



## MEMORANDUM

TO: Bob Klein, Chair, and Members of the  
Alcoholic Beverage Control Board

DATE: June 12, 2018

FROM: Erika McConnell, Director

RE: 5648 49<sup>th</sup> State Spirits and Gifts

**Requested Action:** New license application

**Statutory Authority:** AS 04.06.090(b): “The board shall review all applications for licenses made under this title and may order the director to issue, renew, revoke, transfer, or suspend licenses and permits authorized under this title.”

AS 04.11.480(a): “A local governing body may protest the issuance, renewal, relocation, or transfer to another person of a license by sending the board and the applicant a protest and the reasons for the protest within 60 days of receipt from the board of notice of filing of the application ... If an application or continued operation is protested, the board shall deny the application or continued operation unless the board finds that the protest is arbitrary, capricious, and unreasonable.”

AS 04.11.480(a): “The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it considers the application...”

AS 04.11.510(b)(2): “the board may, on its own initiative or in response to an objection or protest, hold a hearing to ascertain the reaction of the public or a local governing body to an application if a hearing is not required under this subsection; the board shall send notice of a hearing conducted under this paragraph 20 days in advance of the hearing to each community council established within the municipality and to each nonprofit community organization entitled to notification under AS 04.11.310(b);”

**Staff Rec.:** Uphold the protest with a 90-day abeyance; require door to package store to be moved per AS 04.11.150(f)

**Background:** The Municipality of Anchorage submitted a timely protest of this new package store, for lack of a conditional use permit.

The board is required to hold a hearing to consider the protest, and the hearing shall be conducted under AS 04.11.510(b)(2). Notification of the protest was provided on May 18, 2018, via the board meeting's public notice. Supplemental notice was provided to the Downtown Community Council on June 3, 2018.

The Municipality of Anchorage provided the licensee with an opportunity to be heard before the local governing body in accordance with 3 AAC 304.145(d), which states, "A local governing body that protests an application shall allow the applicant a reasonable opportunity to defend the application before a meeting of the local governing body."

This package store is located within beverage dispensary license #4058, 49<sup>th</sup> State Brewing Company. AS 04.11.150(f) states:

When the holder of a package store license is also a holder of a beverage dispensary license and the package store premises are contained within or are adjacent to the premises of the beverage dispensary and the only public entrance to the package store is by a door or other means within the premises of the beverage dispensary, the board shall determine if additional entrances to the package store are necessary for enforcement purposes, to meet health and fire safety standards, or for the convenience of the public.

Customers would carry alcohol purchased in the package store into the beverage dispensary licensed premises, which, if enforcement by the licensee was not vigilant, could violate AS 04.16.120(b), which states, "Except as provided in this subsection, a person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment." For enforcement purposes, staff recommends the entrance door to the package store be moved to the west wall, and that the area between the two sets of entrance doors to the beverage dispensary license be removed from the licensed premises of #4058.

Attachment: Municipality of Anchorage protest  
Approved licensed premises diagram for #4058  
Application



# Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4316 • Fax: (907) 249-7533 <http://www.muni.org/assembly/license>

## Office of the Municipal Clerk Licensing

May 23, 2018

Ms. Sarah Oates  
Alaska Alcohol and Marijuana Control Office  
550 W 7<sup>th</sup> Ave. Ste. 1600  
Anchorage, Alaska 99501

RE: Anchorage Assembly Actions on Liquor Licenses

Dear Ms. Oates:

The Anchorage Municipal Assembly at its regular meeting on **May 22, 2018** took the following actions:

### **WAIVE OF PROTEST** **Transfer Liquor License**

- **Beverage Dispensary**  
Eagle River Alehouse LL#4173 – AM 340-2018
- **Beverage Dispensary-Duplicate**  
Eagle River Alehouse LL#5639 – AM 341-2018

### **NOTICE OF PROTEST** **New Liquor License**

- **Package Store**  
49<sup>th</sup> State Spirits & Gifts LL#5648 – AR 2018-165  
Pending a public hearing and subsequent final action upon the license by the Assembly. Per 3 AAC 304.145(d) and AMC 2.30.120F., the public hearing regarding the protest of the new license is currently scheduled for June 12, 2018.  
Protest is in order due to the requirement for a conditional use permit.

