

Nancy Dahlstrom  
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:** Victoria Caltagirone  
Department of Commerce, Community and Economic Development

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** December 23, 2022

**RE:** Filed Permanent Regulations: Marijuana Control Board  
  
Marijuana Control Board regulations re: Alcohol and Marijuana Control Office -  
Transfer of License to Another Location (3 AAC 306)

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Attorney General File:	2022200087
Regulation Filed:	12/23/2022
Effective Date:	1/22/2023
Print:	245, April 2023

cc with enclosures: Colleen Bailey, Department of Law  
Judy Herndon, LexisNexis  
Jane P. Sawyer, Regulations Specialist

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached <sup>34</sup>~~29~~ pages of regulations, dealing with transfer of license to another location, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its June 29-30, 2022, meeting, under the authority of AS 17.38.121 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 Marijuana 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:

July 8, 2022


  
Joan M. Wilson, Director

*April Simpson  
for Nancy Dahlstrom*

FILING CERTIFICATION

I, ~~Kevin Meyer~~, Lieutenant Governor for the State of Alaska, certify that on

December 23, 2022 at 9:39 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
for Lieutenant Governor Nancy Dahlstrom

Effective: January 22, 2023

Register: 245, April 2023

**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:**

**Josh Applebee, Chief of Staff  
Kady Levale, Notary Administrator  
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2022.**



*Nancy Dahlstrom*  
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**NANCY DAHLSTROM  
LIEUTENANT GOVERNOR**

3 AAC 306.010 is amended to read:

**3 AAC 306.010. License restrictions.** (a) The board will not issue **a new marijuana establishment license, or approve an application for a transfer of a license to another location,** [A MARIJUANA ESTABLISHMENT LICENSE] if the licensed premises will be located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school ground, the outer boundaries of the recreation or youth center, the main public entrance of the building in which religious services are regularly conducted, or the main public entrance of the correctional facility. This section does not prohibit the renewal of **a** [AN EXISTING] marijuana establishment license, a license conversion under 3 AAC 306.047, or the transfer of **a** [AN EXISTING] marijuana establishment license to another person if the licensed premises were in use before the school ground, recreation or youth center, the building in which religious services are regularly conducted, or a correctional facility began use of a site within 500 feet. If **a** [AN EXISTING] marijuana establishment license for premises located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility is revoked or expires, the board will not issue another marijuana establishment license for the same premises unless the school ground, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet.

(b) The board will not issue **a new marijuana establishment license, or approve an application for a transfer of a license to another location,** [A MARIJUANA ESTABLISHMENT LICENSE] if the licensed premises will be located in a liquor license premises.

(c) The board will not issue **a new marijuana establishment license, or approve an application for a transfer of a marijuana establishment license to another location** [A MARIJUANA ESTABLISHMENT LICENSE] when a local government protests an application under 3 AAC 306.060 on the grounds that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

(d) The board will not issue a marijuana establishment license to a person that

(1) is prohibited under AS 17.38.200(i) from receiving a marijuana establishment license because of a conviction of a felony; if the applicant is a partnership, limited liability company, or corporation, the board will not issue a license if any person named in 3 AAC 306.020(b)(2) is prohibited under AS 17.38.200(i) from obtaining a **marijuana establishment** license; in this paragraph, "conviction of a felony" includes a suspended imposition of sentence;

(2) has been found guilty of

(A) selling alcohol without a license in violation of AS 04.11.010;

(B) selling alcohol to an individual under 21 years of age in violation of AS 04.16.051 or 04.16.052; or

(C) a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the preceding five years; or

(3) has, within two years before submitting an application, been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed contrary to state law. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 1 / 22 / 2023, Register 245 )

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.015 is repealed and readopted to read:

**3 AAC 306.015. License conditions.** (a) The board will issue each marijuana establishment license to a specific individual, a partnership, including a limited partnership, a limited liability company, a corporation, or a local government. A person other than a licensee may not have a direct or indirect financial interest in the business for which a marijuana establishment license is issued.

(b) Except as set out under 3 AAC 306.035(h), the board will not issue, renew, or approve an application for a transfer a marijuana establishment license to

(1) an individual or a sole proprietorship unless the individual or proprietor is a resident of the state;

(2) a partnership unless each partner is a resident of the state;

(3) a limited liability company unless the limited liability company is qualified to do business in the state and each member of the limited liability company is a resident of the state; or

(4) a corporation unless the corporation is incorporated or qualified to do business in the state and each corporate officer, director, and shareholder is a resident of the state.

(c) The board will issue each marijuana establishment license for a specific location identified on the application as the licensed premises. A marijuana establishment must have a right to possession of its licensed premises at all times and may not lease its licensed premises to another person for any reason. If a marijuana establishment wishes to reduce or expand the area of the licensed premises used for a marijuana establishment, the marijuana establishment must submit a new line drawing showing the proposed changes to the premises and must obtain the board's written approval.

