

## NOTICE OF RULEMAKING HEARING

### Department of Revenue Liquor Enforcement Division

The Executive Director of the Colorado Department of Revenue, on behalf of the Liquor Enforcement Division (“Division”), serving as the State Licensing Authority pursuant to section 44-3-201, C.R.S., will consider the promulgation of additions and amendments to the Colorado Liquor Rules, 1 C.C.R. 203-2, as authorized by Article 3 of Title 44, C.R.S. For specific information and language concerning the proposed changes and new rules, please refer to the contents of this Notice and the proposed rules that are set forth following this notice and are available on the Division’s website: <https://sbg.colorado.gov/liquor>.

### STATUTORY AUTHORITY FOR RULEMAKING

The Executive Director promulgates the additions and amendments to these rules pursuant to the authority granted in section 44-3-202, C.R.S., and section 24-4-103, C.R.S., of the Administrative Procedure Act, and the specific rulemaking authority set forth in the basis and purpose for each rule incorporated herein and identified below.

### SUBJECT OF RULEMAKING

The proposed rules and relevant information are posted on Division’s website, <https://sbg.colorado.gov/liquor>. In addition, the proposed rules attached to this Notice are fully incorporated herein.

The Executive Director will consider the promulgation of the following list of new rules and/or existing rules with proposed changes. For specific information and language concerning the proposed changes, please refer to the proposed rules that are set forth with this Notice, posted on Division’s website, and posted on the Colorado Secretary of State’s website.

### RULES TO BE CONSIDERED FOR AMENDMENT OR ADOPTION

The Rules to be considered for amendment or adoption are described as follows:

**Regulation 47-302.** Changing, Altering, or Modifying Licensed Premises.

**Regulation 47-312.** Change of Location.

### RULEMAKING RECORD AND PUBLIC PARTICIPATION

1. Official Rulemaking Record. The official record for purposes of the rulemaking hearing to be held on December 15, 2022, will include any written comments or oral testimony submitted or presented.
2. Written Comments. The Executive Director encourages interested parties to submit written comments on the proposed rules, including alternate proposals, by December 9, 2022, so that the Executive Director can review comments prior to the rulemaking hearing. Written comments will also be accepted after that date. The deadline to submit written comments is 5:00 P.M. on December 16, 2022. Written comments may be emailed to: [dor\\_led\\_rulemaking@state.co.us](mailto:dor_led_rulemaking@state.co.us). In addition, you may submit written comments to:

Liquor and Tobacco Enforcement Division  
Attn: Liquor Rules  
P.O. Box 17087  
Denver, CO 80217-0087

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3. Oral Comments. At his discretion, the Executive Director may afford interested parties an opportunity to make brief oral presentations at the rulemaking hearing. If allowed, oral presentations likely will be limited to two minutes or less per person. Individuals will not be allowed to cede their time to another person (for instance, one person speaking on behalf of five people will not be given ten minutes to speak). Organized groups of individuals are urged to identify one spokesperson and to be concise.

**HEARING SCHEDULE**

Date: December 15, 2022  
Time: 11:00a.m. – 12:00p.m.  
Location: 1707 Cole Blvd, Suite 300, Red Rocks Conference Room  
Lakewood, CO 80401

The hearing will be held in the “Red Rocks” conference room as well as virtually through Google Meet. Access details are below:

**Meeting ID**

[meet.google.com/ewc-pvzb-myk](https://meet.google.com/ewc-pvzb-myk)

**Phone Numbers**

(US)+1 386-603-3236  
PIN: 882 456 156#

Access links/Meeting IDs for the rulemaking hearing will also be posted on the Division’s website and the Secretary of State’s website.

The hearing may be continued at such place and time as the Executive Director may announce.

The Executive Director shall deliberate upon the rulemaking record, including oral testimony and written submissions presented, as well as applicable legal provisions and any related matters properly submitted before the hearing record is closed. Pursuant to said hearing, in the above-entitled matter at the time and place aforesaid, or at any adjourned meeting, the Executive Director will adopt such rules as in its judgment are justified by the rulemaking record and applicable legal provisions.

If you are an individual with a disability who needs a reasonable accommodation in order to participate in this rulemaking hearing, please contact [dor\\_led@state.co.us](mailto:dor_led@state.co.us) no later than December 9, 2022.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022.

THE COLORADO DEPARTMENT OF REVENUE,  
LIQUOR ENFORCEMENT DIVISION

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Mark Ferrandino  
Executive Director/Chief Executive Officer  
Colorado Department of Revenue

**DEPARTMENT OF REVENUE**

**Liquor Enforcement Division**

**COLORADO LIQUOR RULES**

**1 CCR 203-2**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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**Regulation 47-302. Changing, Altering, or Modifying Licensed Premises.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(D), C.R.S. The purpose of this regulation is to establish procedures for a licensee seeking to make material or substantial alterations to the licensed premises, and provide factors the licensing authority must consider when evaluating such alterations for approval or rejection.

