

**By Brian C. Proffitt**

### **Denver Eliminates 500-Foot Distance Restriction For Certain Licensees**

The Colorado Liquor Code generally prohibits liquor-licensed establishments from being located within five hundred feet of any “public or parochial school or the principal campus of any college, university, or seminary.” By subsequent regulation and case law, this prohibition has been clarified and expanded to include all “land used for school purposes.” As a result, the five hundred foot buffer does not merely surround school buildings themselves, but also surrounds school playgrounds, parking lots, and even off-campus sports facilities owned and used by schools.

The Code, however, permits the local licensing authority to opt out of this prohibition if it sees fit. On August 30, 2012, following public hearing, the Denver Department of Excise and Licenses did just that – eliminating the five hundred foot distance restriction as it applies to new Hotel & Restaurant liquor licenses. The impetus for this change was the growing desire for an elementary school to be located in downtown Denver, per the Downtown Area Plan. But the impact of this change will affect far more than just the downtown Denver area as it potentially opens up numerous commercial spaces throughout Denver to now become liquor-licensed restaurants.

It is important to keep in mind that Denver’s new Rule does not entirely eliminate the distance restriction, rather it only permits *new* Hotel & Restaurant liquor licenses to be established near schools. A Hotel & Restaurant liquor licensee must be a “bona fide” restaurant, with a full working kitchen, and must prepare its meals on-site. Moreover, at least twenty-five percent of the licensee’s gross income must derive from the sale of meals. To better regulate affected licensees, Denver also implemented certain “informal special protocols,” including: the filing of an annual affidavit of compliance with the requirements of the Liquor Code; that no accompanying cabaret licenses may issue without the express agreement of the nearby school; and that any complaints or violations associated with an affected licensee will be given priority and special scrutiny by the Department of Excise and Licenses.

For prospective new licensees (and landowners), this is an important departure from Denver’s previous distance restrictions and may lead to the redevelopment of many commercial districts abutting Denver schools. And with the addition of new liquor-licenses restaurants, it is possible that Denver will see an accompanying up-tick in the amount of foot-traffic and patronization of established commercial businesses bordering our schools.

**For questions about Colorado liquor licensing, please contact Brian directly at (303) 333-9810 or via email at [brian@fostergraham.com](mailto:brian@fostergraham.com)**