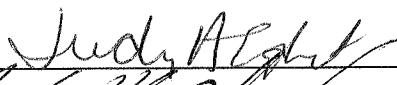
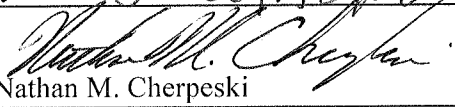


COUNCIL COMMUNICATION

<b>DATE:</b> April 25, 2010	<b>AGENDA NO. VIII. B. 4.</b>	<b>SUBJECT:</b>  Tastings Ordinance consideration
<b>Department Head:</b> Judy A. Egbert, City Clerk 		
<b>City Manager:</b>  Nathan M. Cherpeski		
<b>PRESENTED BY:</b>		

**Recommendation**

Conduct Public Hearing on Ordinance No. 6, 2010. Consider adopting the ordinance based on evidence presented at the hearing.

**Background**

In 2004 the Colorado Liquor Code was amended to allow municipalities to “opt in” to allow tastings at Retail Liquor Stores and Liquor Licensed Drug Stores. Up until now, Alamosa liquor stores had not expressed interest in conducting tastings. (Alamosa has no Liquor Licensed Drug Stores). At the request of two liquor store owners, Council introduced this ordinance at the last meeting. As drafted, the ordinance reflects the provisions contained in the Liquor Code. Council may adopt provisions that are more restrictive if desired, but may not be less restrictive.

In a nutshell, these are the provisions of the Liquor Code:

- Tastings may be conducted only in Retail Liquor Stores and Liquor Licensed Drug Stores
- Alcohol must be purchased at standard prices from a licensed wholesaler, Brew Pub, or Winery
- State-approved server training is required. TIPS meets the state standards and is available locally.
- The Local Authority determines its own application procedure and may charge a reasonable application fee.
- Samples must be no more than 1 oz of beer or wine or ½ oz. spirits
- Tastings may occur no more than 5 hours per day. Hours need not be consecutive.
- No earlier than 11 a.m. or later than 7 p.m. during the operating hours in which the licensee is permitted to sell beverages.
- Patrons can’t leave with sample.
- Licensee must remove all open and unconsumed samples from the premises, or destroy the samples immediately following the tastings.
- No serving visibly intoxicated persons, or persons under 21.
- No more than 4 samples per patron per tasting
- Samples must be served in open containers and free of charge.
- No more than 4 out of 6 days per week between Monday to the following Saturday (not allowed on Sunday)
- No more than 104 days per year.
- The licensee must pay for the product; a manufacturer may not provide free or reduced rate.
- Tastings are subject to the same enforcement actions as any other license operation.

**Issue Before the Council**

Council should conduct the public hearing. After receiving testimony, Council should consider adoption.

## **Alternatives**

After receiving testimony during the hearing, Council may:

- Adopt the ordinance as presented.
- Adopt the ordinance with amendments.
- Defeat the ordinance and direct staff to submit a new ordinance with substantive changes.
- Defeat the ordinance and do not opt in.

## **Fiscal Impact**

The fiscal impact should be relatively neutral. Staff time will be required to process the application and provide enforcement during the events. The application fee should be structured to reflect the actual costs involved.

## **Legal Opinion**

Counselor Schwiesow has reviewed this document, and will be available at the meeting if needed.

## **Conclusion**

Local liquor stores have requested that Council consider opting in as a mechanism to provide better customer service and economic benefits. Council's action should be reflective of evidence presented at the hearing. After implementation, Council will have the opportunity to reassess the terms in the ordinance and amend it if necessary.

**Ordinance No. 6, 2010**

**AN ORDINANCE AMENDING CHAPTER 10 ARTICLE II OF THE CITY OF ALAMOSA MUNICIPAL CODE AUTHORIZING TASTINGS AT RETAIL LIQUOR STORES AND LIQUOR-LICENSED DRUGSTORES**

**WHEREAS**, the City of Alamosa City Council, acting as the Liquor Licensing Authority (“Authority”) is charged with granting or refusing licenses for the sale, at retail, of malt, vinous, or spirituous liquors and fermented malt beverages as provided by law, conducting investigations as required by law, and suspending or revoking such licenses for cause in the manner provided by law, and has all of the powers of the local licensing authority as set forth in Articles 46, 47, and 48 of Title 12 of the Colorado Revised Statutes; and

**WHEREAS**, amendments were made in 2004 to C.R.S. §12-47-301 which would allow retail liquor store licensees and liquor-licensed drugstores to conduct alcohol beverage tastings subject to specific limitations; and

**WHEREAS**, such alcohol beverage tastings must be authorized by ordinance by City Council within a municipality, and such ordinance must set the limitations for such tastings with regard to number conducted per year and days and hours the tastings will be allowed; and

**WHEREAS**, City Council hereby finds that it desires to authorize tastings of malt, vinous, and spirituous liquor within the City of Alamosa at qualified Retail Liquor Store and Liquor-Licensed Drugstore licensed premises, subject to the limitations outlined herein.

