beer and wine tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive;
- (5) beer and wine tastings shall be conducted only during the operating hours in which the licensee on whose premises the beer and wine tasting occur is permitted to sell alcohol beverages, and in no case earlier than 11:00 a.m. or later than 7:00 p.m.
- (6) the licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample;
- (7) the licensee shall promptly remove all open and unconsumed beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the beer and wine tastings;
- (8) the licensee shall not serve a person who is under twenty-one (21) years of age or who is visibly intoxicated;

- (9) the licensee shall not serve more than four (4) individual samples to a patron during a beer and wine tasting;
- (10) the alcohol samples used in the beer and wine tastings shall served in **clear, one (1) ounce sized open containers** and shall be provided to a patron free of charge;
- (11) beer and wine tastings may occur on no more than **two (2)** of the six (6) days from a Monday to the following Saturday, not to exceed **fifty-two (52)** days per year;
- (12) **the licensee shall maintain on the licensed premises a log of all beer and wine tastings on forms proscribed by the Authority to be submitted to the city clerk each year with the beer and wine tasting permit renewal application and during all business hours the log shall be subject to inspection by city and state officials authorized to enforce the Colorado Liquor Code and/or the Fort Collins City Code upon request ; and**
- (13) no manufacturer or spirituous or vinous liquor shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a beer and wine tasting and the licensee shall bear the financial and all other responsibility for a beer and wine tasting.

Sec. 3-89. Violations.

- (a) A violation of a limitation specified in Sections 3-87 and 3-88 or in C.R.S. Section 12-47-301(10) 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 beer and wine tasting.
- (b) Retail liquor store and liquor-licensed drugstore licensees conducting a beer and wine tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to those licensees by the local licensing Authority. The Authority shall conduct a hearing with regard to any violation of Section 3-87 through 3-88 in accordance with this Code, the Authority's rules, regulations and C.R.S. Section 12-47-601.
- (c) Nothing in this Chapter shall affect the ability of a Colorado winery licensed pursuant to C.R.S. Section 12-47-402 or 12-47-403 to conduct a beer and wine tasting pursuant to the authority of C.R.S. Section 12-47-402(2) or 12-47-403(e).

Section 2. That this Ordinance shall be effective ten (10) days after its publication after adoption on Second Reading.

Introduced and considered favorably on first reading and ordered published this * day of *, A.D. 2006, and to be presented for final passage on the * day of *, A.D. 2006.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this * day of *, A.D. 2006.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. _____, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS

WHEREAS, in 2004, the Colorado General Assembly adopted and the governor signed into law House Bill 04-1021, now codified as CRS 12-47-301(10) permitting local jurisdictions to allow retail liquor stores and liquor-licensed drugstores to conduct sample tastings of alcohol beverages in their establishments without charging for such samples; and

WHEREAS, House Bill 04-1021 requires that an ordinance be enacted by any local jurisdiction that wishes to allow such tastings; and

WHEREAS, the City Council desires to adopt an ordinance authorizing the tasting of alcohol beverages at retail liquor stores and liquor-licensed drugstores within the City subject to certain limitations.

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

Section 1. That the Code of the City of Fort Collins is hereby amended by the addition of a new Section 3-87 which reads in its entirety as follows:

Sec. 3-87. Alcohol beverage 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 C.R.S. 12-47-301(10) and subject to the provisions of this Chapter.
- (b) The Authority is authorized to issue tasting permits in accordance with the requirements of this Chapter.
- (c) It shall be unlawful for any person to conduct tastings within the city without having first received a tasting permit issued in accordance with the section.
- (d) Retail liquor store licensees and liquor-licensed drugstore licensees desiring to conduct tastings shall submit a tasting permit application to the city clerk accompanied by a **\$150.00 application fee**. The City Council may change this fee by resolution.

(e) The Authority shall establish the 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 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 notices required by C.R.S. Section 12-47-311.

(f) The forms for the tasting permit application, the renewal application, and the tasting permit shall be those proscribed by the Authority. These forms shall include, without limitation, a schedule of the dates and times of the tastings to be conducted on the licensed premises and by whom during the term of the permit. The licensee may deviate from the approved schedule provided that: (1) the licensee gives the city clerk and the city's liquor enforcement officer seven (7) days prior written notice of such deviation; and (2) such deviation does not violate any provision of this Chapter, the Colorado Liquor Code, Code of regulations or any other state law or municipal ordinance or regulation. An applicant for a tasting permit must also include with the filing of the initial and any renewal application, and keep current with the city clerk's office at all times, written proof that the licensee and each employee of the licensee who will be conducting the tastings have completed a server training program for tastings that meets the standards required by state law.