### **Transfer Liquor License**

- **Restaurant/Eating Place**  
Shanghai Tea Garden LL#1805 – AR 2018-169  
Pending a public hearing and subsequent final action upon the license by the Assembly. Per 3 AAC 304.145(d) and AMC 2.30.120F., the public hearing regarding the protest of the new license is currently scheduled for June 12, 2018.  
Protest is pending certification of a complete inspection by the Anchorage Fire Department.

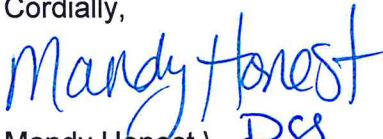
### **CONTINUED PROTEST** **Renewal Liquor License**

- **Package Store**  
Mom and Pop's Liquor and Grocery LL#3219 – AR 2018-110 and AR 2018-135  
The Assembly's conditional protest sent to AMCO previously was conditioned on holding a public hearing regarding the renewal application and until the

Assembly takes final action on the license. At the Assembly's regular meeting May 22, 2018 a public hearing was opened, but it was continued to the next regular Assembly meeting scheduled for June 12, 2018.

Any prior conditions placed on any license are to continue until specifically removed or amended. If you require additional information or if I can be of any assistance please call me.

Cordially,

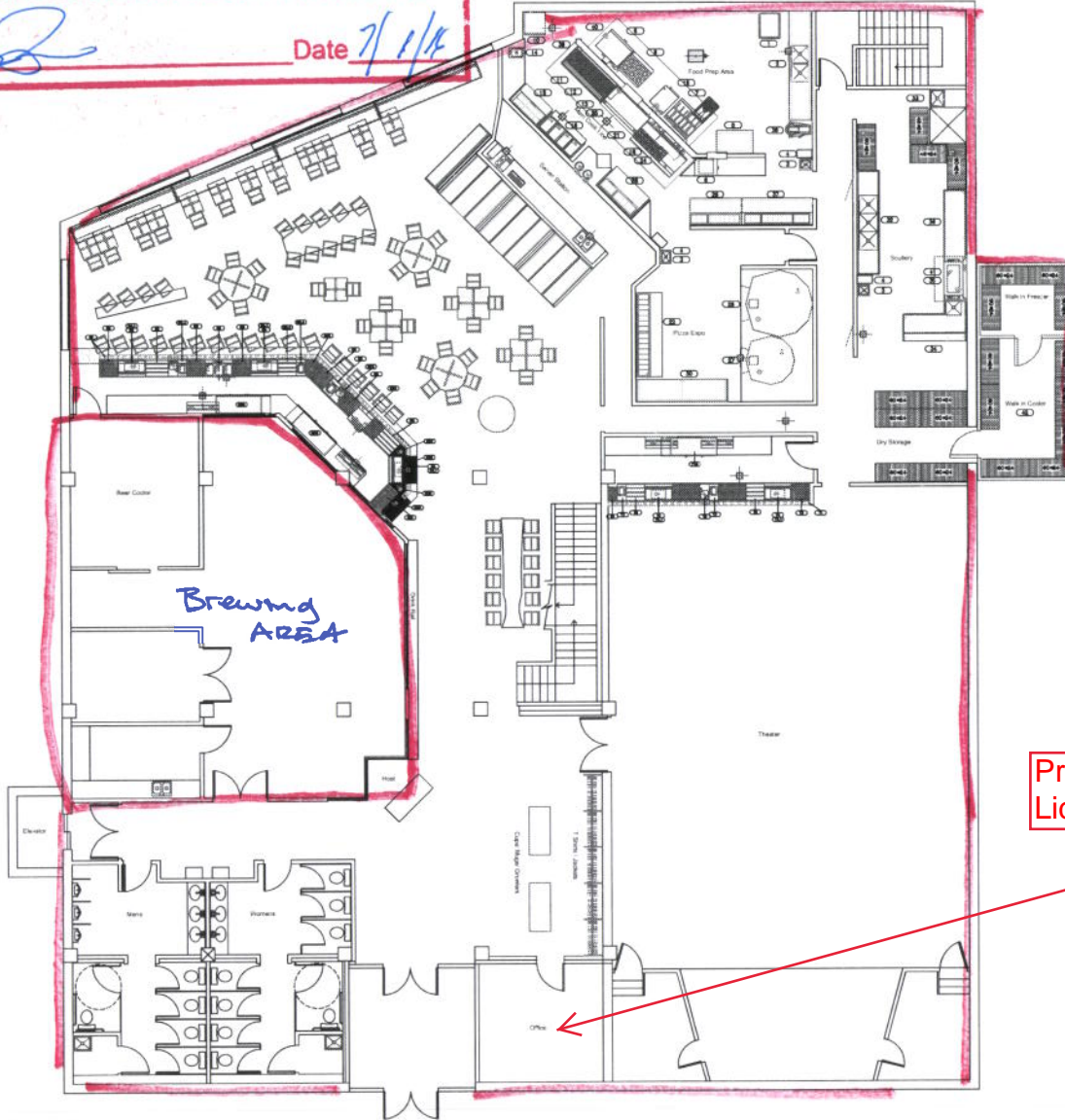


Mandy Honest \ D&S  
Business License Official

CC: Northern Hospitality Group, Inc. – Via Email  
Shanghai Tea Garden, LLC – Via Email  
LeeFamily Corporation – Via Email

**APPROVED DIAGRAM**  
STATE OF ALASKA - DEPT. OF COMMERCE  
COMMUNITY AND ECONOMIC DEVELOPMENT  
ALCOHOLIC BEVERAGE CONTROL BOARD

Date 7/1/16



Proposed for License #5648

Main Floor Bar & Theater

**General Notes**

These drawings are for the purpose of design only and are the property of Commercial Kitchen Solutions

## Main Floor Bar & Theater

| No. | Revision/Issue | Date |
|-----|----------------|------|
|     |                |      |

**COMMERCIAL KITCHEN SOLUTIONS, LLC**

4917 Reservoir Dr.  
Anchorage, AK 99516  
281.527.5550  
281.527.5550

49th State Brewery  
717 W 3rd Ave  
Anchorage, AK 99501

|         |                     |       |      |
|---------|---------------------|-------|------|
| Project | Kitchen Bar Remodel | Sheet | FS.1 |
| Date    | 2/5/2016            |       |      |
| Scale   | N/A                 |       |      |



Alaska Alcoholic Beverage Control Board

**Form AB-00: New License Application**

What is this form?

This new license application form is required for all individuals or entities seeking to apply for a new liquor license. Applicants should review **Title 04 of Alaska Statutes** and **Chapter 304 of the Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260 and 3 AAC 304.105.

