Kevin Meyer Lieutenant Governor State Capitol Juneau, Alaska 99811 907.465.3520 WWW.LTGOV.ALASKA.GOV



530 West 7<sup>th</sup> Ave, Suite 1700 Anchorage, Alaska 99501 907.269.7460 LT.GOVERNOR@ALASKA.GOV

#### OFFICE OF THE LIEUTENANT GOVERNOR ALASKA

#### **MEMORANDUM**

TO:	Debbie Morgan
	Department of Commerce Community and Economic Development
FROM:	April Simpson, Office of the Lieutenant Governor
DATE:	October 1, 2019
RE:	Filed Permanent Regulations: Board of Registration for Architects, Engineers, and Land Surveyors
	Board of Registration for Architects, Engineers, and Land Surveyors Regulation re: Corporate Authorizations, and Registrant in Offices (12 AAC 36.135185)

Attorney General File:	2019200007
Regulation Filed:	10/1/2019
Effective Date:	10/31/2019
Print:	232, January 2020

cc with enclosures:

Harry Hale, Department of Law Judy Herndon, LexisNexis

#### ORDER CERTIFYING THE CHANGES TO REGULATIONS OF THE STATE BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS, AND LAND SURVEYORS

The attached three pages of regulations, dealing with corporate authorizations and registrants in offices, are hereby certified to be a correct copy of the regulation changes that the State Board of Registration for Architects, Engineers, and Land Surveyors adopted at its May 9-10, 2019 meeting, under the authority of AS 08.48.101, AS 08.48.111, AS 08.48.221, and AS 08.48.241, 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.

On the record, in considering public comments, the State Board of Registration for Architects, Engineers, and Land Surveyors 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.

8/07/2019 DATE: Juneau, Alaska

Alysia D. Jones, Executive Administrator State Board of Registration for Architects, Engineers, and Land Surveyors

#### FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that , 2019 at <u>**9:35**</u> Am., on Oct. filed the attached I regulations according to the provisions of AS 44.62.040 - 44.62.120.

Kein Meyer, Lieutenant Governor

Effective: October 31, 2019. Register: 232, January 2020.

## Register 232. January 2017 PROFESSIONAL REGULATIONS

#### Chapter 36. State Board of Registration for Architects, Engineers, and Land Surveyors.

12 AAC 36.135(3)(A) and (B) are amended to read:

\* \* \*

(3) a certified copy of a resolution of the board of directors of the corporation, the managing members or manager of the limited liability company, or the general partners of the limited liability partnership that

(A) designates an individual <u>or individuals</u> with a current registration in this state as responsible for each field of practice; and

(B) provides that full authority to make all final practice decisions on behalf of the corporation, limited liability company, or limited liability partnership for work performed by the corporation, limited liability company, or limited liability partnership in this state is granted by the board of directors of the corporation, the managing members or manager of the limited liability company, or the general partners of a limited liability partnership to the individual designated in the resolution as responsible for the relevant field of practice. <u>The individual or individuals in responsible charge</u> <u>of a discipline may grant other employees, who are registered in that discipline, the</u> <u>authority to seal drawings on behalf of the corporation, limited liability company, or</u> <u>limited liability partnership. This does not relieve the individual or individuals in</u> <u>responsible charge from responsibility for the work delegated to the other employee</u>;

\* \* \*

(Eff. 10/10/96, Register 140; am 11/13/99, Register 152; am 3/8/2001, Register 157; am

#### DOL File#2019200007 -

## Register 232 . January 20 PROFESSIONAL REGULATIONS

3/9/2001, Register 157; am 8/19/2006, Register 179; am 10 /31 /2019, Register 232) Authority: AS 08.48.101 AS 08.48.241

12 AAC 36 is amended by adding a new section to Article 1 to read:

**12 AAC 36.145.** Architectural, engineering, or surveying offices. (a) Each office maintained for the preparation of drawings, specifications, reports, or other professional work that will require a professional seal must have a registrant assigned to, and regularly employed in, that office who has direct knowledge and supervisory control of the employees of that office.

(b) While a registrant is required, the office need not have a registrant in every discipline offered by that entity. A registrant in another office of the entity may be in responsible charge control of the work done in that office for the discipline in which they are registered. To offer a service, at least one registrant licensed in that discipline must be regularly employed by the entity.