(d) A person may not transfer a marijuana establishment license to another location without the applicant applying for and receiving written consent of the board. Subject to any applicable provisions of AS 17.38 and this chapter, the board may approve an application for a transfer of a marijuana establishment license to another location in a different local government.

(e) The board will impose other conditions or restrictions on a marijuana establishment license or endorsement issued under this chapter when it finds that it is in the interests of the public to do so.

(f) In this section,

(1) "direct or indirect financial interest"

(A) means a legal or equitable interest in the operation of a business licensed under this chapter;

(B) does not include a person's right to receive

(i) rental charges on a graduated or percentage lease-rent agreement for real estate leased to a licensee; or

(ii) a consulting fee from a licensee for services that are allowed under this chapter;

(2) "resident of the state" means a person who is eligible at the time of application for the most recent permanent fund dividend under AS 43.23. (Eff. 2/21/2016, Register 217; add'l am 2/21/2016, Register 217; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am 10/18/2020, Register 236; am 1 / 22 / 2023, Register 245 )

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.030(a) is amended to read:

(a) The board will not approve a new marijuana establishment license, a [OR] new onsite consumption endorsement, or an application for a transfer of a license to another location in an area outside, but within 50 miles of, the boundary of a local government unless the board receives a petition to issue the license or endorsement, signed by a majority of the permanent residents residing within one mile of the proposed premises.

3 AAC 306.030(b) is amended to read:

(b) The board will not approve a new license, a [OR] new onsite consumption endorsement, or an application for a transfer of a license to another location in an area that is



50 miles or more from the boundary of a local government unless the board receives a petition to issue the license or endorsement, containing the signatures of two-thirds of the permanent residents residing within a radius of five miles of the United States post office station nearest to the proposed licensed premises. If there is no United States post office station within a radius of five miles of the proposed licensed premises, the petition must be signed by two-thirds of the permanent residents residing within a five-mile radius of the proposed licensed premises.

(Eff. 2/21/2016, Register 217; am 8/7/2021, Register 239; am 1 / 22 / 2023, Register 245)

**Authority:** AS 17.38.010            AS 17.38.150            AS 17.38.200  
                  AS 17.38.070            AS 17.38.190            AS 17.38.900  
                  AS 17.38.121

3 AAC 306.035(h) is amended to read:

(h) The board may renew a license where a licensee is not considered a resident of the state as defined at **3 AAC 306.015(f)(2)** [3 AAC 306.015(e)(2)], if, as part of the renewal application, the licensee submits documentation to the board's satisfaction that

(1) the licensee's primary residence is in the state;

(2) the licensee has good cause for not meeting the requirements to be a resident of the state as defined at **3 AAC 306.015(f)(2)** [3 AAC 306.015(e)(2)]; and

(3) the cause of not meeting the requirements to be a resident of the state as defined at **3 AAC 306.015(f)(2)** [3 AAC 306.015(e)(2)] is temporary.

(Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229; am 3/25/2020, Register 233; am 7/30/2022, Register 243; am 1 / 22 / 2023 Register 245)

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**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.040(d) is amended to read:

(d) An individual identified in this section shall be a resident of the state as required under 3 AAC 306.015(b) and **3 AAC 306.015(f)(2)** [3 AAC 306.015(e)(2)].

(Eff. 2/21/2016, Register 217; am 7/19/2017, Register 223; am 2/21/2019, Register 229; am 10/18/2020, Register 236; am 1 / 22 / 2023 Register 245)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.045(d) is amended to read:

(d) A current holder of a marijuana establishment license must submit a license renewal application before or at the same time as an application for a transfer of a marijuana establishment license **to another person** that is submitted after April 30 and before **August 31** [JULY 1].

3 AAC 306.045(e) is amended to read:

(e) When a transferee intends to continue to operate a marijuana license with the operating plan approved by the board for the transferor, the transferee may submit a form

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approved by the board certifying that the transferee is making no changes to the operating plan or licensed premises, instead of submitting information required by 3 AAC 306.020(b)(8), 3 AAC 306.020(c), **3 AAC 306.315(1)(B)** [3 AAC 306.315(2)], 3 AAC 306.420, 3 AAC 305.520(2) and (3), and 3 AAC 306.615. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229; am 1/22/2023, Register 245 )

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306 is amended by adding a new section to read:

**3 AAC 306.046. Application for transfer of a marijuana establishment license to another location.** (a) A person may not transfer to another location a marijuana establishment license issued under AS 17.38 and this chapter without applying for and receiving the written consent of the board.