This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.

**Section 1 – Establishment and Contact Information**

Enter information for the business seeking to be licensed.

|                       |                                |                      |           |
|-----------------------|--------------------------------|----------------------|-----------|
| Licensee:             | Northern Hospitality Group Inc |                      |           |
| License Type:         | Package Store License          | Statutory Reference: | 04.11.150 |
| Doing Business As:    | 49th State Spirits and Gifts   |                      |           |
| Premises Address:     | 717 West 3rd Avenue            |                      |           |
| City:                 | Anchorage                      | State:               | Alaska    |
|                       |                                | ZIP:                 | 99501     |
| Local Governing Body: | Municipality of Anchorage      |                      |           |
| Community Council:    | Downtown Community Council     |                      |           |

|                  |                  |        |        |
|------------------|------------------|--------|--------|
| Mailing Address: | 645 West 3rd Ave |        |        |
| City:            | Anchorage        | State: | Alaska |
|                  |                  | ZIP:   | 99501  |

|                      |                   |                 |              |
|----------------------|-------------------|-----------------|--------------|
| Designated Licensee: | Jason Motyka      |                 |              |
| Contact Phone:       | 907-229-5151      | Business Phone: | 907-277-7727 |
| Contact Email:       | Jason@dv3corp.com |                 |              |

Seasonal License?    Yes     No     If "Yes", write your six-month operating period: \_\_\_\_\_

|                     |                |            |      |
|---------------------|----------------|------------|------|
| OFFICE USE ONLY     |                |            |      |
| Complete Date:      | License Years: | License #: | 5648 |
| Board Meeting Date: | Transaction #: | 61555      |      |
| Issue Date:         | BRE:           | CDC        |      |





## Alaska Alcoholic Beverage Control Board

# Form AB-00: New License Application

### Section 2 – Premises Information

Premises to be licensed is:

an existing facility       a new building       a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

Denali Montessori Elementary School-1 Mile

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.

