

ORDINANCE NO. 2023-005

**AN ORDINANCE AMENDING SECTION 110 OF CHAPTER 2.17
OF THE CASTLE ROCK MUNICIPAL CODE REGARDING TASTING LICENSES**

WHEREAS, the Town Council (the “Town Council”) of the Town of Castle Rock, Colorado (the “Town”) has adopted ordinances related to liquor licensing; and

WHEREAS, C.R.S. 44-3-301 allows Fermented Malt Beverage and Wine Retailer licensees to conduct tastings; and

WHEREAS, the Castle Rock Municipal Code (the “Code”) includes provisions allowing retail liquor stores and liquor-licensed drug stores to conduct tastings as well as the process for submitting tasting applications and limitations that are more restrictive than state statute; and

WHEREAS, Proposition 125 was passed by voters in the November 2022 election and allowed Fermented Malt Beverage licenses (“FMB”) to sell wine and conduct tastings; and

WHEREAS, all current FMB licenses will automatically be converted to Fermented Malt Beverage and Wine Retailer licenses on March 1, 2023; and

WHEREAS, the Town Council, after taking into consideration the recommendations of Town Staff, now desires to adopt certain amendments to Chapter 2.17 of the Code.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Legislative Findings. The recitals of this ordinance are adopted as findings of the Town Council in support of the enactment of this Ordinance.

Section 2. Amendment. Section 2.17.110 of the Castle Rock Municipal Code is amended to read as follows:

2.17.110 – Tastings license authorization.

A. Authorization. In accordance with Section 44-3-301(10)(a), C.R.S., the Town hereby authorizes “tastings.” ~~as that term is defined in Section 44-3-103(56), C.R.S., thereby allowing~~ Retail liquor store, ~~and~~ liquor-licensed drug store, AND FERMENTED MALT BEVERAGE AND WINE RETAILER licensees SHALL BE ALLOWED to conduct tastings subject to all of the limitations set forth in § 44-3-301(10), C.R.S. AND THIS CODE.

B. Applications. Applications for tastings shall be submitted to the Town Clerk on forms provided by the Town, together with the applicable license fee. THE TOWN CLERK WILL DETERMINE WHETHER APPLICATIONS COMPLY WITH § 44-3-301(10)(b), C.R.S. AND THIS CODE. ~~No tastings application shall be accepted by the Town Clerk which is not complete in every detail.~~

~~C. Process. Upon receiving the completed tastings application, the Town Clerk shall prepare the file for review by the Town Liquor Licensing Authority at its regularly scheduled meeting. In the event the Liquor Licensing Authority determines that the applicant has complied with the provisions of § 44-3-301, C.R.S., and that the applicant is able to conduct tastings without creating a public safety risk to the neighborhood, the application shall be granted.~~

~~D.C. Limitations. IN ADDITION TO THE LIMITATIONS SET FORTH IN SECTION 44-3-301(10), C.R.S., Tastings tastings 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 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. A certificate of training shall be provided to the local licensing authority with the application form attached to the ordinance codified herein, a copy of which is available in the office of the Town Clerk.~~
- ~~2. The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub or winery licensed pursuant to § 44-3-403, C.R.S., at a cost that is not less than the laid in cost of such alcohol.~~
- ~~3. The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one half (1/2) of one (1) ounce of spirituous liquor.~~
- ~~4. Tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive.~~
- ~~51. Tastings shall be conducted IN NO CASE EARLIER THAN 11:00 A.M. OR LATER THAN 7:00 P.M. 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.~~
- ~~62. Tastings may occur on no more than four (4) of the six (6) days from a Monday to the following Saturday, not to exceed a total of one hundred four (104) 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 seventy two (72) hours prior to the tasting.~~
- ~~8. The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.~~
- ~~9. 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.~~

- ~~10. The licensee shall not serve a person who is under twenty one (21) years of age or who is visibly intoxicated.~~
- ~~11. The licensee shall not serve more than four (4) individual samples to a patron during a tasting.~~
- ~~12. Alcohol samples shall be in open containers and shall be provided to a patron free of charge.~~
- ~~13. 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.~~
- ~~14. 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.~~

~~E. Hearing. If the Liquor Licensing Authority determines that there is good cause for a hearing to consider whether the applicant has complied with the provisions of § 44-3-301, C.R.S., or whether the applicant is able to conduct tastings without creating a public safety risk to the neighborhood, the Town Clerk, at the direction of the Liquor Licensing Authority, shall cause to be issued a notice of hearing on the tastings application. In the event the Town Clerk issues a notice of hearing on the tastings application, the notice shall be conspicuously posted on the premises at least ten (10) days prior to the hearing. Hearings held on any tasting application may result in approval or denial of said application, and the grounds for any decision on said application shall be whether the applicant had complied with the provision of § 44-3-301, C.R.S., and whether the applicant is able to conduct tastings without creating a public safety risk to the neighborhood. Such decision of the Liquor Licensing Authority shall be final.~~

~~F. Annual license. A tastings license shall be valid for one (1) year, and shall run concurrently with the retail liquor store or liquor licensed drug store license of the holder of the tastings license; provided however, that the first tastings license issued to a retail liquor store or liquor licensed drug store licensee shall be valid only until the expiration of the then current retail liquor store or liquor licensed drug store license.~~

~~G. Suspension or revocation of license. Any violation of the terms and conditions of a tastings license may result in the suspension or revocation of the tastings license, as well as the licensee's retail liquor store or liquor licensed drug store license. The suspension of the retail liquor store or liquor licensed drug store license of the holder of a tastings license shall automatically operate to suspend or revoke such tastings license.~~

Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgement shall not affect the remaining provisions of this ordinance.

Section 4. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 21st day of February, 2023, by a vote of 7 for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 7th day of March, 2023, by the Town Council of Castle Rock by a vote of 7 for and 0 against.

ATTEST:

DocuSigned by:

Robbie Schouler

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Lisa Anderson, Town Clerk

DocuSigned by: **TOWN OF CASTLE ROCK**



DocuSigned by:

Jason Gray

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Jason Gray, Mayor

Approved as to form:

DocuSigned by:

Mike Hyman

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Michael J. Hyman, Town Attorney

Approved as to content:

DocuSigned by:

Lisa Anderson

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Lisa Anderson, Town Clerk