

Byron Mallott  
Lieutenant Governor  
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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Micaela Fowler, Department of Commerce, Community and Economic Development

**FROM:** Scott Meriwether, Office of the Lieutenant Governor *CS*  
465.4081

**DATE:** November 17, 2016

**RE:** Filed Permanent Regulations: Alcoholic Beverage Control Board  
Regulations re: restaurant designation permits (3 AAC 304.715(a))

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Attorney General File:	JU2016200422
Regulation Filed:	November 16, 2016
Effective Date:	December 16, 2016
Print:	220, January 2017

cc with enclosures: Linda Miller, Department of Law  
Dianne Blumer, Administrative Regulation Review Committee  
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

The attached one page of regulations, dealing with Restaurant Designation Permit, is certified to be a correct copy of the regulation changes that the Alcoholic Beverage Control Board adopted at its July 20, 2016 meeting, under the authority of AS 04.06.090(a) and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Alcoholic Beverage Control Board paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

Date: 9/21/16

  
\_\_\_\_\_  
Cynthia A. Franklin, Director

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on November 16, 2016 at 45 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
\_\_\_\_\_  
Byron Mallott, Lieutenant Governor

Effective: December 16, 2016

Register: 220, January 2017

«normal font; no bold»

~~3 AAC 304.715. Restaurant Designation Permits~~

{ 3 AAC 304.715 <sup>(a.)</sup> is amended to <sup>read:</sup> add new language as follows (new language underlined and -bolded):

- (a) A licensee desiring designation under 3 AAC 304.715 - 3 AAC 304.795 as a bona fide restaurant, hotel, or eating place for purposes of AS 04.16.010(c) or 04.16.049 must file with the director an application, on a form prescribed by the board, together with an initial application fee of \$50. Designation will be granted only to a holder of a beverage dispensary, club, recreational site, golf course, outdoor recreational lodge, destination resort or restaurant or eating place license, and only if the requirements of 3 AAC 304.725 and 3 AAC 304.745, as applicable, are met.

(Eff. 10/24/87, Register 104; am 9/11/98, Register 147; am 7/19/2000, Register 155; am 12/16/2016, Register 220)

Authority:

~~AS 04.11.225; AS 04.11.255~~

AS 04.06.090

AS 04.06.100

AS 04.11.080

AS 04.16.010

AS 04.16.049

«bold/  
underline»

# MEMORANDUM


State of Alaska  
Department of Law

To: Hon. Byron Mallott  
Lieutenant Governor

Date: November 15, 2016

File No.: JU2016200422

Tel. No.: 465-3600

From: Steven C. Weaver   
Sr. Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

Regulations re: restaurant designation  
permits (3 AAC 304.715(a))

We have reviewed the attached regulations from the Alcoholic Beverage Control Board against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated November 14, 2016 from the regulations attorney. The regulations update procedures and requirements for certain license types to be designated a restaurant, in particular to address license types more recently established under statute.

We find no legal problems with the regulations. Though the attached affidavit of agency record refers to the Alcohol and Marijuana Control Office not receiving public comments, that office serves as support staff to the Alcoholic Beverage Control Board: the agency that considers public comments and formally keeps the record of public comments. The certification order indicates that the board did not receive public comments for this project. The informal reference in the affidavit to the board's support staff is not a substantive violation of the Administrative Procedure Act. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The May 17, 2016 public notice and the September 21, 2016 certification order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.





**Alcoholic Beverage Control Board**

**Meeting Minutes**

**July 20, 2016**

**Fourth Judicial District**

**Department of Environmental Conservation Building**

**610 University Drive, Conference Room B & C**

**Fairbanks, Alaska**

**\*Meeting minutes are 37 minutes fast (actual start time is 9:15am)**

**Board Members Present:**

Bob Klein, Chair, Industry Member

Ellen Ganley, Vice Chair, Public Member

Marvin Yoder, Public Member

Bobby Evans, Rural Member (telephonic)

Thomas Manning, Industry Member

**Staff Members Present:**

Cynthia Franklin, Director

Sarah Oates, Program Coordinator

**Legal Counsel Present:**

Harriet Milks, Assistant Attorney General (telephonic)

**Call to Order**

**9:52:46 AM**

● **DIRECTOR BRIEFING**

**A. Director's Report**

**9:53:54 AM**

**TAB 1**

**Bob Klein thanks the Administration for waiving the travel restriction for this board meeting.**

**10:00:37 AM**

Cynthia Franklin specifically thanks Commissioner Hladick for acknowledging the importance of meeting in-person and supporting the travel for this meeting.

