



COLORADO

Department of Revenue

Specialized Business Group—
Liquor & Tobacco

Physical Address:
1707 Cole Boulevard, Suite 300
Lakewood, CO 80401

Mailing Address:
P.O. Box 17087
Denver, Colorado 80217-087
Fax: 303-866-2428

BULLETIN 21-05

REFERENCE: Service Area Premises Extension Options for Licensees

DATE: September 28, 2021

The Division has received inquiries lately regarding premises modifications and utilization of expanded spaces for alcohol consumption available to licensees and local jurisdictions. We understand the importance of these options to businesses, and strive to provide as many COVID relief and recovery-forward programs to licensees as we possibly can, while remaining diligently focused on public-safety and the health of our communities. This bulletin will serve to help differentiate and distinguish the multiple avenues available to various licensees to expand their premises and provide for various space-utilizations that align with any given proposed business model. The Division always recommends that you consult independent counsel on matters of licensure and business needs, but is happy to answer any questions you may have at: dor_led@state.co.us

Entertainment Districts and Common Consumption Areas

ELIGIBLE LICENSEES: Taverns, Hotel and Restaurants, Brew Pubs, Distillery Pubs, Retail Gaming Taverns, Vintner's Restaurants, Beer and Wine Licensees, Manufacturers or Wholesalers that operate Sales Room(s), Limited Wineries, Lodging and Entertainment licensees, and Optional Premises licensees.

STATUTORY AND REGULATORY CITATIONS: Sections 44-3-103(11), 44-3-103(15), 44-3-301(11), and 44-3-910, C.R.S.; and Regulation 47-328, 1 CCR 203-2.

A locality may adopt an ordinance or resolution designating an area as an “entertainment district.” The entertainment district has to follow certain legal requirements, as listed in the statutory and regulatory citations section above. Within an entertainment district are “common consumption areas” that allow for the consumption of alcohol beverages purchased from a licensee that is attached to the common consumption area. Licensee’s must seek authorization from a Certified Promotional Association to attach their license to a common consumption area within the entertainment district. Common consumption areas must be closed to motor vehicle traffic and limit pedestrian access.

Communal Outdoor Dining Areas (CODAs)

ELIGIBLE LICENSEES: Taverns, Hotel and Restaurants, Brew Pubs, Distillery Pubs, Vintner's Restaurants, Beer and Wine Licensees, Manufacturers or Wholesalers that operate Sales Room(s), Limited Wineries, Lodging and Entertainment licensees, Optional Premises licensees, and Fermented Malt Beverage Retailers licensed for consumption on the premises..

STATUTORY AND REGULATORY CITATIONS: Section 44-3-912, C.R.S.; Regulation 47-1103, 1 CCR 203-2.

House Bill 21-1027 codified the ability for licensees to attach to a “Communal Outdoor Dining Area”(CODA) These are outdoor areas (though they may be encompassed by a tent, structure, etc. as long as public health and zoning guidance is followed at the local level) where two or more on-premises licensees may sell and serve alcohol beverages. The permanent licensed premises of each of the licensees associated with the CODA must be located within 1000 ft. of the CODA to be eligible for attachment. No licensee shall sell or serve alcohol beverages in a CODA without first acquiring a permit.



COLORADO Department of Revenue

Specialized Business Group—
Liquor & Tobacco

Physical Address:
1707 Cole Boulevard, Suite 300
Lakewood, CO 80401

Mailing Address:
P.O. Box 17087
Denver, Colorado 80217-087
Fax: 303-866-2428

Sidewalk Service Areas

ELIGIBLE LICENSEES: All licensees who have **on-premises** retail sales abilities, including manufacturers and wholesalers that operate sales room(s).

STATUTORY AND REGULATORY CITATIONS: Regulation 47-302(A)(4), 1 CCR 203-2.

These are areas on sidewalks located immediately adjacent to the permanent licensed premises of an on-premises licensee. Approval of a temporary modification of premises will allow a licensee to expand their service area onto a sidewalk that is owned by a municipality. The licensed premises, as temporarily modified to include the sidewalk, must comprise a definite contiguous area. The licensee must have the right of possession for the space (easement, lease, statement of use, etc.) from the governing body of the municipality.