(b) An application for transfer of a marijuana establishment license to another location must be filed in writing on a form or forms the board prescribes in compliance with the applicable application procedures set out under 3 AAC 306.025.

(c) An application for transfer of a marijuana establishment license to another location must identify the name of the current license holder, the current location of the licensed premises, the current local government, the proposed location of the proposed licensed premises including global positioning system coordinates, and, if applicable, the local government for the proposed location, the endorsements applicable to the current location, and a statement of

whether the license holder intends to transfer the endorsements. An application for a transfer of a license to another location must also contain

(1) the same information about each person as is required of an applicant for a new license under 3 AAC 306.020;

(2) a statement, under oath, executed by the current holder of the license, listing all debts of the business, all taxes the business owes, current contact information for each creditor, and an affirmation that the current holder of the license has submitted a copy of the application of the transfer of location to all creditors if the transfer of a license to another location is concurrent with a transfer of a license to another person;

(3) an operating plan and proposed licensed premises as described under 3 AAC 306.020(b)(8), 3 AAC 306.020(c), 3 AAC 306.315(1)(B), 3 AAC 306.420, 3 AAC 306.520(2) and (3), 3 AAC 306.615, 3 AAC 306.705(d), and 3 AAC 306.710(d), if applicable;

(4) an affidavit showing where and when the applicant posted notice of the application, when the applicant notified each local government with jurisdiction over the proposed licensed premises, when the applicant notified the community council in the area of the proposed licensed premises, and where and when an announcement of the application was published, in compliance with 3 AAC 306.025(b);

(5) the title, lease, or other documentation showing the applicant's sole right to possession of the proposed licensed premises;

(6) the application fee under 3 AAC 306.100; and

(7) any other information required by the board for the type of marijuana establishment license sought to be transferred.

(d) When the board receives a complete application for transfer of a marijuana establishment license to another location, the director shall send notice of the proposed transfer to

(1) the local government with jurisdiction over the current location and, if different, the local government with jurisdiction over the applicant's proposed new location;

(2) the community council with jurisdiction over the current location and, if different, the community council with jurisdiction over the proposed new location if the new location is located within the boundary of a community council established by municipal charter or ordinance;

(3) any nonprofit community organization that has requested the notice in writing; and

(4) any other state or local government entity whose approval is necessary for the transfer of the license to another location, as the board determines necessary.

(e) If the transfer of a license to another location is concurrent with the transfer of the license to another person as described under 3 AAC 306.045, the application must be filed in writing on a form or forms the board prescribes, in compliance with this section, the applicable application procedures set out in 3 AAC 306.025, and 3 AAC 306.045, and submit the person's fingerprints and fees as required under 3 AAC 306.055(a).

(f) A current holder of a marijuana establishment license shall submit a license renewal application before or at the same time as an application for a transfer of a license to another

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location that is submitted after April 30 and before August 31. (Eff. 1 /22 /2023, Register 245 ).

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.047(a) is amended to read:

(a) An application to convert an existing limited marijuana cultivation facility license to a standard marijuana cultivation facility license, an existing standard marijuana cultivation facility license to a limited marijuana cultivation facility license, an existing marijuana concentrate manufacturing facility license to a marijuana product manufacturing facility license, or an existing marijuana product manufacturing facility license to a marijuana concentrate manufacturing facility license must be filed in writing on a form the board prescribes in compliance with the **applicable** application procedure set out in 3 AAC 306.025.

3 AAC 306.047(c) is amended to read:

(c) The license conversion application must contain

**(1) an affidavit showing where and when the applicant posted notice of the application, when the applicant notified each local government with jurisdiction over the licensed premises, proof of advertising, and, if applicable, the community council, in**

**compliance with 3 AAC 306.025(b); [(1) AN AFFIDAVIT SHOWING WHERE AND WHEN**

THE APPLICANT POSTED NOTICE OF THE APPLICATION, AND PROOF OF ADVERTISING AS REQUIRED IN 3 AAC 306.025(b);]

(2) any changes proposed to the approved operating plan;

(3) a detailed diagram of the [PROPOSED] licensed premises; the diagram must show all entrances and boundaries of the premises, restricted access areas, storage areas, and, if applicable, overlapping premises that the board may approve under 3 AAC 306.705(d) and 3 AAC 306.710(d);

(4) if applicable, the title, lease, or other documentation showing the licensee’s sole right to possession of the proposed licensed premises, if the proposed licensed premises for the converted license differ from the existing licensed premises;

(4) the balance of the license fee, if the post-conversion license fee is greater than the pre-conversion license fee;

(5) the application fee under 3 AAC 306.100; and

(6) any other information required by the board. (Eff. 2/21/2019, Register 229; am 12/10/2020, Register 236; am 1 / 22 / 2023, Register 245)

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.050 is repealed:

