



# *City of Cañon City*

***P.O. Box 1460 – 128 Main Street – Cañon City, CO 81215-1460***  
***(719) 269-9011 – Fax: (719) 269-9017***

## **INSTRUCTIONS FOR MODIFICATION OF PREMISES (Public Hearing Required)**

PURSUANT TO THE COLORADO LIQUOR CODE AND REGULATIONS AND/OR ORDINANCE No. 24, SERIES OF 2004, LIQUOR LICENSED ESTABLISHMENTS THAT PROPOSE MAKING MODIFICATIONS TO THEIR PREMISES MUST APPEAR BEFORE THE CITY COUNCIL, TYPICALLY WITHIN A PUBLIC HEARING, WITH AN APPLICATION FOR MODIFICATION OF PREMISES. IN MAKING THE DECISION AS TO WHETHER TO GRANT THE APPLICATION, THE COUNCIL WILL CONSIDER SEVERAL FACTORS, INCLUDING (BUT NOT LIMITED TO) THOSE LISTED BELOW:

- ❖ THE REASONABLE REQUIREMENTS OF THE NEIGHBORHOOD AND THE DESIRES OF THE ADULT INHABITANTS OF THE NEIGHBORHOOD
- ❖ THE LICENSEE'S RIGHT TO POSSESS THE PREMISES;
- ❖ APPLICABLE ZONING LAWS AND BUILDING CODES; AND
- ❖ THE LEGISLATIVE DECLARATION THAT THE LIQUOR AND BEER CODES ARE AN EXERCISE OF THE POLICE POWERS FOR THE PROTECTION OF THE ECONOMIC AND SOCIAL WELFARE AND HEALTH, PEACE AND MORALS OF THE PEOPLE.

THE MODIFICATION OF PREMISES YOU ARE PROPOSING QUALIFIES UNDER THE GUIDELINES FOR WHICH A PUBLIC HEARING MUST BE HELD. TEN DAYS PRIOR TO THE PUBLIC HEARING DATE, YOUR PREMISES MUST BE POSTED WITH A NOTICE OF PUBLIC HEARING (WHICH WILL BE PROVIDED BY THE CITY CLERK'S OFFICE) OF THE PROPOSED MODIFICATION.

A COPY OF ORDINANCE No. 24, SERIES OF 2004, IS ATTACHED FOR YOUR REVIEW.

PLEASE COMPLETE AND/OR FILE THE FOLLOWING ITEMS:

- ❖ STATE FORM DR 8442 – PERMIT APPLICATION AND REPORT OF CHANGES (COMPLETE QUESTIONS 1 THROUGH 4, 7, AND OATH OF APPLICANT SIGNATURE)
- ❖ CITY APPLICATION FOR MODIFICATION OF PREMISES
- ❖ A CHECK PAYABLE TO THE DEPARTMENT OF REVENUE FOR \$150.00
- ❖ A CHECK PAYABLE TO THE CITY OF CAÑON CITY FOR \$150.00
- ❖ A DIAGRAM OF THE PREMISES SHOWING THE CURRENT LICENSED PREMISES AND A DIAGRAM OF THE PROPOSED MODIFICATIONS. IF LICENSING ADDITIONAL SPACE, THE DIAGRAM SHOULD DEMONSTRATE THE CONNECTION (DOORWAY, HALLWAY, PARTY WALL, STAIRWAY, ETC.) TO THE CURRENT LICENSED PREMISES. THE DIAGRAM DOES NOT HAVE TO BE TO SCALE, BUT MUST INCLUDE MEASUREMENTS AND DIMENSIONS OF THE ROOM, ROOMS, OR AREAS. MAY BE NO LARGER THAN 8-1/2 x 11.
- ❖ (OPTIONAL) A PETITION IN SUPPORT OF YOUR APPLICATION. A BLANK PETITION MAY BE OBTAINED FROM THE CITY CLERK.
- ❖ A SIGNATURE OF APPROVAL OF THE PROPOSED MODIFICATIONS FROM THE CITY PLANNER, THE CITY BUILDING OFFICIAL, AND THE STATE HEALTH OFFICER (SEE BOTTOM OF CITY APPLICATION).



APPLICATION FOR  
MODIFICATION OF PREMISES OF A LIQUOR LICENSED ESTABLISHMENT

ESTABLISHMENT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT PERSON'S NAME: \_\_\_\_\_

DAYTIME PHONE NUMBER: \_\_\_\_\_ E-Mail: \_\_\_\_\_

\* \* \* \* \*

BRIEF DESCRIPTION OF MODIFICATION TO BE MADE

WHY IS THIS MODIFICATION NEEDED? WHAT WILL BE THE USE OF ANY ADDITIONAL SPACE? WILL SPACE TO BE MODIFIED CHANGE FROM ITS HISTORIC USE (i.e. space from a kitchen to seating area, or seating area into a dance floor)? IS THIS MODIFICATION NECESSARY FOR THE SUCCESSFUL OPERATION OF YOUR BUSINESS? WHAT WOULD BE THE IMPACT TO YOUR BUSINESS IF THE MODIFICATION WAS DENIED?

