

ORDINANCE 2011-17

AN ORDINANCE OF THE CITY OF FRUITA, COLORADO AMENDING CHAPTER 5.20 OF THE FRUITA MUNICIPAL CODE CONCERNING ALCOHOLIC BEVERAGE LICENSES TO AUTHORIZE TASTINGS OF ALCOHOLIC BEVERAGES IN LIQUOR-LICENSED RETAIL LIQUOR STORES OR LIQUOR-LICENSED DRUGSTORES PURSUANT TO AMENDMENTS TO STATE LAW, AND SETTING FORTH DETAIL IN RELATION THERETO

WHEREAS, the City of Fruita regulates Alcoholic Beverage Licenses with the City pursuant to Chapter 5.20 of the Fruita Municipal Code; and

WHEREAS, pursuant to 12-47-301, C.R.S., local jurisdictions may adopt an ordinance allowing retail liquor stores or liquor-licensed drug stores to conduct sample tasting of alcoholic beverages in their establishments without charging for such samples; and

WHEREAS, at least two retail liquor store licensees in the City of Fruita have expressed their wish to be allowed to conduct such tastings; and

WHEREAS, one retail liquor store licensee in the City of Fruita has provided evidence of community support;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:

Section 1. A new Section 5.20.090 of the Fruita Municipal Code under Chapter 5.20 concerning Alcoholic Beverage Licenses is hereby enacted to read as follows:

Chapter 5.20

ALCOHOLIC BEVERAGE LICENSES

Sections:

5.20.090 Alcoholic Beverage Tasting Permit

5.20.090 ALCOHOLIC BEVERAGE TASTING PERMIT

- A. The City hereby authorizes Tastings to be conducted by retail liquor store or liquor-licensed drugstore licensees in accordance with this section and pursuant to Section 12-47-301, C.R.S., as the term “Tastings” is defined the said Section 12-47-301. It is unlawful for any person or licensee to conduct Tastings within the City unless authorized in accordance with this section. Tastings shall not be authorized until the following prerequisites are fully satisfied, as determined by the City:

1. A retail liquor store or liquor licensed drugstore that wishes to conduct tastings shall submit an application for a Tastings Permit the City Clerk. The City Clerk may reject the application if the applicant fails to establish that the licensee is able to conduct tastings without violating any of the provisions of this Section. The application shall be accompanied by an application fee of \$100.
2. The City Clerk shall establish the application procedure. Application forms will be prescribed by the local licensing authority and/or City Clerk and will include a schedule of the planned tastings, a list of the names of the persons conducting the tastings and documentation that the person conducting the tasting has completed the required training, a written control plan, and other such information as the local licensing authority and/or City Clerk may require. Any change to the information submitted must be submitted to the City Clerk one week prior to the change being made. Failure to do so constitutes a violation.
3. Renewal of the Tastings Permit shall be concurrent with renewal of the retail liquor store or liquor-licensed drugstore license. The initial Tastings Permit shall expire on the date of the retail liquor store or liquor-licensed drugstore license and the initial fee will not be prorated.
4. Tastings shall be subject to the limitations set forth in 12-47-301 (10)(c), C.R.S., as amended from time to time. Compliance with the limitations and requirements set forth in Section 12-47-301(10)(c), C.R.S. shall be a term and condition of any Tasting Permit, whether expressly set forth in the Tasting Permit or not.
5. Tastings, once approved, shall be subject to the following limitations:
 - a) Tastings shall be conducted only by a person who has completed an alcohol 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 state licensee or a liquor-licensed drugstore licensee, or an employee of a licensee, and only on a licensee's licensed premises.
 - b) The alcohol used in Tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to 12-47-403, C.R.S. at a cost that is not less than the in-in cost of such alcohol.
 - c) Tastings shall be limited to beer and wine only and shall not include spirituous liquor.
 - d) The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor.
 - e) Tastings shall not exceed a total of five hours in duration per day, which need not be consecutive.

- f) 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 11:00 a.m. or later than 7:00 p.m.
 - g) The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
 - h) 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.
 - i) The licensee shall not serve a person who is under twenty-one years of age or who is visibly intoxicated.
 - j) The licensee shall not serve more than four individual samples to a patron during a tasting.
 - k) Alcohol samples shall be in open containers and shall be provided to a patron free of charge.
 - l) 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.
 - m) No manufacturer of malt 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.
 - n) A violation of a limitation specified in this subsection (10) or of section 12-47-801 by a retail liquor store license or a 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.
 - o) 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.
 - p) Nothing in this subsection 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).
6. In addition to, or in lieu of, any enforcement actions which the City Council takes against the licensee for violations of this code or the Colorado Liquor Code and Regulations, the City Council may decline to renew the Tastings Permit for good cause shown. In addition, the City Council may suspend or revoke the Tastings

Permit in accordance with the procedures specified in this code and the Colorado Liquor Code.

7. Severability. If any part, section, subsection, clause or phrase of this ordinance is for any reason to be held invalid, such decision shall not affect the validity of the remaining portions of this ordinance, and the City Council, hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences or clauses or phrases be declared invalid.

AMENDED AS SET OUT HEREIN, PASSED AND ADOPTED at a regular meeting of the City Council of the City of Fruita, this 4th day of October, 2011.

CITY OF FRUITA, COLORADO

By: _____
H. Kenneth Henry, Mayor

ATTEST:

Margaret Steelman, City Clerk