**3 AAC 306.050. Relocation of licensed premises not allowed.** Repealed. (Eff. 2/21/2016, Register 217; repealed 1 / 22 / 2023, Register 245)

3 AAC 306.055(a) is amended to read:

(a) When filing an application for a new marijuana establishment license, transfer of a license **to another person**, or ownership change, the applicant, including each individual listed in 3 AAC 306.020(b)(2), must submit the person's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information. An individual who has submitted fingerprints and fees under this section is not required to submit a new set of fingerprints and fees for a second or subsequent application for a new license, **transfer of a marijuana establishment license to another person**, [TRANSFER,] or ownership change, if the second or subsequent application is submitted not later than 12 calendar months after the date criminal justice information is received in response to the initial submission of fingerprints and fees.

(Eff. 2/21/2016, Register 217; am 5/9/2019, Register 230; am 1/22/2023, Register 245)

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.060 is amended to read:

**3 AAC 306.060. Protest by local government.** (a) Not later than 60 days after the director sends notice of an application for a new marijuana establishment license, a new onsite consumption endorsement, renewal of a marijuana establishment license, renewal of an onsite consumption endorsement, license conversion, endorsement, [OR] transfer of a marijuana



establishment license to another person, **or transfer of a marijuana establishment license to another location, a local government with jurisdiction over the location of the proposed licensed premises** may protest the application by sending the director and the applicant a written protest and the reasons for the protest. **If an application for a transfer of a marijuana establishment license to another location proposes to relocate a licensed establishment within the jurisdiction of a different local government, the local government with jurisdiction over the proposed location may protest the application on the basis of taxes owed to the local government with jurisdiction over the current location of the licensed premises.** The director may not accept a protest received after the 60-day period. If the protest is a conditional protest, the board will require the applicant to show, to the board's satisfaction, that the requirements of the local government have been met before the director may issue the **marijuana establishment** license. If the protest is not a conditional protest, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

(b) A local government may recommend that the board approve an application for a new **marijuana establishment** license, a new onsite consumption endorsement, renewal of a **marijuana establishment** license, renewal of an onsite consumption endorsement, license conversion, [OR] transfer of a **marijuana establishment** license to another person, **or transfer of a marijuana establishment license to another location** subject to a condition. **If an application for a transfer of a marijuana establishment license to another location proposes to relocate a licensed establishment within the jurisdiction of a different local government, the local government with jurisdiction over the proposed location may recommend that the board approve the marijuana establishment license subject to a condition that is based on**

**reasons identified by the local government with jurisdiction over the current location, if those reasons are still relevant to the proposed location.** The board will impose a condition a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable. If the board imposes a condition a local government recommends, the local government shall assume responsibility for monitoring compliance with the condition unless the board provides otherwise.

(c) If a local government **with jurisdiction over the location of the licensed premises** determines that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition the board has imposed on the licensee, the local government may notify the board. Unless the director finds that the local government's notice is arbitrary, capricious, and unreasonable, the director shall prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as provided under 3 AAC 306.820.

(d) In this section,

(1) "local government" means each local government with jurisdiction over the licensed premises; **in case of an application for a transfer of a marijuana establishment license to another location, "local government" means the local government with jurisdiction over the proposed licensed premises;**

(2) "conditional protest" means a protest by a local government based on the local government's requirements that the applicant must meet before licensure, and that the applicant has not yet met but that the local government expects the applicant will be able to meet within a reasonable period of time.

**(e) Not later than 60 days after the director sends notice of an application for a transfer of a marijuana establishment license to another location where the local government would be different, the local government with jurisdiction over the current licensed premises may protest the application upon the basis of taxes owed by the licensee to that local government by sending the director and the applicant a written protest and the reasons for the protest. The director may not accept and the board will not consider a protest received under this subsection after the 60-day period.** (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am 5/9/2019, Register 230; am 1/22/2023, Register 245)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.065 is amended to read:

**3 AAC 306.065. Public participation.** A person may object to an application for a new **marijuana establishment** license, renewal of a **marijuana establishment** license, license conversion, [OR] transfer of a **marijuana establishment** license to another person, **or transfer of a marijuana establishment license to another location** by submitting a written statement of reasons for the objection to the board and the applicant not later than 30 days after the director has determined that the application is complete and has given written notice to the local government in accordance with 3 AAC 306.025. The objection must be sent to the applicant at the mailing address or electronic mail address provided in the notice of application and also to

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the board. If the board determines to conduct a public hearing under this section, an interested person may give oral testimony at the public hearing. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229; am 1 / 22 / 2023, Register 245)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.075(a) is amended to read:

(a) The board will decide whether to grant or deny an application **for a marijuana establishment license** not later than 90 days after receiving the complete application. However, the board will not grant or deny the application before the time allowed for a protest under 3 AAC 306.060, unless the local government waives its right to protest.

(Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229, am 1 / 22 / 2023, Register 245)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.080(a)(7) is amended to read:

(7) a protest by the **local government** [LOCAL GOVERNING BODY] is not arbitrary, capricious, and unreasonable.

3 AAC 306.080(b)(4) is amended to read:

(4) that a protest by the **local government** [LOCAL GOVERNING BODY] is not arbitrary, capricious, and unreasonable; or

3 AAC 306.080(d)(5) is amended to read:

(5) that a protest by the **local government** [LOCAL GOVERNING BODY] is not arbitrary, capricious, and unreasonable.

3 AAC 306.080(e) is amended to read:

(e) If the board denies an application for a new **marijuana establishment** license, renewal of a **marijuana establishment** license, license conversion, [OR] transfer of a **marijuana establishment** license to another person, **or transfer of a marijuana establishment license to another location**, the board will, not later than 15 days after the board meeting at which the application was denied, furnish a written statement of issues to the applicant, explaining the reason for the denial in clear and concise language, and identifying any statute or regulation on which the denial is based. In the notice of denial, the board will inform the applicant of the right to an informal conference under 3 AAC 306.085 and to a formal hearing under 3 AAC 306.090.

3 AAC 306.080(f)(5) is amended to read:

(5) a protest by the **local government** [LOCAL GOVERNING BODY] is not arbitrary, capricious, and unreasonable;

3 AAC 306.080 is amended by adding a new subsection to read:

(g) After review of the application and all relevant information, the board will deny an application for a transfer of a marijuana establishment license to another location if the board finds that

- (1) the application contains any false statement of material fact;
- (2) the application is not complete as required under the applicable provisions of 3 AAC 306.020 – 3 AAC 306.055;
- (3) the license or endorsement would violate any restriction in 3 AAC 306.010 or 3 AAC 306.015;
- (4) the license or endorsement would violate any restriction applicable to the particular license type authorized under this chapter;
- (5) the license or endorsement is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.210 and 3 AAC 306.200 - 3 AAC 306.250;
- (6) the applicant's actions or the operating plan does not adequately demonstrate that the applicant will comply with applicable provision of AS 17.38 and this chapter;
- (7) the license or endorsement would not be in the best interest of the public;
- (8) a protest by the local government is not arbitrary, capricious, and unreasonable;
- (9) a protest by the current local government in the case of a transfer of location of the license to a different local government is based on taxes owed to the current local government; or

(10) that the licensee has not paid all debts or taxes arising from the operation of the business licensed under this chapter unless the transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 8/21/2019, Register 231; am 8/7/2021, Register 239; am 7/30/2022, Register 243; am 1 / 22 / 2023, Register 245)

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.085(a) is amended to read:

(a) If an applicant for a new **marijuana establishment** license, renewal of a **marijuana establishment** license, license reinstatement, license conversion, [OR] transfer of a **marijuana establishment** license to another person, **or transfer of a marijuana establishment license to another location** is aggrieved by an action of the board denying the application, the applicant may, not later than 15 days after the date of the written notice of denial, request an informal conference with the director or the board. An informal conference requested under this section must be held at a time and place convenient to the applicant and the board, but not later than the next scheduled meeting of the board. An informal conference may be conducted telephonically. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 7/30/2022, Register 243; am

1 / 22 / 2023, Register 245 )

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900



AS 17.38.121

3 AAC 306.090(a) is amended to read:

(a) If an applicant for a new marijuana establishment license, renewal of a marijuana establishment license, license reinstatement, license conversion, [OR TRANSFER OF A LICENSE] transfer of a marijuana establishment license to another person, or transfer of a marijuana establishment license to another location is aggrieved by an action of the board denying the application, the applicant may request a formal hearing by filing a notice of defense in compliance with AS 44.62.390 not later than 15 days after the date of the written notice of the denial, or as provided under [IN] 3 AAC 306.085(b) if the applicant requested and participated in an informal conference. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a formal hearing.

(Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 7/30/2022, Register 243; am

1 / 12 / 2023, Register 245)

**Authority:** AS 17.38.010      AS 17.38.150      AS 17.38.200  
AS 17.38.070      AS 17.38.190      AS 17.38.900  
AS 17.38.121

3 AAC 306.095 is amended to read:

**3 AAC 306.095. Appeals.** (a) An aggrieved applicant or marijuana establishment license holder may appeal to the board regarding any action of the director, or an employee or agent of the board regarding an application for a new marijuana establishment license, [A



LICENSE] renewal **of a marijuana establishment license**, [A] license reinstatement, [A] license conversion, [OR A] transfer of **a marijuana establishment** license to another person, **or transfer of a marijuana establishment license to another location**.