(g) Renewal of tasting permits shall be concurrent with the renewal of licenses for retail liquor stores and liquor-licensed drugstores. A licensee's initial tasting permit shall expire on the same date as the date of the licensee's retail liquor store or liquor-licensed drugstore license expires. The initial tasting permit application fee shall not be prorated if the permit expires in less than a year. Tasting permit renewal forms shall be submitted to the City Clerk accompanied by a \$50 renewal fee. The City Council may change this fee by resolution.

(h) Tasting permits shall be conspicuously and prominently posted by the licensee on the licensed premises at all times during business hours.

(i) A tasting permit shall only be issued to a retail liquor store or a liquor-licensed drugstore licensee whose license is valid, not subject to a current or pending enforcement action by the city or the state and in full force and effect.

Sec. 3-88. Limitations on Tastings.

(a) 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 C.R.S. Section 12-47-403 at a cost that is not less than the laid-in cost for such alcohol;
- (3) the size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor;
- (4) tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive;
- (5) tastings shall be conducted only during the operating hours in which the licensee on whose premises the tasting occur is permitted to sell alcohol beverages, and in no case earlier than 11:00 a.m. or later than 7:00 p.m.
- (6) the licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample;
- (7) the licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the tastings;
- (8) the licensee shall not serve a person who is under twenty-one (21) years of age or who is visibly intoxicated;
- (9) the licensee shall not serve more than four (4) individual samples to a patron during a tasting;
- (10) the alcohol samples used in the tastings shall served in **clear, open containers** and shall be provided to a patron free of charge;

- (11) tastings may occur on no more than **two (2)** of the six (6) days from a Monday to the following Saturday, not to exceed **fifty-two (52)** days per year;
- (12) **the licensee shall maintain on the licensed premises a log of all tastings on forms proscribed by the Authority to be submitted to the city clerk each year with the tasting permit renewal application and at all business hours the log shall be subject to inspection by city and state officials authorized to enforce the Colorado Liquor Code and/or the Fort Collins City Code; and**
- (13) no manufacturer or spirituous or vinous liquor shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting and the licensee shall bear the financial and all other responsibility for a tasting.

Sec. 3-89. Violations.

- (a) A violation of a limitation specified in Sections 3-87 and 3-88 or in C.R.S. Section 12-47-301(10) 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 local licensing Authority. The Authority shall conduct a hearing with regard to any violation of Section 3-87 through 3-88 in accordance with this Code, the Authority's rules, regulations and C.R.S. Section 12-47-601.
- (c) Nothing in this Chapter shall affect the ability of a Colorado winery licensed pursuant to C.R.S. Section 12-47-402 or 12-47-403 to conduct a tasting pursuant to the authority of C.R.S. Section 12-47-402(2) or 12-47-403(e).

Section 2. That this Ordinance shall be effective ten (10) days after its publication after adoption on Second Reading.

Introduced and considered favorably on first reading and ordered published this * day of *, A.D. 2006, and to be presented for final passage on the * day of *, A.D. 2006.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this * day of *, A.D. 2006.

Mayor

ATTEST:

City Clerk

DRAFT

**Other Colorado
Jurisdictions'
Fees and Limitations**

	Limitations	Total # Stores	# of Permits	Application Fee	Renewal Fee
Aurora	none	80	10	\$100	\$0
Boulder	none	26	9	\$50	\$50
Broomfield	wine only	13	1	\$100	\$0
Colorado Springs	all	117	10 (approximately - tastings currently before Council)		
Douglas County	none	18	3	\$0	\$25
Greeley	(City Council did not pass tastings ordinance)				
Lakewood	(City Council did not pass tastings ordinance)				
Larimer County	beer and wine	20	2	\$100	\$50
Longmont	(City Council did not pass tastings ordinance)				
Louisville	none	6	1	\$50	\$50
Loveland	none	15	3	\$150	\$25
Thornton*	none	16	1	\$0	\$0
Westminster	none	34	2	\$50	\$50
Windsor**	none	9	2	\$0	\$0

* (no application or fees required - licensee must notify police 72 hours prior to scheduled tasting)
 ** (no application or fees required)

**Alcohol Beverage Tastings
Ordinance Options**

Work Session Item
Fort Collins City Council

Alcohol Beverage Tastings

- Do nothing (Tastings not allowed).

Alcohol Beverage Tastings

- Adopt an ordinance allowing only beer and wine tastings.

Alcohol Beverage Tastings

- Adopt an ordinance allowing beer, wine and spirituous liquors tastings.

Alcohol Beverage Tastings

- Staff Recommendations
 - Limit tastings to 52 days per year per licensee
 - Require clear containers
 - No liquor code violations within the last 2 years
 - Require schedule of anticipated tasting and log of completed tastings upon renewal
 - Enforcement on a complaint basis only