Bob Klein thanks John Calder for his work.

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Cynthia A. Franklin, Director of the Alcohol and Marijuana Control Office, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 304.715(a) has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

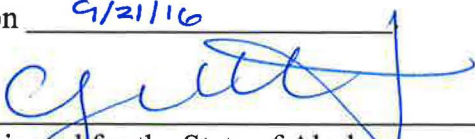
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

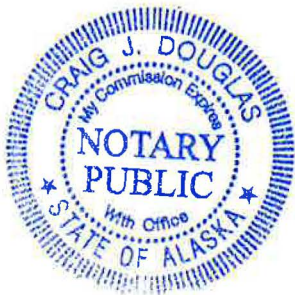
Date: \_\_\_\_\_

9/21/16

  
\_\_\_\_\_  
Cynthia A. Franklin, Director

Subscribed and sworn to before me at Anchorage, Alaska on 9/21/16

  
\_\_\_\_\_  
Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Cynthia A. Franklin, Director for the Alcohol and Marijuana Control Office, being duly sworn, state the following:

In compliance with AS 44.62.215, the Alcohol and Marijuana Control Office did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alcohol and Marijuana Control Office regulation on Restaurant Designation Permits. No public comments were received on this project.

Date:

10/27/16  
October 27, 2016

  
Cynthia A. Franklin, Director

Subscribed and sworn to before me at Anchorage, Alaska on October 27, 2016

  
Notary Public in and for the State of Alaska



NOTICE OF PROPOSED REGULATIONS  
REGARDING RESTAURANT DESIGNATION PERMITS  
ALCOHOLIC BEVERAGE CONTROL BOARD

The Alcoholic Beverage Control Board proposes to adopt regulations to amend 3 AAC 304.715. These proposed regulations relate to restaurant designation permits.

The Alcoholic Beverage Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, dealing with restaurant designation permits.

3 AAC 304.715 –Restaurant designation permit regulations are proposed as follows:

The addition of Outdoor Recreational Lodge License and Destination Resort License to the list of license types allowed under 3 AAC 304.715 to apply for a restaurant designation permit.

You may comment on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to John Calder, Alcoholic Beverage Control Board at 550 W. 7<sup>th</sup> Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Alcoholic Beverage Control Board will accept comments by electronic mail at [john.calder@alaska.gov](mailto:john.calder@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. **Please indicate in the subject line that you are commenting on "Restaurant Designation Permits".** The comments must be received no later than 4:30 p.m. on June 18, 2016.

You may submit written questions relevant to the proposed regulations to John Calder by email and physical address. Please do not submit questions through the Alaska Online Public Notice System. The questions must be received at least 10 days before the end of the public comment period, by June 8, 2016 at 4:30 p.m. The Alcoholic Beverage Control Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alcoholic Beverage Control Board website. The Alcoholic Beverage Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Calder at (907) 269-0350 no later than June 8, 2016 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulations is available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Alcohol & Marijuana Control Office website at <https://www.commerce.alaska.gov/web/amco/> and by contacting John Calder at 550 W. 7<sup>th</sup> Ste 1600, Anchorage, AK 99501.

After the public comment period ends, the Alcoholic Beverage Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.**

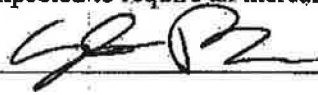


**Statutory Authority:** AS 04.06.090, AS 04.06.100, AS 04.16.010, AS 04.16.049

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 04.16.010, AS 04.16.049

**Fiscal Information:** The proposed regulations are not expected to require an increased appropriation.

**DATE:** May 16, 2016

A handwritten signature in black ink, appearing to read 'C. Franklin', is written over a horizontal line.