- A. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the latest approved plans and specifications on file with the state and local licensing authorities without application to, and the approval of, the respective licensing authorities. For purposes of this regulation, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior approval, shall include, but not be limited to, the following:
1. Any increase or decrease in the total size or capacity of the licensed premises.
  2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the sale or distribution of alcohol beverages within the licensed premises.
  3. Any substantial or material enlargement of a bar, relocation of a bar, or addition of a separate bar. However, the temporary addition of bars or service areas to accommodate seasonal operations shall not require prior approval unless the additional service areas are accompanied by an enlargement of the licensed premises.
  4. A temporary outside service area located on a sidewalk owned by a municipality, and that the licensee possesses in accordance with subsection (B)(2) of this regulation, may be approved by the state and local licensing authorities upon the annual filing of a temporary modification of premises application, due at the time of initial application or at the time of renewal, on a form approved by the State Licensing Authority, and payment of the associated fee as set forth in Regulation 47-506, provided that:
    - a. the proposed temporary outside service area located on a sidewalk is immediately adjacent to the licensed premises;
    - b. The licensed premises, as temporarily modified, will comprise a definite contiguous area; and
    - c. Plans and specifications identifying the temporary outside service area located on a sidewalk accompany the form and fee.
  5. Any material change in the interior of the premises that would affect the basic character of the premises or the physical structure detailed in the latest approved plans and specifications on

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file with the state and local licensing authorities. However, the following types of modifications will not require prior approval, even if a local building permit is required: painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment; and any non-structural remodeling where the remodel does not expand or reduce the existing area designed for the display or sale of alcohol beverage products.

6. The destruction or demolition, and subsequent reconstruction, of a building that contained the retailer's licensed premises shall require the filing of new building plans with the local licensing authority, or in the case of manufacturers and wholesalers, with the state licensing authority. However, reconstruction shall not require an application to modify the premises unless the proposed plan for the newly-constructed premises materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications detailed in the latest approved plans and specifications on file with the state and local licensing authorities.
  7. Nothing herein shall prohibit a licensee, who is otherwise not eligible for an optional premises permit or optional premises license, from modifying its licensed premises to include in the licensed premises a public thoroughfare, if the following conditions are met:
    - a. The licensee has been granted an easement for the public thoroughfare for the purpose of transporting alcohol beverages.
    - b. The public thoroughfare is authorized solely for pedestrian and non-motorized traffic.
    - c. The inclusion of the public thoroughfare is solely for the purpose of transporting alcohol beverages between licensed areas, and no sale or consumption will occur on or within the public thoroughfare.
    - d. Any other conditions as established by the local licensing authority.
  8. The addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.
  9. Modification of the licensed premises to include a communal outdoor dining area, subject to the requirements of section 44-3-912, C.R.S., and Regulation 47-1103.
- B. In making its decision with respect to any proposed changes, alterations or modifications, the licensing authority must consider whether the premises, as changed, altered or modified, will meet all of the pertinent requirements of the Colorado Liquor or Beer Codes and related regulations. Factors to be taken into account by the licensing authority shall include, but not be limited to, the following:
1. The reasonable requirements of the neighborhood and the desires of the adult inhabitants.
  2. The possession, by the licensee, of the changed premises by ownership, lease, rental or other arrangement.
  3. Compliance with the applicable zoning laws of the municipality, city and county or county.
  4. Compliance with the distance prohibition in regard to any public or parochial school or the principal campus of any college, university, or seminary.
  5. The legislative declaration that the Colorado Liquor and Beer Codes are an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.

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- C. If permission to change, alter or modify the licensed premises is denied, the licensing authority shall give notice in writing and shall state grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the licensing authority within fifteen (15) days after the date of notice.
- D. This regulation shall be applicable to the holder of a manufacturer's license as specifically defined in Section 44-3-402, C.R.S., or a limited winery defined in section 44-3-403, C.R.S., only if the physical change, alteration, or modification involves any increase or decrease in the total size of the licensed premises, including the addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S. Except, any change, alteration, or modification of a sales room, shall be reported in accordance with subsection (A).
- E. The state licensing authority shall not impose any additional fees for the processing or review of an application for a modification of premises for the holder of a manufacturer's license, except for applications to modify the premises through the addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.
- ~~F. Due to public health concerns raised by the presence COVID-19 in Colorado, a licensee may apply to temporarily modify its licensed premises to facilitate social distancing by employees and customers and to facilitate compliance with the requirements of applicable public health orders (See Regulation 47-1102).~~
- ~~1. If permitted by the relevant local licensing authority, the temporary premises modification may include expansion of the licensed premises into outside areas that the licensee possesses in accordance with subsection (B)(2) of this regulation, provided that:~~
- ~~a. Any outside area proposed to be included in the licensed premises, as temporarily modified, is contiguous or adjacent to the licensed premises and appropriately monitored by the licensee;~~
- ~~b. The licensed premises, as temporarily modified, will comprise a definite contiguous area;~~
- ~~c. The licensee will designate the boundaries of the licensed premises, as temporarily modified, using barriers approved by the local licensing authority and state licensing authority and post warning signs in areas visible to the public, including all points of ingress and egress, regarding laws against public consumption of alcohol beverages;~~
- ~~d. The licensed premises, as temporarily modified, will not encroach upon or overlap with the licensed premises of any other licensee;~~
- ~~e. The licensed premises, as temporarily modified, complies with local building and zoning laws; and~~
- ~~f. The licensed premises, as temporarily modified, complies with all other restrictions and requirements imposed by the Colorado Liquor Code and Rules.~~
- ~~2. A temporary modification of a licensed premises pursuant to this paragraph (F) may be approved by the state and local licensing authorities after the filing of a temporary modification of premises application on a form approved by the State Licensing Authority, including plans and specifications of the licensed premises, as temporarily modified, and a one-time payment of the modification of licensed premises fee set forth in Regulation 47-506.~~
- ~~3. Any temporary modification approved pursuant to this paragraph (F) shall expire on May 31, 2022, unless the relevant local licensing authority imposes an earlier expiration date. A licensee~~