**NOW, THEREFORE, IT IS HEREBY ORDAINED** by the City Council of the City of Alamosa, Colorado:

**Section 1.** Chapter 10, Article II of the City of Alamosa Code of Ordinances is hereby amended to add the following:

Section 10-29, Alcohol Beverage Tastings

A. Permit required

- (1) Alcohol beverage tastings on the licensed premises of a retail liquor store or of a liquor-licensed drugstore are authorized to be conducted within the City in accordance with CRS §12-47-301(10) and subject to the provisions of this Chapter.
- (2) The Authority is authorized to issue tasting permits in accordance with the requirements of this Chapter.
- (3) It shall be unlawful for any person to conduct tastings within the City without having first received a permit issued in accordance with this Chapter.
- (4) Submittal requirements. The initial application and any renewal applications shall be submitted on a Tasting Permit Application form obtained from the City Clerk’s office. This form shall include the following:
  - (a) Licensee information including but not limited to name, address, contact information, and license number;
  - (b) Verification that the licensee and employee(s) who will be conducting the tastings have completed a seller/server training program that meets the standards established by the Liquor Enforcement Division in the Department of Revenue and is qualified to conduct an alcohol beverage tasting.
  - (c) The appropriate initial or renewal fee as established by Resolution.
- (5) Advance notification. No alcohol can be provided as samples during a tasting until the licensee has provided written notice to the Alamosa City Clerk’s Office at least 48 hours

prior to conduct said tasting. Such notice shall contain the specific days and hours on which the tasting will occur. There is no limitation on the number of days which a licensee may specify in each notice.

- (6) 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 underlying liquor license. The initial tastings permit application fee shall not be prorated if the permit expires in less than one year. Renewal permits shall be issued for a period of time concurrent with the underlying license.
- (7) Tasting permits shall be conspicuously and prominently posted by the licensee on the licensed premises at all times during business hours.
- (8) A tasting permit shall only be valid when issued to a Retail Liquor Store or a Liquor-Licensed Drugstore licensee whose license is valid and is in full force and effect.

#### B. Limitations on Tastings

Tastings within the City of Alamosa 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 such licensee, and only on a licensee's licensed premises;
- (2) The alcohol beverages used in tastings shall be purchased through a licensed wholesaler, licensed brew pub or winery licensed pursuant to CRS §12-47-403, at a cost that is not less than the laid-in cost for such alcohol;
- (3) The size of an individual sample shall not exceed one (1) ounce for malt or vinous liquor, or 1/2 ounce for spirituous liquors;
- (4) The licensee shall not serve more than four (4) individual samples to a patron during a tasting;
- (5) Tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive;
- (6) 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.;
- (7) The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample;
- (8) 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 tasting;
- (9) The licensee shall not serve a person who is under twenty-one (21) years of age, or who is visibly intoxicated;
- (10) The samples used in the tastings shall be served in open containers and shall be provided to a patron free of charge;
- (11) 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;
- (12) 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.

#### C. Violations

- (1) A violation of this Section, whether by the licensee's employees, agents, or otherwise, shall be the responsibility of the licensee who is conducting the alcohol tasting.

- (2) Licensees conducting a tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to those licenses.

**Section 2.** General Repealer. All other acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

**Section 3.** Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

**Section 4.** Effective Date. This ordinance shall take effect ten (10) days after publication following final passage.

**Section 5.** Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

**INTRODUCED, READ AND APPROVED** on first reading the 21<sup>st</sup> day of April 2010, and ordered published as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the 5<sup>th</sup> day of May 2010, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

**APPROVED, AND ADOPTED** after public hearing the 5<sup>th</sup> day of May 2010.

CITY OF ALAMOSA

By \_\_\_\_\_  
Kathleen Rogers, Mayor

ATTEST:

\_\_\_\_\_  
Judy A. Egbert, City Clerk