The Holy Mass Cathedral-830 Feet

### Section 3 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 4. If more space is needed, please attach a separate sheet with the required information.

The following information must be completed for each licensee and each affiliate (spouse).

This individual is an:  applicant       affiliate

|          |  |        |  |      |  |
|----------|--|--------|--|------|--|
| Name:    |  |        |  |      |  |
| Address: |  |        |  |      |  |
| City:    |  | State: |  | ZIP: |  |

This individual is an:  applicant       affiliate

|          |  |        |  |      |  |
|----------|--|--------|--|------|--|
| Name:    |  |        |  |      |  |
| Address: |  |        |  |      |  |
| City:    |  | State: |  | ZIP: |  |





Alaska Alcoholic Beverage Control Board

**Form AB-00: New License Application**

**Section 4 – Entity Ownership Information**

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 5.

If more space is needed, please attach a separate sheet with the required information.

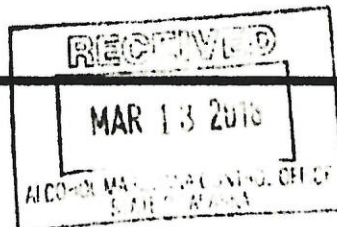
- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

|                  |                  |        |              |             |
|------------------|------------------|--------|--------------|-------------|
| Entity Official: | David Mccarthy   |        |              |             |
| Title(s):        | President        | Phone: | 907-599-0052 | % Owned: 50 |
| Address:         | 717 West 3rd Ave |        |              |             |
| City:            | Anchorage        | State: | Alaska       | ZIP: 99501  |

|                  |                     |        |              |             |
|------------------|---------------------|--------|--------------|-------------|
| Entity Official: | Jason Motyka        |        |              |             |
| Title(s):        | Treasurer/Secretary | Phone: | 907-229-5151 | % Owned: 41 |
| Address:         | 717 West 3rd Ave    |        |              |             |
| City:            | Anchorage           | State: | Alaska       | ZIP: 99501  |

|                  |  |        |  |          |
|------------------|--|--------|--|----------|
| Entity Official: |  |        |  |          |
| Title(s):        |  | Phone: |  | % Owned: |
| Address:         |  |        |  |          |
| City:            |  | State: |  | ZIP:     |

|                  |  |        |  |          |
|------------------|--|--------|--|----------|
| Entity Official: |  |        |  |          |
| Title(s):        |  | Phone: |  | % Owned: |
| Address:         |  |        |  |          |
| City:            |  | State: |  | ZIP:     |







Alcohol and Marijuana Control Office  
 550 W 7<sup>th</sup> Avenue, Suite 1600  
 Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

**Form AB-00: New License Application**

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

|                          |                         |                |              |             |        |
|--------------------------|-------------------------|----------------|--------------|-------------|--------|
| DOC Entity #:            | 10033804                | Formed Date:   | 12/02/2015   | Home State: | Alaska |
| Registered Agent:        | Jason Motyka            | Agent's Phone: | 907-229-5151 |             |        |
| Agent's Mailing Address: | PO Box 107, Denali Park |                |              |             |        |
| City:                    |                         | State:         | Alaska       | ZIP:        | 99755  |

Residency of Agent: Alaska Yes No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?  Yes  No

**Section 5 - Other Licenses**

Ownership and financial interest in other alcoholic beverage businesses: Yes No

Does any representative or owner named in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?  Yes  No

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

#4946 49th State Brewing Company-Brewpub, #671 49th State Brewing-BDL, #3370 McKinley Denali Salmon Bake-Seasonal Founst, #5297 The Overlook BDL, #1938 Prospectors Pizza RIDP, #4058 49th State Brewing Company-BDL #4059 49th State Brewing Company, 5554, 5555, 5556, 5557, 5558

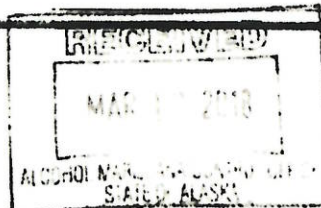
**Section 6 - Authorization**

Communication with AMCO staff: Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?  Yes  No

If "Yes", disclose the name of the individual and the reason for this authorization:

Daniel J Mccarthy Legal Counsel.





Alaska Alcoholic Beverage Control Board  
**Form AB-00: New License Application**

**Section 7 – Certifications**

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

I certify that all proposed licensees have been listed with the Division of Corporations.