(b) An applicant or marijuana establishment license holder aggrieved by a final decision of the board regarding an application for a new **marijuana establishment** license, [A LICENSE] renewal **of a marijuana establishment license**, [A] license reinstatement, [A] license conversion, [OR A] transfer of **a marijuana establishment** license to another person, **or transfer of a marijuana establishment license to another location** may appeal to the superior court under AS 44.62.560. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 7/30/2022, Register 243; am 1 / 22 / 2023, Register 245)

- Authority:** AS 17.38.010            AS 17.38.150            AS 17.38.200  
AS 17.38.070            AS 17.38.190            AS 17.38.900  
AS 17.38.121

3 AAC 306.100(a) is amended to read:

(a) The non-refundable [APPLICATION] fee for **an application for** a new marijuana establishment license, [AN APPLICATION FOR] license conversion, [OR] [AN APPLICATION TO] transfer **of a marijuana establishment** license to another person, **or transfer of a marijuana establishment license to another location** is \$1,000. The non-refundable [APPLICATION] fee for a new onsite consumption endorsement is \$1,000.

3 AAC 306.100(c) is amended to read:

(c) The non-refundable fee to request board approval of a change in a licensed marijuana establishment's business name, ownership, licensed premises diagram, operating plan, or proposed new marijuana product is \$250. A change fee does not apply to an application for transfer of a marijuana establishment license, [OR A] transfer of controlling interest to another person, or transfer of a marijuana establishment license to another location.

(Eff. 2/21/2016, Register 217; am 7/19/2017, Register 223; am 8/11/2018, Register 227; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am 5/1/2019, Register 230; am 5/9/2019, Register 230; am 3/25/2020, Register 233; am 7/30/2022, Register 243; am 1 / 22 / 2023, Register 245)

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.250 is amended to read:

**3 AAC 306.250. Effect on licenses of restriction on sale.** If a majority of the voters vote under 3 AAC 306.200(a) to prohibit the sale of marijuana and marijuana products or the operation of marijuana establishments, or if the assembly or city council passes an ordinance to the same effect, the board will not issue, renew, reinstate, or transfer to another person or location a license, including any endorsement, for a marijuana establishment[, OR ISSUE OR RENEW AN ENDORSEMENT] with premises located within the boundary of the local government. A license for a marijuana establishment or endorsement within the boundary of the local government is void 90 days after the results of the election are certified, or after the

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effective date of an ordinance to the same effect if the local government opted out by ordinance.

A **marijuana establishment** license or endorsement that expires during the 90 days after the certification of a local option election, or during the period of time between passage of an ordinance to the same effect and the effective date of that ordinance, may be extended until it is void under this section, by payment of a prorated portion of the annual license or endorsement fee. (Eff. 2/21/2016, Register 217; am 7/27/2017, Register 223; am 4/11/2019, Register 230; am 1/22/2023, Register 245)

**Authority:** AS 17.38.020            AS 17.38.200            AS 17.38.900  
                 AS 17.38.190            AS 17.38.210

3 AAC 306.300(a) is amended to read:

(a) Except as permitted under AS 17.38.020, a person may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or any marijuana product to a consumer unless the person has obtained a retail marijuana store license from the board in compliance with this chapter, or is an employee or agent acting for a licensed retail marijuana store operating in compliance with this chapter. [A PERSON SEEKING A RETAIL MARIJUANA STORE LICENSE MUST

(1) SUBMIT AN APPLICATION FOR A RETAIL MARIJUANA STORE LICENSE ON A FORM THE BOARD PRESCRIBES, INCLUDING THE INFORMATION SET OUT UNDER 3 AAC 306.020 AND 3 AAC 306.315; AND

(2) DEMONSTRATE, TO THE BOARD'S SATISFACTION, THAT THE APPLICANT WILL OPERATE IN COMPLIANCE WITH

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(A) EACH APPLICABLE PROVISION OF 3 AAC 306.300 - 3 AAC 306.370 AND 3 AAC 306.700 - 3 AAC 306.770; AND

(B) EACH APPLICABLE PUBLIC HEALTH, FIRE, SAFETY, AND TAX CODE AND ORDINANCE OF THE STATE AND THE LOCAL GOVERNMENT IN WHICH THE APPLICANT'S PROPOSED LICENSED PREMISES ARE LOCATED.]

(Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228; am 9/1/2021, Register 239; am 1/22/2023, Register 245)

<b>Authority:</b>	AS 17.38.010	AS 17.38.121	AS 17.38.200
	<u>AS 17.38.020</u>	AS 17.38.150	AS 17.38.900
	AS 17.38.070	AS 17.38.190	

3 AAC 306.315 is amended to read:

**3 AAC 306.315. Application for retail marijuana store license.** A person seeking a new retail marijuana store license must

**(1)** submit an application on a form the board prescribes, including the information required under 3 AAC 306.020 and

**(A)** [(1)] a copy of an active application for a required food safety permit under 18 AAC 31.020(a) from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945; [AND]

**(B)** [(2)] IN THE OPERATING PLAN REQUIRED UNDER 3 AAC 306.020(C),] a description of the way marijuana and marijuana products at the retail

marijuana store will be displayed and sold in the applicant's operating plan required under 3 AAC 306.020(c); and

(2) demonstrate, to the board's satisfaction, that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.300 – 3 AAC 306.370 and 3 AAC 306.700 – 3 AAC 306.770; and

(B) each applicable health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises is located. (Eff. 2/21/2016, Register 217; am 7/27/2017, Register 223; am

1/22/2023, Register 245 )

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.330(a) is amended to read:

(a) A retail marijuana store shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana and marijuana product in the retail marijuana store's possession is identified and tracked from the time the retail marijuana store receives any batch of marijuana or lot of marijuana product through the sale, transfer to another licensed marijuana establishment, including the relocation of marijuana or marijuana product to the new licensed premises in the case of a transfer of a marijuana establishment license to another

**location approved by the board,** or disposal of the batch of marijuana or lot of marijuana product.

(Eff. 2/21/2016, Register 217; am 1 / 22 / 2023, Register 245)

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.435(a) is amended to read:

(a) A marijuana cultivation facility shall use a marijuana inventory tracking system in compliance with 3 AAC 306.730 to ensure all marijuana propagated, grown, or cultivated on the marijuana cultivation facility's premises is identified and tracked from the time the marijuana is propagated through transfer to another licensed marijuana establishment, **including when marijuana or marijuana product is relocated to the new licensed premises in the case of a transfer of a marijuana establishment license to another location approved by the board,** or destruction. The marijuana cultivation facility shall assign a tracking number to each plant over eight inches tall and each package of marijuana to be transferred to another facility. A package of marijuana may not exceed 10 pounds. The marijuana cultivation facility shall also assign a plant batch name or number to each batch of clones or cuttings. A batch may not consist of more than 50 clones or cuttings.

(Eff. 2/21/2016, Register 217; am 3/13/2020, Register 233; am 1 / 22 / 2023, Register 245)

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900

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AS 17.38.121

3 AAC 306.500(b) is repealed:

(b) Repealed 1/22/2023.

(Eff. 2/21/2016, Register 217; am 1/22/2023, Register 245)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

[EDITOR'S NOTE: AS OF REGISTER 228 (JANUARY 2019), THE REGULATIONS ATTORNEY MADE A TECHNICAL CORRECTION UNDER AS 44.62.125(b)(6), TO 3 AAC 306.500(b), USING THE SPANNED CROSS-REFERENCE "3 AAC 306.700 — 3 AAC 306.770" TO REFLECT THE RANGE OF SECTIONS GROUPED UNDER ARTICLE 7 AS OF REGISTER 228, AND TO BE CONSISTENT WITH CHANGES TO THE SAME SPANNED CROSS-REFERENCE IN 3 AAC 306.005, EFFECTIVE OCTOBER 17, 2018 (REGISTER 228).]

3 AAC 306.520 is amended to read:

**3 AAC 306.520. Application for marijuana product manufacturing facility license.**

An applicant for a marijuana product manufacturing facility license, including a marijuana concentrate manufacturing facility license, must

(1) file an application on a form the board prescribes, **including** [AND PROVIDE] the information required under 3 AAC 306.020 and

**(A)** [(1)] a copy of an active application for a required food safety permit under 18 AAC 31.020 from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945;

**(B)** [(2)] a diagram of the proposed license premises required in 3 AAC 306.020(b), identifying the area where

**(i)** [(A)] in-house testing, if any, will occur; [AND]

**(ii)** [(B)] marijuana and any marijuana product, including marijuana concentrate, will be stored;

**(C)** [(3) IN] the applicant's operating plan required under 3 AAC 306.020(c), **which includes** a description of

**(i)** [(A)] the equipment, [AND] solvents, gases, chemicals, and other compounds used to create concentrates and the processes to be used;

**(ii)** [(B)] each marijuana product the applicant intends to process at this location; [THE PRODUCT DESCRIPTION MUST INCLUDE]

**(iii)** the color, shape, texture, ingredients and standard production procedure to be used; [AND]

**(iv)** the additional information required for product approval in 3 AAC 306.525;

**(D)** [(C)] the packaging to be used for each type of product;

**(E)** [(D)] sample labels showing how the labeling information required in 3 AAC 306.570 will be set out; [AND]

**(F)** [(E)] the applicant's plan for disposal of waste; **and**



**(2) demonstrate, to the board's satisfaction, that the applicant will operate in compliance with**

**(A) each applicable provision of 3 AAC 306.500 – 3 AAC 306.570 and 3 AAC 306.700 – 3 AAC 306.770; and**

**(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.** (Eff. 2/21/2016, Register 217; am 7/27/2017, Register 223; am 1 / 22 / 2023 , Register 245 )

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.540(a) is amended by adding a new paragraph to read:

(4) relocation of marijuana or marijuana products to the new licensed premises in the case of a transfer of a marijuana establishment license to another location approved by the board.