WHAT EVIDENCE DO YOU PROVIDE THAT THE NEIGHBORHOOD NEEDS OR THE ADULT INHABITANTS DESIRE THIS MODIFICATION?

**COMPLETE THE FOLLOWING QUESTIONS IF YOU ARE PROPOSING ADDING OR SUBTRACTING  
SPACE FROM THE LICENSED PREMISES:**

CURRENT CAPACITY OF LICENSED PREMISES: \_\_\_\_\_ SQUARE FOOTAGE: \_\_\_\_\_

CAPACITY OF SPACE TO BE ALTERED: \_\_\_\_\_ SQUARE FOOTAGE: \_\_\_\_\_

TOTAL CAPACITY AFTER MODIFICATION: \_\_\_\_\_ TOTAL SQ.FEET: \_\_\_\_\_

WHAT MEASURES WILL BE TAKEN TO PROVIDE SUPERVISION OF ANY ADDITIONAL AREA (IF APPLICABLE)? WILL ADDITIONAL PERSONNEL BE HIRED? WILL SURVEILLANCE CAMERAS BE USED? WILL YOU SET IN-HOUSE POLICIES ON THE USE OF THE ADDITIONAL SPACE?

**IF SPACE TO BE ADDED IS AN OUTDOOR AREA,** WHAT PRECAUTIONS/MEASURES WILL YOU TAKE TO INSURE THAT THE SPACE WILL NOT HAVE AN ADVERSE IMPACT WITHIN THE IMMEDIATE VICINITY OF THE LICENSED PREMISES? WILL MUSIC BE "PIPED IN" TO THIS AREA? WILL IT BE USED AFTER DARK? HOW WILL YOU LIGHT THE AREA? HOW WILL YOU ENCLOSE/CONTROL THE AREA? WHAT HOURS WILL THE OUTSIDE AREA OPERATE?

\* \* \* \* \*

PLEASE ATTACH ANY OTHER INFORMATION THAT YOU BELIEVE WILL FACILITATE THE LICENSING AUTHORITY IN MAKING THEIR DECISION.

SIGNATURE OF LICENSEE: \_\_\_\_\_ DATE: \_\_\_\_\_

\* \* \* \* \*

APPROVAL SIGNATURES REQUIRED:

CAÑON CITY PLANNER: \_\_\_\_\_ DATE: \_\_\_\_\_

DESCRIBE ANY CONDITIONS: \_\_\_\_\_

\_\_\_\_\_

CAÑON CITY BUILDING OFFICIAL: \_\_\_\_\_ DATE: \_\_\_\_\_

DESCRIBE ANY CONDITIONS: \_\_\_\_\_

\_\_\_\_\_

STATE HEALTH INSPECTOR: \_\_\_\_\_ DATE: \_\_\_\_\_

DESCRIBE ANY CONDITIONS: \_\_\_\_\_

\_\_\_\_\_

## **ORDINANCE NO. 24, SERIES OF 2004**

### **AN ORDINANCE OUTLINING THE CITY'S PROCEDURES FOR THE HANDLING OF APPLICATIONS TO CHANGE, ALTER OR MODIFY A LIQUOR LICENSED PREMISES.**

**WHEREAS**, the Council of Cañon City is the "Local Licensing Authority" in the City of Cañon City for all purposes under the Colorado Liquor Code, the Colorado Beer Code and the regulations promulgated under said codes; and

**WHEREAS**, one of the many duties of the Local Licensing Authority is to consider applications submitted by licensees for consent to physically change, alter or modify their licensed premises; and

**WHEREAS**, the process for proposing and the consideration of such changes, alterations or modifications of the licensed premises is governed by Regulation 47-302, Colorado Code of Regulations, 1 C.C.R. 203-2; and

**WHEREAS**, paragraph A of said Regulation 47-302 requires a licensee to seek the written consent of the Local Licensing Authority for any physical change, alteration or modification to the licensed premises which will materially or substantially alter the licensed premises or the usage of the licensed premises; and

**WHEREAS**, paragraph B of Regulation 47-302 requires that the Local Licensing Authority, when making its decision with respect to proposed changes, alterations or modifications of a licensed premises, must consider all pertinent requirements of the Liquor or Beer Codes and the regulations promulgated thereunder and also must take into account the several factors enumerated in said paragraph B of Regulation 47-302, including, but not limited to:

- The reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood;
- The licensee's right to possess the premises;
- Applicable zoning laws; and
- The legislative declaration that the Liquor and Beer Codes are an exercise of the police powers for the protection of the economic and social welfare and health, peace and morals of the people; and

**WHEREAS**, Regulation 47-302 does not require the Local Licensing Authority to conduct a public hearing prior to granting or denying an application for modification of premises, but the Council of Cañon City believes and hereby determines that public hearings regarding such applications are sometimes necessary in order to give applicants and the adult inhabitants of the neighborhood an opportunity to be heard and to provide the evidence and other information that must be considered by the Local Licensing Authority before its decision is made.

