

CITY CLERK'S OFFICE MEMORANDUM
#09-2023

DATE: July 10, 2023
TO: Honorable Mayor Meredith Leighty and City Council Members
THROUGH: Heather Geyer, City Manager *hmg*
FROM: Johanna Small, City Clerk *J*
Lisa Andrews, Sr. Deputy City Clerk – Licensing Administrator
SUBJECT: CB-2009 – Fermented Malt Beverage and Wine Licenses and Tasting Permits

PURPOSE

To consider CB-2009, an ordinance on second reading amending the Municipal Code to include the new fermented malt beverage and wine license and to allow those licensed retailers to apply for tasting permits.

BACKGROUND

On Nov. 8, 2022, Colorado voters approved Proposition 125, the Wine Sales in Grocery and Convenience Stores Initiative. Accordingly, Colorado Liquor and Beer Codes were amended as follows:

- C.R.S. § 44-3-103(18.5) establishes a new fermented malt beverage and wine retailer license to allow grocery stores, convenience stores, and other businesses already licensed to sell beer to also sell wine for consumption off-premises. All existing fermented malt beverage licenses were automatically converted to the new fermented malt beverage and wine license on March 1, 2023.
- C.R.S. § 44-3-301(10) allows fermented malt beverage and wine licensees to apply for tasting permits.

The passage of Proposition 125 requires amendments be made to Article 2 of Chapter 18 of the Municipal Code to maintain consistency with Colorado Liquor and Beer Codes. CB-2009 would change “fermented malt beverage” to “fermented malt beverage and wine” to reflect the new class of license. CB-2009 also adds fermented malt beverage and wine retailers to the list of licensees eligible to apply for tastings permits.

The draft ordinance was presented to the Northglenn Liquor Licensing Authority at their May 18, 2023 meeting. The Authority approved Resolution #23-2, making a recommendation for Council adoption of the draft ordinance as written. The proposed ordinance was approved by City Council on first reading at the June 12, 2023 meeting.

BUDGET/TIME IMPLICATIONS

None.

STAFF RECOMMENDATION

Staff recommends approval of CB-2009 on second reading.

STAFF REFERENCE

If Council members have any questions, please contact Johanna Small, City Clerk, at jsmall@northglenn.org or 303.450.8757.

ATTACHMENTS

1. Northglenn Liquor Licensing Authority Resolution #23-2
2. Tasting Permit Regulations

NORTHGLENN LIQUOR LICENSING AUTHORITY

RESOLUTION NO.

23-2

Series 2023

A RESOLUTION RECOMMENDING CERTAIN PROPOSED CHANGES TO ARTICLE 2 OF CHAPTER 18 OF THE NORTHGLENN MUNICIPAL CODE REGARDING THE NEW FERMENTED MALT BEVERAGE AND WINE LICENSE CLASS AND TO PERMIT TASTINGS AT FERMENTED MALT BEVERAGE AND WINE RETAILERS


BE IT RESOLVED BY THE LIQUOR LICENSING AUTHORITY OF THE CITY OF NORTHGLENN, THAT:

Section 1. The Northglenn Municipal Code amendments proposed attached hereto as Exhibit A, which would amend Article 2 of Chapter 18 of the Northglenn Municipal Code, are hereby endorsed by the Liquor Licensing Authority and forwarded to the City Council for its consideration with a recommendation of approval.

DATED, at Northglenn, Colorado, this 18th day of May 2023.


MICHAEL OLIVIERI
Chairperson

ATTEST:


LISA ANDREWS, CMC
Deputy City Clerk

APPROVED AS TO FORM:


HILARY M. GRAHAM
Attorney to the Authority

SPONSORED BY: MAYOR LEIGHTY

COUNCILMEMBER'S BILL

ORDINANCE NO.

No. _____
Series of 2023

_____ Series of 2023

A BILL FOR AN ORDINANCE AMENDING ARTICLE 2 OF CHAPTER 18 OF THE NORTHGLENN MUNICIPAL CODE REGARDING THE NEW FERMENTED MALT BEVERAGE AND WINE LICENSE CLASS AND TO PERMIT TASTINGS AT FERMENTED MALT BEVERAGE AND WINE RETAILERS

WHEREAS, on March 1, 2023, Proposition 125 created a new fermented malt beverage and wine license class and provided for the automatic conversion of existing fermented malt beverage licenses to the same;

WHEREAS, C.R.S. § 44-3-301(10) previously authorized a local licensing authority to receive and approve applications for tastings by a retail liquor store or a liquor-licensed drugstore, or to prohibit tastings altogether;

WHEREAS, Proposition 125 also amended the above-mentioned statutory section to add fermented malt beverage and wine retailers to the list of licensees that are permitted to conduct tastings; and

WHEREAS, the City now desires to amend applicable sections of Article 2 of Chapter 18 of the Northglenn Municipal Code to update the license class title and to include fermented malt beverage and wine retailers as licensees that may apply for tastings.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 18-2-2, subsection (c) of the Northglenn Municipal Code is amended to read as follows:

Section 18-2-2. Licensing Authority.

