

**Colorado Department of Revenue**

**Liquor Enforcement Division**

**1 C.C.R. 203-2**

**Emergency Rules**

Effective December 5, 2018

**Regulation 47-009 Fermented Malt Beverage Off-Premises Licenses Distance Requirement.**

Basis and Purpose. The statutory authority for this regulation is found at subsections 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), and 44-3-202(2)(a)(I)(O), C.R.S. The purpose of this regulation is to clarify the availability of the exception to the statutory distance requirement as it applies to fermented malt beverage off-premises licenses.

- A. The exceptions to the five hundred (500) foot distance restriction set forth in subsection 44-3-301(12)(a.5)(II)(A) and (B), C.R.S., shall apply only if the structure for which a building permit or certificate of occupancy has been timely applied for or received was intended for use as a fermented malt beverage retailer licensed premises at the time of submitting the application for the building permit or certificate of occupancy.

**Regulation 47-010. Items Approved for Sale in Fermented Malt Beverage Off-Premises Licenses.**

Basis and Purpose. The statutory authority for this regulation is found at subsections 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), and 44-3-202(2)(a)(I)(O), C.R.S. The purpose of this regulation is to define how applicable licensees must report and demonstrate compliance concerning this specific statutory requirement.

- A. To demonstrate compliance with subsection 44-4-107(3), C.R.S., if applicable, the applicant or licensee must affirm on its new and annual renewal application that the license derives or will derive at least twenty (20) percent of its gross annual revenues from total sales from the sale of food items for consumption off the premises. The exceptions to the foregoing requirement, set forth in subsections 44-4-107(3)(d)(I) and (II), C.R.S., shall apply only if the structure for which a building permit or certificate of occupancy has been applied for or received was intended for use as a fermented malt beverage retailer licensed premises at the time of submitting the application for a building permit or certificate of occupancy.
- B. Nothing within this regulation shall limit the authority of the state licensing authority to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify this affirmation or compliance with this statutory requirement.