**NOW THEREFORE, IT IS HEREBY ORDAINED BY THE COUNCIL OF CAÑON CITY**, as follows:

**Section 1.** There shall be added to the Cañon City Municipal Code a new Section 5.30.020 and a new Section 5.30.030 to read as follows:

5.30.020        **CHANGING, ALTERING OR MODIFYING A LICENSED PREMISES.**

A. Whenever a person holding a license issued under the Colorado Liquor or Beer Codes applies for consent to change, alter or modify a licensed premise, City Council, acting as Local Licensing Authority, shall grant (with or without conditions) or deny such consent in writing. When an application is denied, the grounds for the denial shall be stated in the written decision.

B. When a licensee requests modifications that will not result in a change in the service capacity of the licensed premises, consent to the request may be granted or denied without a public hearing, provided that the application for modification is processed, considered and determined in a manner consistent with the requirements and provisions of Regulation 47-302, Colorado Code of Regulations, 1 C.C.R. 203-2. Examples of modifications that may be covered by this paragraph B include: remodeling of a kitchen or fixtures within a kitchen; changing an internal doorway from one location to another; and moving an existing bar from one location to another.

C. Except as provided in paragraph B of this section, the Local Licensing Authority will conduct a public hearing before granting (with or without conditions) or denying any application to change, alter or amend a licensed premises.

D. Examples of proposals that will require a public hearing prior to the Local Licensing Authority's decision include, but are not limited to, those which request:

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, or the addition of a separate bar, or the installation of a bar or bar area within a premises that has no bar or bar area;
4. the installation of a stage, bandstand or dance floor in a premises where there is no existing stage, bandstand or dance floor, or a material enlargement or reduction in size of an existing stage, bandstand or dance floor;
5. any other material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application.

E. Any public hearing permitted or required under paragraph C of this section shall be preceded by public notice given in accordance with the requirements of Section 12-47-311, C.R.S.

F. In any public hearing conducted pursuant to this section, it shall be the burden of the licensee seeking consent to change, alter or modify a licensed premises to establish by petitions or otherwise that the proposed change, alteration or modification, if made, will be consistent with the reasonable requirements of the neighborhood and satisfy the desires of the adult inhabitants of the neighborhood. A licensee's failure to circulate and tender to the Local Licensing Authority petitions in support of the proposed change, alteration or modification, signed by adult inhabitants of the neighborhood, may be grounds for denial of the application. Petitions shall be supplied or approved by the City Clerk prior to their circulation.

G. When a licensee requests consent to create or enlarge an outdoor service area in an application for modification of a premises and competent evidence is presented in a public hearing

conducted pursuant to this section showing that the establishment or enlargement of such outdoor service area is likely to have a continuing adverse impact within the immediate vicinity of the licensed premises if conditions protecting the immediate neighborhood are not imposed, the Local Licensing Authority may, as an alternative to denying the application, make its consent to the requested modification conditional. Such conditional consent may:

1. restrict or limit the hours of operation of an outdoor service area;
2. require or limit lighting in and around such outdoor service area;
3. require fencing or other screening designed to discourage patrons of the licensed premises from entering into neighboring areas and to minimize light and noise impacts in such areas;
4. limit or prohibit live entertainment and amplified music in outdoor service areas;
5. contain other requirements, restrictions and/or limitations deemed necessary by the Local Licensing Authority to eliminate or mitigate potential adverse impacts within neighborhoods in the immediate vicinity of the licensed premises.

5.30.030 WHEN CONSENT TO MODIFY IS NOT REQUIRED. Nothing in Section 5.30.020 shall require a licensee to seek consent for modification of a premises if the modification will not materially or substantially alter the licensed premises or the usage of the licensed premises. Examples of modifications for which written consent of the Local Licensing Authority is not required include:

1. painting and redecorating of premises;
2. the installation or replacement of electric fixtures or equipment;
3. the lowering of ceiling;
4. the installation and replacement of floor coverings;
5. the replacement of furniture and equipment, and other similar changes;
6. any non-structural remodeling of a fermented malt beverage licensee's premises where the remodel does not expand the existing area designed for the display or sale of fermented malt beverage products.

Section 2. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 3. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the residents of the City.