(Eff. 2/21/2016, Register 217; am 1 / 22 / 2023 , Register 245 )

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

(((Publisher: Please move "and" to the appropriate penultimate paragraph after adding (4).)))

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3 AAC 306.605(b) is repealed:

(b) Repealed 1 / 22 / 2023.

(Eff. 2/21/2016, Register 217; am 1 / 22 / 2023, Register 245)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

[EDITOR’S NOTE: AS OF REGISTER 228 (JANUARY 2019), THE REGULATIONS ATTORNEY MADE A TECHNICAL CORRECTION UNDER AS 44.62.125(b)(6), TO 3 AAC 306.605(b), USING THE SPANNED CROSS-REFERENCE “3 AAC 306.700 — 3 AAC 306.770” TO REFLECT THE RANGE OF SECTIONS GROUPED UNDER ARTICLE 7 AS OF REGISTER 228, AND TO BE CONSISTENT WITH CHANGES TO THE SAME SPANNED CROSS-REFERENCE IN 3 AAC 306.005, EFFECTIVE OCTOBER 17, 2018 (REGISTER 228).]

3 AAC 306.615 is amended to read:

**3 AAC 306.615. Application for marijuana testing facility license.** An applicant for a new marijuana testing facility license must

- (1)** file an application on a form the board prescribes, including
  - (A)** [(1)] the information required under 3 AAC 306.020; [AND]
  - (B)** [(2)] the proposed marijuana testing facility's operating plan, including, in addition to the information required under 3 AAC 306.020(c),
    - (i)** [(A)] each test the marijuana testing facility will offer;

- (ii) [(B)] the marijuana testing facility's standard operating procedure for each test the marijuana testing facility will offer; and
- (iii) (C) the acceptable range of results for each test the marijuana testing facility will offer; and

**(2) demonstrate to the board’s satisfaction that the applicant**

**(A) will operate in compliance with each applicable provision of 3 AAC 306.600 – 3 AAC 306.675 and 3 AAC 306.700 – 3 AAC 306.770;**

**(B) will operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant’s proposed licensed premises are located;**

**(C) does not hold a marijuana establishment license in this state other than a marijuana testing facility license, or have a financial interest in common with a person that is a licensee of marijuana establishment in this state other than a marijuana testing facility license; and**

**(D) meets the board’s standards for approval as set out in 3 AAC 306.620 – 3 AAC 306.625. (Eff. 2/21/2016, Register 217; am 1 / 22 / 2023,**

Register 245 )

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306.655 is amended by adding a new subsection to read:

(b) A marijuana testing facility shall use its marijuana inventory tracking system, as required under this section, to track all marijuana or marijuana products transported to the new licensed premises in the case of a transfer of a marijuana establishment license to another location approved by the board. (Eff. 2/21/2016, Register 217; am 1 / 22/2023 Register 245 )

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

(((Publisher: Please mark the first paragraph of this section as (a) with the addition of new subsection (b).)))

3 AAC 306.750 is amended by adding a new subsection to read:

(i) A marijuana establishment shall keep records of all marijuana or marijuana products relocated to the new licensed premises in the case of transfer of a marijuana establishment license to another location approved by the board. (Eff. 2/21/2016, Register 217; am 10/11/2017, Register 224; am 8/11/2018, Register 227; em am 4/17/2020 - 8/14/2020, Register 234; em am 5/7/2020 - 8/14/2020, Register 234; am 1 / 22/2023, Register 245 )

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

3 AAC 306.755(a) is amended by adding a new paragraph to read:

(10) transportation records for marijuana or marijuana products being relocated in the case of a transfer of a marijuana establishment license to another location approved by the board.

(Eff. 2/21/2016, Register 217; am 12/10/2020, Register 236; am 1/22/2023, Register 245)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200  
AS 17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121

((Publisher: Please move "and" to appropriate penultimate paragraph.))

3 AAC 306.930(c) is amended to read:

(c) The director shall **have available to the public** [PRESCRIBE] forms for application for new **marijuana establishment** licenses, transfers, [AND] renewals, [AND FOR] endorsements, petitions, and other necessary documents **as approved by the board**. (Eff.

12/28/2016, Register 220; am 1/22/2023, Register 245)

**Authority:** AS 17.38.140 AS 17.38.150 AS 17.38.190