

Regulation 47-1103. Communal Outdoor Dining Areas To Promote Social Distancing.

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), 44-3-202(2)(a)(I)(F), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(R), 44-3-601, and 24-4-104(4)(a), C.R.S. Authority for this regulation also includes executive order D 2020 093. The purpose of this regulation is to address operation of communal outdoor dining areas as a temporary measure intended to promote public health, safety and welfare through greater social distancing in accordance with relevant Public Health Orders issued by the Colorado Department of Public Health & Environment.

- A. For purposes of this Regulation 47-1103, “Communal Outdoor Dining Area” means an outdoor space used for food and alcohol beverage service by two or more on-premises liquor licensees, including approved sales room licensees, operating in accordance with an applicable public health order issued in response to COVID-19.
1. No licensee shall sell or serve alcohol beverages in a communal outdoor dining area unless the state and local licensing authorities have approved a temporary modification of licensed premises pursuant to Regulation 47-302(F) that includes the communal outdoor dining area.
 2. A licensee shall cease selling or serving alcohol beverages in a communal outdoor dining area once the approved temporary modification of licensed premises expires or Executive Order D 2020 093—or a subsequent order extending Executive Order D 2020 093—expires, whichever occurs first.
 3. Licensees selling or serving alcohol beverages in an approved communal outdoor dining area in compliance with the requirements of this Regulation 47-1103 are not subject to the restrictions in Regulation 47-302(F)(1)(b) and (d).
 4. A retail food establishment that does not have a liquor license may also serve food in a communal outdoor dining area approved under this regulation 47-1103.
- B. A communal outdoor dining area must be within 1000 feet of the permanent licensed premises of each of the licensees associated with the communal outdoor dining area. this distance shall be computed by direct measurement from the nearest property line of the land used for the communal outdoor dining area to the nearest portion of the building in which the permanent licensed premises is located, using a route of direct pedestrian access.
- C. If allowed by the local licensing authority, all licensees who wish to be associated with a communal dining area may submit a joint application to temporarily modify their licensed premises to include the communal outdoor dining area. Each licensee is responsible for paying the modification of licensed premises fee set forth in Regulation 47-506. See also Regulation 47-302(F)(2).
- D. All licensees associated with a communal outdoor dining area pursuant to this Regulation 47-1103 must adopt and agree to a security and control plan for the communal outdoor dining area that is approved by the state and local licensing authorities. The security and control plan shall ensure:

1. The licensees associated with the communal outdoor dining area have a method of identifying which licensee is selling or serving food and alcohol beverages to a particular table at any given time;
2. All customers at a table may only purchase or consume food and alcohol beverages from a single licensee associated with the communal dining area;
3. Any retail food establishments associated with the communal outdoor dining area that does not hold a liquor license acknowledges and agrees that alcohol beverages will be sold in the communal outdoor dining area only by, and under the control of, the licensees associated with the communal dining area;
4. One or more licensees will supervise or provide security within the communal outdoor dining area during all hours of operation to ensure compliance with this Regulation 47-1103 and all relevant requirements of article 3 of title 44 and the Colorado liquor rules; and
5. All licensees associated with the communal outdoor dining area agree they are jointly responsible for complying with this Regulation 47-1103 and all relevant requirements of article 3 of title 44 and the Colorado liquor rules.

E. A licensee associated with a communal outdoor dining area shall not:

1. Permit customers to leave the communal outdoor dining area with any alcohol beverage except as permitted under Regulation 47-918;
2. Permit customers to bring food into the communal dining area that was purchased outside of the communal dining area;
3. Permit takeout or delivery orders to be ordered from or delivered to the communal outdoor dining area;
4. Sell, serve, or permit consumption of alcohol beverages in the communal outdoor dining area during hours the licensed premises cannot sell alcohol under article 3 of title 44 or the limitations imposed by the local licensing authority;
5. Sell, serve, dispose of, exchange, or deliver, or permit the sale, serving, giving, or procuring of an alcohol beverage to a visibly intoxicated person or to a known drunkard;
6. Sell, serve, dispose of, exchange, or deliver, or permit the sale, serving, or giving of an alcohol beverage to a person under twenty-one years of age;
7. Permit a visibly intoxicated person to remain within the communal outdoor dining area without an acceptable purpose; or
8. Permit a person to consume an alcohol beverage within the communal outdoor dining area unless it was purchased within the communal outdoor dining area from a licensee associated with the communal outdoor dining area.

- F. Licensees associated with a communal outdoor dining area shall promptly remove all alcohol beverages from the communal outdoor dining area at the end of the hours of operation.
- G. This Regulation 47-1103 does not apply to a special event permit issued under article 5 of title 44 unless the permit holder desires to use an existing communal outdoor dining area and agrees in writing to the requirements of article 3 of title 44 and the local licensing authority concerning the communal outdoor dining area.
- H. A violation of this regulation by a licensee, or by any of the agents, servants, or employees of a licensee, may result in disciplinary action, up to and including license revocation, pursuant to section 44-3-601(1), C.R.S., and may result in summary suspension of a license pursuant to section 44-3-601(2) and Regulation 47-602. *See also* Regulation 47-1102 - Compliance with executive orders and public health orders issued during disaster emergencies.