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~~is not required to pay an additional modification of licensed premises fee or obtain approval to remove a temporary modification to the licensed premises upon expiration of this paragraph (F).~~

~~4. Nothing in this regulation requires a local licensing authority to allow temporary premises modifications in response to COVID-19. A local licensing authority that allows temporary premises modifications may establish an earlier expiration date for any temporary modifications issued in the relevant jurisdiction and may establish additional requirements for temporary modifications that are at least as restrictive as the requirements in this paragraph (F).~~

~~5. This subsection (F) is effective until May 31, 2022 and is repealed effective June 1, 2022.~~

**Regulation 47-312. Change of Location.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), 44-3-301(9), 44-3-309, and 44-3-410, C.R.S. The purpose of this regulation is to establish procedures for a licensee requesting to change the location of the licensed premises, and provide factors the licensing authority must consider when evaluating a change for approval or rejection.

- A. When a licensee desires to change the location of its licensed premises from the location named in an existing license, it shall make application to the applicable licensing authorities for permission to change location of its licensed premises, except that an application for change of location shall not be required for the demolition and reconstruction of the building in which the original licensed premises was located.
- B. Applications to change location shall be made upon forms prepared by the state licensing authority and shall be complete in every detail. Each such application shall state the reason for such change, and in case of a retail license, shall be supported by evidence that the proposed change will not conflict with the desires of the adult inhabitants and the reasonable requirements of the neighborhood in the vicinity of the new location.
  1. An application to change the location of a retail license shall contain a report of the local licensing authority of the town, city, county, or city and county in which the license is to be exercised. Such report shall describe the findings of the local licensing authority concerning the reasonable requirements of the neighborhood and the desires of the adult inhabitants with respect to the new location, except that pursuant to section 44-3-312(2)(a), C.R.S., the needs of the neighborhood ~~shall need not be~~ considered for a change of location for a club license.
  2. When a licensee is required by lease, lease renewal, condemnation, or reconstruction to move its licensed premises to a new address that is located within the same shopping center, campus, fairground, or similar retail center, the local or state licensing authority may, at its discretion, waive the neighborhood needs and desires assessment requirements should it determine that the new location remains within the same neighborhood as the old location.
- C. For retail licenses, no change of location shall be permitted until the state licensing authority has, after approval of the local licensing authority, considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. A local licensing authority may, at its discretion, extend the time to change the location of the licensed premises, for good cause shown. However, no extension that is beyond twelve (12) months from the original date of approval shall be granted.
- D. For those licensees not subject to approval by the local licensing authority, no change of location shall be permitted until the state licensing authority has considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the

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former location. The state licensing authority may, at its discretion, extend the time to change the location, for good cause shown. However, no extension that is beyond twelve months from the original date of approval shall be granted.

- E. Once the licensee has changed the location of its licensed premises, the permit to change location shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains until the license is renewed.
- F. For retail licenses no change of location shall be allowed except to another location within the same city, town, county, or city and county in which the license was originally issued. Except, a retail liquor store licensed on or before January 1, 2016, may apply to move its permanent location to another place within or outside the municipality or county in which the license was originally granted. Once approved, the retail liquor store licensee shall change the location of its premises within three (3) years after such approval.
  - 1. A change of location for a fermented malt beverage retailer or retail liquor store will be approved only if the new location satisfies the distance requirements in section 44-3301(9)(a)(I)(B)-(C), C.R.S.
  - 2. It is unlawful for a licensee to sell any alcohol beverage at a new location until permission is granted by the state licensing and local licensing authorities.
- G. Upon application for change of location, public notice shall be required by the local licensing authority in accordance with Section 44-3-311, C.R.S.
- H. A licensee located within 500 feet from any public or parochial school or principal campus of any college, university or seminary may apply for a change of location within the same prohibited area in accordance with the requirements of section 44-3-301(9), C.R.S., but may not apply for a change of location within any other prohibited area as defined within section 44-3-313, C.R.S.
- I. A licensee that is in lawful possession of its alcohol beverage inventory at the time it receives approval from the local and state licensing authorities to change the location of its licensed premises, may continue to possess its alcohol beverage inventory for sale at the new location.