(c) For the purposes of this section,

(1) "regularly employed" means in the office at least 20 hours per week;

(2) "entity" means a sole practitioner, partnership, corporation, limited liability company, limited liability partnership, or governmental agency. (Eff. <u>10/31/2019</u>,

Register <u>232</u>)

Authority: AS 08.48.101 AS 08.48.111 AS 08.48.221

12 AAC 36.185(c) is repealed:

(c) Repealed <u>10 / 31 / 2019</u>.

(Eff. 5/30/82, Register 82; am 8/29/87, Register 103; am 11/13/99, Register 152; am 6/13/2003,

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DOL File#2019200007 9
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Register 232, Janoary 20 PROFESSIONAL REGULATIONS

Register 166; am 6/11/2005, Register 174; am 7/13/2011, Register 199; am 6/18/2016, Register

218; am 9/9/2016, Register 219; am 10 / 31 / 2019, Register 232)

Authority: AS 08.48.101 AS 08.48.111 AS 08.48.221

DOL File#2019200007

### MEMORANDUM

To: The Honorable Kevin Meyer Lieutenant Governor

Thru:

From:

State of Alaska Department of Law

Surveyors: Corporate Authorizations,

and Registrant in Offices

September 5, 2019

File No.: 2019200007 Susan R. Pollard SHP Tel. No.: 465-3600 Chief Assistant Attorney General and Regulations Attorney Legislation and Regulations Section Samantha J. Weinstein Re: Board of Registration for Architects, Engineers, and Land Surveyors Assistant Attorney General Legislation and Regulations Section Regulation re: 12 AAC 36.135-.185: State Board of Registration for Architects, Engineers, and Land

Date:

The Department of Law has reviewed the attached regulations of the Board of Registration for Architects, Engineers, and Land Surveyors against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. 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 regulations were adopted by the Board of Registration for Architects, Engineers, and Land Surveyors after the close of the public comment period. The regulations concern standards for corporate authorizations and registrants, and add clarity to the scope of the authority of an individual in responsible charge to allow any employee of an authorized entity to seal documents for the corporation if authorized by the registrant in responsible charge.

The December 20, 2018, public notice and the August 7, 2019, certification of adoption 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.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

cc:	Honorable Julie Anderson, Commissioner
	Department of Commerce, Community, and Economic Development
	Amy Demboski, Assistant Commissioner
	Department of Commerce, Community and Economic Development
	Glenn Hoskinson, Special Assistant to the Commissioner
	Department of Commerce, Community and Economic Development
	Sara Chambers, Division Director
	Department of Commerce, Community and Economic Development
	Jun Maiquis, Regulations Specialist
	Department of Commerce, Community, and Economic Development
	Alysia D. Jones, Executive Administrator
	Board of Registration for Architects, Engineers, and Land Surveyors
	Sher Zinn, Regulations Specialist
	Department of Commerce, Community and Economic Development
	Harriet Milks, Assistant Attorney General
	Department of Law

#### NOTICE OF PROPOSED CHANGES RELATING TO CORPORATE AUTHORIZATIONS AND REGISTRANTS IN OFFICES IN THE REGULATIONS OF THE STATE BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS, AND LAND SURVEYORS

BRIEF DESCRIPTION: The State Board of Registration for Architects, Engineers, and Land Surveyors proposes to update regulations regarding corporate authorizations and registrants in offices.

The State Board of Registration for Architects, Engineers, and Land Surveyors (Board) proposes to adopt regulation changes in Title 12, Chapter 36 of the Alaska Administrative Code including the following:

- 1. 12 AAC 36.135. Review of application for corporate, limited liability company, or limited liability partnership authorization, is proposed to clarify that there may be more than one registrant authorized for each discipline as part of a corporate authorization. Allows any employee of an authorized entity to seal documents for the corporation, if authorized by the registrant in responsible charge for the corporation, limited liability company, or limited liability partnership.
- 2. 12 AAC 36.145. Architectural, engineering, or surveying offices, is a proposed new section to clarify whether there has to be an individual in each discipline in every office and whether some of the employees in that office can have technical supervision on projects by a registrant in another office.
- 3. 12 AAC 36.185. Use of seals, is proposed to repeal subsection (c). The intended effect of this repeal is to establish similar language under 12 AAC 36.145.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974 and by electronic mail at RegulationsAndPublicComment@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at http://notice.alaska.gov/192449, and using the comment link. The comments must be received not later than 5:00 p.m. on January 22, 2019. Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at RegulationsAndPublicComment@alaska.gov. The questions must be received at least 10 days before the end of the public comment period. The Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and the on Board's website at https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofArchitectsEngineersandLand Surveyors.aspx. The 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 Jun Maiquis at (907) 465-2537 or RegulationsAndPublicComment@alaska.gov not later than January 15, 2019 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Jun Maiquis at (907) 465-2537 or RegulationsAndPublicComment@alaska.gov, or go to https://www.commerce.alaska.gov/web/portals/5/pub/AELS-1218.pdf.