Temporary Premises Modification (COVID-19 Modifications)

ELIGIBLE LICENSEES: All licensees.

STATUTORY AND REGULATORY CITATIONS: Regulation 47-302(F), 1 CCR 203-2.

These are temporary modifications of a licensed premises in order to facilitate increased social distancing for staff and customers. The licensee must be able to demonstrate lawful possession of the area they are expanding onto, and that area must be contiguous and adjacent to the licensed premises. The licensed premises of one licensee, as modified under this rule, may not overlap with the licensed premises of another licensee. The Regulation cited above has a current expiration date of October 31, 2021. **However**, in order to expand recovery opportunities, the Division has decided to extend the expiration date of this Regulation to **May 31, 2022** through upcoming emergency and permanent rulemaking. Please keep in mind that these temporary areas are eligible for permanent modification if they meet all the requirements for permanent inclusion.

Special Events

ELIGIBLE ORGANIZATIONS: Entities or persons qualifying under section 44-5-102, C.R.S. These include: organizations incorporated under Colorado laws, or a regularly chartered branch, lodge, or chapter of a national organization or society, organized for purposes of a social, fraternal, patriotic, political, educational, or athletic nature and are **not operating for pecuniary gain** (i.e. non-profit entities; a regularly established religious or philanthropic institution; a state institution of higher education; a political candidate who has filed the necessary reports and statements with the secretary of state pursuant to article 45 of title 1; any municipality, county, or special district; or a state agency, the Colorado Wine Industry Development Board, or any instrumentality of a municipality or county that promotes alcohol beverages manufactured in the state or tourism in an area of the state where alcohol beverages are manufactured (collectively “Qualifying Organizations”).

STATUTORY AND REGULATORY CITATIONS: Title 44, Article 5, C.R.S., Regulations 47-1000 – 47-1022, 1 CCR 203-2.

Special events may be held to benefit Qualifying Organizations. The Qualifying Organization is the permit holder and **all** proceeds from associated alcohol sales must go to the Qualifying Organization and not to participating licensees. Each Qualifying Organization may only hold up to fifteen (15) days of



COLORADO
Department of Revenue

Specialized Business Group—
Liquor & Tobacco

Physical Address:
1707 Cole Boulevard, Suite 300
Lakewood, CO 80401

Mailing Address:
P.O. Box 17087
Denver, Colorado 80217-087
Fax: 303-866-2428

special event activities in a calendar year. Special events are applied for with the local licensing authority in the jurisdiction in which the event is to be held. We recommend that you consult independent legal counsel in matters regarding participation in special event permit activities. While some Qualifying Organizations may call their special events “festivals”, ultimately festivals are a different type of permit (see below), distinct from special event permits and different rules apply to each of these types of permits.

Festivals

ELIGIBLE LICENSEES: Manufacturers, Limited Wineries, Wholesalers, Beer and Wine licensees, Hotels and Restaurants licensees, Taverns, Brew Pubs, Vintner’s Restaurants, and Distillery Pubs.

STATUTORY AND REGULATORY CITATIONS: Section 44-3-404, C.R.S..

Senate Bill 21-082 expanded the wine festival model to include more eligible licensee participants, as listed above. Each licensee may only participate in nine (9) festivals per calendar year. As noted above, while special events may be called “festivals,” ultimately the type of permit applied for and acquired governs the acceptable business practices at any given event.

Public Consumption

Consumption of alcohol beverages in public spaces is illegal unless permitted under the Liquor Code. For example, a local licensing authority or the parks and wildlife commission may allow consumption of alcohol beverages in specific public spaces outside of a liquor-licensed premises, other than a public right of way, through the adoption of ordinances, resolutions, or rules. Even if public consumption is allowed in an area that surrounds or is near a licensed premises, consumption of alcohol beverages on a licensed premises that were not purchased from the licensee is illegal.