



ADMINISTRATIVE RULES OF MONTANA

42.12.145 ON-PREMISES CONSUMPTION BEER AND ALL-BEVERAGE LICENSE - PREMISES SUITABILITY REQUIREMENTS

- (1) The department shall determine the suitability of the premises where an on-premises consumption beer and wine or all-beverage retailer proposes to operate a license, when a party applies to obtain a license, transfers ownership interest in an existing license requiring the vetting of a new party pursuant to 16-4-401, MCA, changes the location where a license will be operated, makes alterations to a premises with a floor plan that the department approved, applies to operate under a concession agreement with a concessionaire, as provided in ARM 42.12.133, or applies to operate as a colocated license. The requirements of this rule also apply to an on-premises consumption beer and wine or all-beverage retailer operating at a colocated premises.
- (2) The premises of an on-premises consumption beer and wine or all-beverage retailer may be considered suitable only if:
 - (a) except as allowed in 16-3-311(1)(a), MCA, the applicant or licensee has possessory interest in the premises;
 - (b) the applicant or licensee has adequate control over the premises;
 - (c) except as allowed in 16-4-401, MCA, a single alcoholic beverage license of any kind will be operated at the premises;
 - (d) the premises are identified by a unique address;
 - (e) the premises are located in one building or a specific portion of one building, except that a patio/deck may extend the premises beyond the interior portion of the building. The premises may also include the buildings and structures allowed in 16-3-302, MCA, and ARM 42.12.153. The interior portion of the premises must comply with the requirements of 16-3-311(3), MCA. Subject to the exceptions in 16-3-311(1)(a), (8), (9), and (10), MCA, if the premises are located in a portion of a building, the premises must be separated by permanent floor-to-ceiling walls from any other business, including any other business operated by the licensee. Except as otherwise provided in 16-3-311(8), (9), and (10), MCA, the only access from the premises to another business may be through lockable doors in the permanent floor-to-ceiling wall;
 - (f) building, health, and fire code approval is obtained;
 - (g) the premises are located on regular police beats and can be properly policed by local authorities, which includes the premises being located on property to which law enforcement has unrestricted access, except as provided in 16-6-103, MCA;
 - (h) the premises are not located where a local government ordinance prohibits the sale of alcoholic beverages;

- (i) the premises are either solely dedicated to the on-premises consumption of alcoholic beverages or are within a business directly related to the on-premises consumption of alcoholic beverages;
 - (j) the type of business is readily determinable due to indoor and outdoor signage and the premises' general layout and atmosphere;
 - (k) alcoholic beverages are advertised and displayed as being available for purchase;
 - (l) there are no signs, posters, or advertisements displayed on the exterior portion of the premises that identify any brewer, beer importer, or wholesaler in any manner. This prohibition does not apply to temporary advertisements allowed under 16-3-244, MCA, or advertisements excepted in 16-3-244, MCA;
 - (m) the interior premises include at least one stationary drink preparation area. The premises may have more than one drink preparation area, including drink preparation areas on the patio/deck and moveable drink preparation areas, subject to department approval;
 - (n) there is interior access to any interior portion of the premises;
 - (o) all storage areas are located in the interior portion of the premises, except as authorized by 16-3-311(1)(b) and (6), MCA;
 - (p) except as provided in 16-3-311(1), MCA, and ARM 42.13.1108, the physical layout and equipment utilized provide sufficient physical safeguards to prevent the self-service of alcoholic beverages at any drink preparation area; and
 - (q) except as provided in 16-3-311(1), MCA, and ARM 42.13.1108, self-service devices and vending machines are not used to serve alcoholic beverages.
- (3) A patio/deck, authorized under 16-3-311, MCA, may be considered suitable only if:
- (a) building, health, and fire code approval is obtained, as required by state or local law;
 - (b) subject to the exception in (c), the patio/deck is contiguous with and immediately accessible from the interior premises;
 - (c) any path connecting the interior premises and the patio/deck is under the possessory interest of the licensee, is clearly marked, and the department determines that sufficient physical safeguards are in place to ensure proper service and consumption of alcoholic beverages; and
 - (d) with the exception of a patio/deck at a golf course, a perimeter barrier or existing natural boundary clearly marks where the service and consumption of alcoholic beverages are allowed.
- (4) If a licensee leases or subleases its kitchen, or another specified area within its premises, to allow another business entity to operate a business within the licensed premises, as conditioned in 16-3-311(1)(a), MCA, then the licensee shall ensure adequate physical safeguards are in place to prevent access to the alcoholic beverage inventory by the other business entity. The area leased or subleased by the licensee shall be clearly marked on the floor plan, a copy of which shall be submitted to the department.
- (5) The premises must meet and maintain compliance with all suitability standards in place at the time the premises are inspected. The department may, at any time, verify that the premises remain in

compliance with all suitability standards in place at the time the suitability of the premises was last determined. Upon determining that the premises do not meet all applicable suitability standards, the department may deny an application or take administrative action against a licensee, including license revocation.

- (6) The privileges granted under a license extend only to the premises depicted in the floor plan approved by the department. The licensee shall follow the process in ARM 42.13.106 for a premises alteration.

Authorizing statute(s): 16-1-303, MCA

Implementing statute(s): 16-3-244, 16-3-309, 16-3-311, 16-3-312, 16-4-213, 16-4-402, 16-4-405, 16-4-418, MCA

History: NEW, 2017 MAR p. 493, Eff. 4/29/17; AMD, 2019 MAR p. 2257, Eff. 12/7/19; AMD, 2022 MAR p. 1932, Eff. 9/26/22; AMD, 2024 MAR p. 2303, Eff. 9/21/24; AMD, 2026 MAR, Notice No. 2025-304, Eff. 1/24/26.