After the public comment period ends, the Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The

language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments and questions received are public records and are subject to public inspection.

**Statutory Authority:** AS 08.48.101; AS 08.48.111; AS 08.48.221; AS 08.48.241 **Statutes Being Implemented, Interpreted, or Made Specific:** AS 08.48.101; AS 08.48.111; AS 08.48.221; AS 08.48.241

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 12/19/18

Jun Maiquis, Regulations Specialist Division of Corporations, Business and Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

#### ADDITIONAL REGULATION NOTICE INFORMATION (AS 44.62.190(d))

- 1. Adopting agency: State Board of Registration for Architects, Engineers, and Land Surveyors Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
- 2. General subject of regulation: Corporate authorizations and registrants in offices.
- 3. Citation of regulation: 12 AAC 36.135, 12 AAC 36.145, and 12 AAC 36.185.
- 4. Department of Law file number: To be assigned.
- 5. Reason for the proposed action: Update and clarification of current regulations; compliance with state statute.
- 6. Appropriation/Allocation: Corporations, Business and Professional Licensing #2360.
- 7. Estimated annual cost to comply with the proposed action to: A private person: None. Another state agency: None. A municipality: None.
- 8. Cost of implementation to the state agency and available funding (in thousands of dollars): No costs are expected in FY 2019 or in subsequent years.
- 9. The name of the contact person for the regulation: Alysia Jones, Executive Administrator Alaska State Board of Registration for Architects, Engineers, and Land Surveyors Division of Corporations, Business and Professional Licensing Telephone: (907) 465-1676 E-mail: alysia.jones@alaska.gov
- 10. The origin of the proposed action: State Board of Registration for Architects, Engineers, and Land Surveyors.

11. Date: 12/19/18

Prepared by:

Jun Malquis Regulations Specialist (907) 465-2537

### STATE OF ALASKA ) FIRST JUDICIAL DISTRICT )

#### AFFIDAVIT OF NOTICE OF PROPOSED REGULATION AND FURNISHING OF ADDITIONAL INFORMATION

I, Jun Maiquis, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 12 AAC 36.135, 12 AAC 36.145, and 12 AAC 36.185, dealing with corporate authorizations and registrants in offices, has been given by being

- 1. published in a newspaper or trade publication;
- 2. furnished to every person who has filed a request for notice of proposed action with the state agency;
- 3. furnished to appropriate state officials;
- 4. furnished to interested persons;
- 5. furnished to the Department of Law, along with a copy of the proposed regulation;
- 6. furnished electronically to incumbent State of Alaska legislators;
- 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).

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 persons in (2), (4), and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

DATE: Juneau, Alaska

My commission expires:

Jun Maiguis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_\_, 2019.

Notary Public in and for the State of Alaska



STATE OF ALASKA

) ss.

FIRST JUDICIAL DISTRICT

#### AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Jun Maiquis, Regulations Specialist for the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being duly sworn, state the following:

In compliance with AS 44.62.215, the State Board of Registration for Architects, Engineers, and Land Surveyors has kept a record of its use or rejection of 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 State Board of Registration for Architects, Engineers, and Land Surveyors regulations on dealing with corporate authorizations and registrants in offices.

DATE:

Juneau, Alaska

Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 1 day of August , 2019.



tary Public in and for the

State of Alaska My commission expires:

1	These draft minutes were prepared by the staff of the Division of Corporations, Business and Professional
2	Licensing. They have not yet been approved by the Board.
3	150
4	STATE OF ALASKA
5	DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
6	BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND
7	LAND SURVEYORS
8	
9	MINUTES OF THE MEETING
10	May 9-10, 2019
11	
12	By authority of AS 08/01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled
13	meeting of the Board of Registration for Architects, Engineers and Land Surveyors was held on Thursday,
14	May 9 - Friday, May 10th via videoconference. Physical locations included the Atwood Building, Suite 1550 in
15	Anchorage and the State Office Building, 9th Floor Conference Room A, in Juneau.
16	
17	AELS_05.09.2019_A_00:03:18
18	1. Call to Order/Roll Call
19	The meeting was called to order at 9:00 a.m.
20	
21	Board members present, constituting a quorum:
22	Jennifer Anderson, PE, Civil Engineer, Environmental Engineer
23	Dave Hale, PS, Surveyor
24	Elizabeth Johnston, PE, Electrical Engineer, Fire Protection Engineer
25	Richard "Vernon" Jones, Public Member
26	John Kerr, PS, Surveyor
27	Jeff Koonce, Architect
28	Colin Maynard, PE, Civil Engineer, Structural Engineer
29	Bill Mott, PE, Chemical Engineer, Metallurgical and Materials Engineer
30 31	Luanne Urfer, Landscape Architect
32	Fred Wallis, PE, Mining Engineer
33	Board members excused by the Vice Chair:
34	Colin Maynard, PE, Civil Engineer, Structural Engineer (Chair)
35	Comi Maynard, FE, Civil Eligneer, Structural Engineer (Chair)
36	Attending from the Division of Corporations, Business, and Professional Licensing were:
37	Alysia Jones, Executive Administrator (in-person)
38	Heather Noe, Licensing Examiner (in-person) *
39	John Savage, Investigator (telephonically)*
40	Melissa Dumas, Admin Officer (in-person) *
41	Jun Maiquis, Regulation Specialist (in-person) *
42	Marilyn Zimmerman, Paralegal II (in-person) *
43	,
44	* Attended portions of the meeting.
45	

**X** 

Updated: 7/15/2019

- The board discussed the grace period for continuing education and that it was only an extension to complete
   continuing education, rather than an extension that allowed them to continue to practice.
- 3

On a motion duly made by John Kerr, seconded by Jeff Koonce and passed unanimously, it was resolved to add the option for those renewing licenses to extend the period for obtaining required continuing education until the first January 31 of the new biennium by indicating that intent to the board and paying the \$50 fee. This option does not function as a license extension and the registrant cannot practice during this period.

9 10 11

AELS\_05.10.2019\_03:49:08 On a motion duly made by John Kerr, seconded by Hale and passed unanimously, it was resolved to remove from the table the motion to adopt proposed changes to 12 AAC 36.135, .145, and .185.

13 14

12

15 The Chair asked if there were any comments or additional revisions that the board wished to discuss. Several 16 members indicated they wanted additional time to review the proposed changes. The Chair expressed his 17 frustration that is was discussed extensively at the January meeting and then tabled yesterday to allow more 18 time for the board to review. Koonce responded that there were several comments submitted that opposed 19 the regulation changes. Fritz and the Chair confirmed that the comments received did not speak directly to 20 the proposed changes. The Chair stated that yesterday's discussion pertained to issues with the language and that the board had tabled the discussion in order to review and come back with amendments today. 21 22 Koonce and Johnston commented that they did not have any edits.

23

# On a motion duly made by John Kerr, seconded by Jeff Koonce and passed unanimously, it was resolved to adopt the proposed changes to 12 AAC 36.135, .145, and .185 as written and public noticed.

27

Fritz asked if the board needs to start a regulation project to address some of the difficulties with landscape
architect registration requirements given the delay in pursuing a statute change. Fritz suggested the board do
what they can within their authority to improve the regulations and that it would be a show of good faith.
Urfer agreed and indicated that the regulation changes need to stay within the statute. The Chair and Urfer
confirmed that a regulation project was already in process as part of the statute change.

33

36

TASK: The Chair assigned Urfer to bring changes to regulations to the August meeting.

#### AELS\_05.10.2019\_03:54:59

- 37 27. Committee Updates -
- 38 The Chair asked the Committee Chairs to provide updates.
- 39
- 40 Arctic Engineering Committee Johnston reported that the committee was created during the January
- 41 2019 meeting and had not yet met. The Chair asked the committee to try and schedule a teleconference in
- 42 June. Fritz asked for confirmation that it was based to review the current offerings. The Chair added that the
- 43 committee was tasked with developing minimum criteria.
- 44

STATE OF ALASKA

) ss. FIRST JUDICIAL DISTRICT )

#### **AFFIDAVIT OF BOARD ACTION**

I, Alysia D. Jones, Executive Administrator for the State Board of Registration for Architects, Engineers, and Land Surveyors, being duly sworn, state the following:

The attached motion dealing with corporate authorizations and registrants in offices was passed by the State Board of Registration for Architects, Engineers, and Land Surveyors during its May 9-10, 2019 meeting.

Date: 8/07/2019

Juneau, Alaska

Alysia D. Jones; Executive Administrator

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.



tary Public in and for the

State of Alaska My commission expires: \_\_\_\_\_ office

## **ANCHORAGE DAILY NEWS**

### AFFIDAVIT OF PUBLICATION

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