* * *

(c) The Authority shall have and is vested with the authority to grant or refuse licenses for the sale at retail of malt, vinous or spirituous liquors and fermented malt beverages, as provided by law, to conduct investigations as are required by law, to allow "tastings," as that term is defined in C.R.S § 44-3-103(56), at licensed retail liquor stores, ~~and~~ liquor-licensed drug stores AND FERMENTED MALT BEVERAGE AND WINE RETAILERS, subject to the requirements and limitations contained in C.R.S. § 44-3-301, to issue takeout and delivery permits, and to suspend or revoke such licenses for cause in the manner provided by law. Such Authority shall have all the powers of the local liquor licensing authority as set forth in Articles 3 and 4 of Title 44, C.R.S.

Section 2. Section 18-2-3, subsection (a) of the Northglenn Municipal Code is amended to read as follows:

Section 18-2-3. Manager Registration.

(a) Each licensee holding a fermented malt beverage AND WINE off-premises, club, tavern, or lodging and entertainment facility license shall manage such premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of such manager to the Licensing Authority. Such licensee shall report any change in managers to the Licensing Authority within thirty (30) days after any change, hire or transfer any manager to the licensee's premises.

Section 3. Section 18-2-8.5, subsection (c)(1) of the Northglenn Municipal Code is amended to read as follows:

Section 18-2-8.5(c). Takeout and Delivery Permits.

(1) The Licensing Authority may issue takeout and delivery permits for the following types of licenses in compliance with C.R.S. §44-3-911, as amended: beer and wine, hotel and restaurant, tavern, brew pub, club, vintner's restaurant, distillery pub, lodging and entertainment facility, fermented malt beverage AND WINE on- or off-premises retailers, and manufacturers and wholesalers with an approved sales room.

INTRODUCED, READ, AND ORDERED POSTED this ____ day of _____, 2023.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____, 2023.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

Tasting Regulations

Tastings have been allowed in the City of Northglenn since 2006 at licensed retail liquor stores and liquor-licensed drug stores. [Authorized by Ordinance No. 1434]

The City's Liquor Licensing Authority approves or denies applications for tastings.

The Colorado Liquor Code regulates tastings, as follows:

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 is a retail liquor store licensee, a liquor-licensed drugstore licensee, a fermented malt beverage or wine licensee, an employee of a retail liquor store or liquor-licensed drug store licensee, fermented malt beverage or wine licensee, or a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or the vintner's restaurant promoting the alcohol beverages for the tasting.
2. Tastings may occur only on a licensee's licensed premises.
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. The licensee shall dispense the alcohol samples from cups that have markings that indicate the size of the alcohol sample.
4. Tastings shall not exceed a total of five hours in duration per day. Hours do not need to be consecutive.
5. 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 9:00 p.m.
6. Tastings may occur on no more than 156 days per year.
7. The licensee shall provide the local licensing authority with a schedule of dates and times the tastings will be conducted. Such notice shall be at least 30 days prior to the tasting, and any changes to the schedule must be provided at least 48 hours prior to the scheduled tasting.
8. A logbook must be maintained of all tastings. Training certificates for all servers must also be maintained in the logbook. The logbook must be available for inspection by enforcement officials at any time.
9. The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
10. The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises, destroy the samples immediately following the completion of the tasting, or store any open containers of unconsumed alcohol beverages in a secure area outside the sales area of the licensed premises for use at a tasting conducted at a later time or date.
11. The licensee shall not serve a person who is under 21 years of age or who is visibly intoxicated.
12. The licensee shall not serve more than 4 individual samples to a patron during a tasting.
13. Alcohol samples shall be in open containers and shall be provided to a patron free of charge.

14. The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to C.R.S. § 43-3-403 at a cost that is not less than the laid-in cost of such alcohol.
15. No manufacturer of spirituous, malt or vinous liquors shall induce a licensee through free goods, 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 conducted on its licensed premises.
16. A violation of any of the limitations specified herein 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 and shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to the licensee.

SPONSORED BY: MAYOR LEIGHTY

COUNCIL MEMBER'S BILL

ORDINANCE NO.

No. CB-2009
Series of 2023

Series of 2023

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WHEREAS, the City now desires to amend applicable sections of Article 2 of Chapter 18 of the Northglenn Municipal Code to update the license class title and to include fermented malt beverage and wine retailers as licensees that may apply for tastings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

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INTRODUCED, READ, AND ORDERED POSTED this 12th day of June, 2023.


SHANNON LUKEMAN-HIROMASA
Mayor Pro Tem

ATTEST:


JOHANNA SMALL, CMC
City Clerk


PASSED ON SECOND AND FINAL READING this ____ day of _____, 2023.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:



COREY Y. HOFFMANN
City Attorney