

## Staff Report

# **OPTIONS AVAILABLE TO ALLOW ALCOHOLIC BEVERAGE TASTING EVENTS**

September 27, 2011

### **BACKGROUND**

On September 13, 2011 Council requested that staff prepare a report regarding the options available to allow beer, wine, and liquor tasting events that are open to the public.

Iowa Code Section 123.46 and Ames Municipal Code Section 17.17 both provide that a person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place except premises covered by a liquor control license. This section of Ames Municipal Code allows for tastings to be held by individuals in private homes or by organizations which hold events that are open only to their membership.

According to the State Alcoholic Beverages Division (ABD) website, "licensees may conduct tastings and samplings on the licensed premises as long as the tasting or sampling involves only those alcoholic beverages that their license allows them to sell." In addition, "Tastings and samplings that involve liquor must be conducted on premises covered by a liquor license." This area of the website does not state that an on-premise license is required. Furthermore, "tastings that involve wine and beer may be conducted on licensed and unlicensed premises." The site goes on to say that all laws and rules governing liquor, wine, and beer must be observed during tasting and sampling, such as legal drinking age, hours of sale, etc.

The position of the ABD appears to be that consuming one ounce or less of an alcoholic beverage does not constitute consumption. Staff is unable to find anywhere in the Iowa Code where consumption is defined as more than one ounce. Furthermore, there is no limit indicated in State Code (or through ABD's website information) on the number of samples that can be consumed at a particular sampling event.

Since this issue arose in August, staff has attempted to contact ABD several times to clarify the legal basis for its interpretation of the alcohol control statutes. As of this report, representatives of ABD have not responded to our inquiries.

### **CURRENT STATUS OF TASTING EVENTS**

Under the interpretation of the law that ABD and City staff agree on, tasting events are currently permitted in establishments covered by a Class A Liquor, Class B Beer On-Premises, Special Class C Liquor On-Premises, or Class C Liquor On-Premises license.

Table 1 describes the types of tastings that are legal under staff and ABD's interpretation of the law. These establishments have the appropriate license and the dram insurance to provide liability coverage in the event that a patron causes personal injury or property damage after leaving the establishment.

**Table 1: Eligibility to Hold Alcoholic Beverage Tastings Based on Current City, State Law**

	No license	Class C Beer Off Premises	Class B Wine Off Premises	Class E Liquor Off Premises	Class B Beer On Premises	Special Class C Liquor On Premises	Class A Liquor On Premises	Class C Liquor On Premises
(sample business)	(hair salon)	(gas station)	(souvenir shop)	(liquor store)	(restaurant)	(restaurant)	(country club)	(bar)
Beer					Currently OK	Currently OK	Currently OK	Currently OK
Wine						Currently OK	Currently OK	Currently OK
Liquor							Currently OK	Currently OK

## **OPTIONS FOR THE CITY COUNCIL TO CONSIDER**

### **Option 1 – Maintain Status Quo**

Under this option, an establishment with an appropriate “On-Premise” license may conduct tastings of products which they are allowed to sell under their license.

### **Option 2 – Reinterpret Ames Municipal Code Sec. 17.17 (1) To Conform With State Alcoholic Beverage Division (ABD) Guidelines, With No Additional Restrictions Beyond the ABD Guidelines**

Under this option, a “valid liquor control license” would mean any license, whether on-premise or off-premise. This new interpretation would mean any establishment or business with any type of valid license would be allowed to offer public tasting events. This option would not limit the number of samples that a person could consume.

### **Option 3 – Reinterpret Ames Municipal Code Sec. 17.17 (1) To Conform With State Alcoholic Beverage Division Guidelines With Additional Restrictions Beyond the ABD Guidelines**

Under this option, the Council could add some or all of the following requirements:

- Those wishing to hold tastings could be required to submit an application to the City staff’s Special Events Committee at least two weeks in advance. The Special Events Committee would have the authority to approve or deny requests. Criteria can be established similar to those used when a Class C license holder wishes to hold an “all ages” event.
- Specify a maximum number of samples that may be provided to any one person. Samples could be defined as amounts not to exceed one ounce for beer or wine and one-quarter ounce for liquor.
- Sampling may only occur during hours the establishment is licensed to sell alcohol, but in no case is tasting permitted during a specified time period ( such as before 8 A.M. or after 10 P.M.). Tastings may not exceed a certain number of hours (such as four hours in length), which must run consecutively.
- Sampling must occur inside a clearly delineated area inside an establishment. Outdoor samplings are prohibited (unless they fall under the Approved Farmer’s Market exception in Section 17.17
- Limitations may exist on the number of tasting events that may occur at a given location in one year (such as once per month).
- A permit and fee are required to compensate for the cost of enforcement.
- Those conducting tastings must provide proof that they have notified their liability insurance carrier of the tasting activity.

Parameters like these would provide a more controlled environment in which tasting could occur than the existing situation. Sampling locations would be liable for any claims that arise under their standard liability insurance. In addition, they could choose to contract with a vendor or distributor of a particular product and arrange to share liability under the vendor’s liability insurance.

**Table 2: Eligibility to Hold Alcoholic Beverage Tastings Based on Proposed Control Measures (Option 2 & 3)**

	No license	Class C Beer Off Premises	Class B Wine Off Premises	Class E Liquor Off Premises	Class B Beer On Premises	Special Class C Liquor On Premises	Class A Liquor On Premises	Class C Liquor On Premises
(sample business)	(hair salon)	(gas station)	(souvenir shop)	(liquor store)	(restaurant)	(restaurant)	(country club)	(bar)
Beer		Proposed Allowed		Proposed Allowed	Currently OK	Currently OK	Currently OK	Currently OK
Wine			Proposed Allowed	Proposed Allowed		Currently OK	Currently OK	Currently OK
Liquor				Proposed Allowed			Currently OK	Currently OK

## **STAFF COMMENTS**

Staff has prepared three options for the City Council, one of which would be the ability to hold public tasting events under the current interpretation of our ordinance. The other two options provide for a re-interpretation of our ordinance in that “valid liquor control license” would be interpreted as a license which would allow for only off-premises consumption being acceptable for on-premises tasting. In no instance is staff recommending that public tasting be allowed in any establishment that does not hold some form of license issued by the state ABD.

Before Council makes its final decision on whether to maintain, reinterpret, or revise the existing ordinances, staff would recommend that they be directed to host a meeting with alcohol license holders in Ames and explain the circumstances under which tasting is currently allowed and the potential changes to the ordinance. This would allow feedback from local businesses and clubs to be considered before a final decision is reached by Council.