Cynthia A. Franklin, Director  
Alcoholic Beverage Control Board

ADDITIONAL REGULATIONS NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Alcoholic Beverage Control Board
2. General subject of regulation: Restaurant Designation Permits
3. Citation of regulation (may be grouped): 3 AAC 304.715
4. Department of Law file number, if any: JU2016200422

5. Reason for the proposed action:
- ☐ Compliance with federal law or action (identify): \_\_\_\_\_
- ☐ Compliance with new or changed state statute \_\_\_\_\_
- ☐ Compliance with Federal or state court decision (identify) \_\_\_\_\_
- ☒ Development of program standards \_\_\_\_\_
- ☐ Other (identify): \_\_\_\_\_

6. Appropriation/Allocation: \_\_\_\_\_

7. Estimated annual costs in the aggregate to comply with the proposed action to:
- Private Persons: \$0
- Other State Agencies: \$0
- Municipalities: \$0

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>16</u>	Subsequent Years
Operating Cost	<u>\$ 0</u>	<u>\$ 0</u>
Capital Cost	<u>\$ 0</u>	<u>\$ 0</u>
1002 Federal receipts	<u>\$ 0</u>	<u>\$ 0</u>
1003 General fund match	<u>\$ 0</u>	<u>\$ 0</u>
1004 General fund	<u>\$ 0</u>	<u>\$ 0</u>
1005 General fund/ program	<u>\$ 0</u>	<u>\$ 0</u>
1037 General fund/ mental health	<u>\$ 0</u>	<u>\$ 0</u>
Other	<u>\$ 0</u>	<u>\$ 0</u>

9. The name of the contact person for the regulations:
- Name: Cynthia A. Franklin
- Title: Director, Marijuana Control Board

Address: 550 W. 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501

Telephone: (907)269-0350  
E-mail address Cynthia.franklin@alaska.gov

10. The origin of the proposed action:

- ☒ Staff of state agency  
☐ Federal government  
☐ General public  
☐ Petition for regulation change  
☐ Other (identify) \_\_\_\_\_

11. Date: 05/16/2016

Prepared by:   
[signature]

Name (printed): Cynthia A. Franklin  
Title (printed): Director, Marijuana Control Board  
Telephone: (907)269-0350

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\$393.44

# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Kayla Lavea  
being first duly sworn on oath deposes and  
says that he/she is a representative of the  
Alaska Dispatch News, a daily newspaper.  
That said newspaper has been approved  
by the Third Judicial Court, Anchorage,  
Alaska, and it now and has been published  
in the English language continually as a  
daily newspaper in Anchorage, Alaska, and  
it is now and during all said time was  
printed in an office maintained at the  
aforesaid place of publication of said  
newspaper. That the annexed is a copy of  
an advertisement as it was published in  
regular issues (and not in supplemental  
form) of said newspaper on

May 17, 2016

and that such newspaper was regularly  
distributed to its subscribers during all of  
said period. That the full amount of the fee  
charged for the foregoing publication is not  
in excess of the rate charged private  
individuals.

Signed

*Kayla Lavea*

Subscribed and sworn to before me  
this 17th day of May, 2016

*Britney Thompson*

Notary Public in and for  
The State of Alaska.  
Third Division  
Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019  
Notary Public  
BRITNEY L. THOMPSON  
State of Alaska  
My Commission Expires Feb 23, 2019

## NOTICE OF PROPOSED REGULATIONS REGARDING RESTAURANT DESIGNATION PERMITS ALCOHOLIC BEVERAGE CONTROL BOARD

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You may submit written questions relevant to the proposed regulations to John Calder by email and physical address. Please do not submit questions through the Alaska Online Public Notice System. The questions must be received at least 10 days before the end of the public comment period, by June 5, 2016 at 4:30 p.m. The Alcoholic Beverage Control Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alcoholic Beverage Control Board website. The Alcoholic Beverage Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

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**Statutory Authority:** AS 04.06.090, AS 04.06.100, AS 04.16.010, AS 04.16.049

**Statutes Being Implemented, Interpreted, or Made Specific:**  
AS 04.16.010, AS 04.16.049

**Fiscal Information:** The proposed regulations are not expected to require an increased appropriation.

DATE: May 16, 2016

Cynthia A. Franklin, Director  
Alcoholic Beverage Control Board

Published: May 17, 2016