

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

Basis and Purpose. The statutory authority for this regulation is located at 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 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.
- 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.
- 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. Except, any change, alteration, or modification of a sales room, shall be reported in accordance with subsection (A).
- E. Neither the state or local licensing authority shall 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.
- 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 SUBSECTION (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 SUBSECTION (F) SHALL EXPIRE ONE HUNDRED TWENTY DAYS FROM THE DATE SUBSECTION (F) OF THIS REGULATION IS ADOPTED BY THE STATE LICENSING AUTHORITY, UNLESS EXTENDED BY SUBSEQUENT RULE OR OTHER ACTION OF THE STATE LICENSING AUTHORITY. A LICENSEE 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 SUBSECTION (F).