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

Signature of licensee

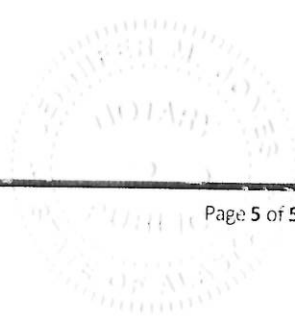
Jason Motyka  
Printed name of licensee

Signature of Notary Public

Notary Public in and for the State of Alaska  
3rd Judicial District

My commission expires: 10-24-19

Subscribed and sworn to before me this 2 day of March, 2018.





## Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

### What is this form?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

The **second page** of this form is not required. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's main office before any license application will be considered complete.

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

### Section 1 – Establishment Information

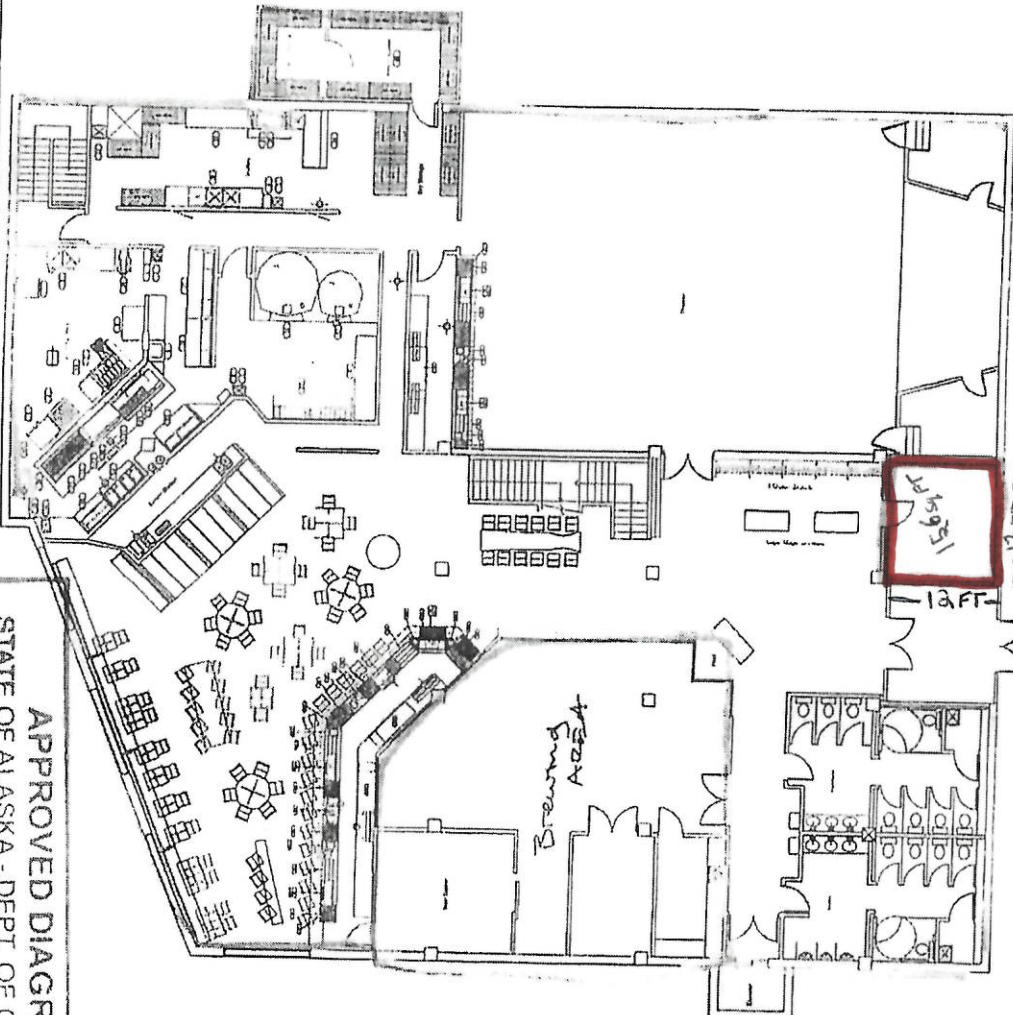
Enter information for the business seeking to be licensed, as identified on the license application.

|                    |                                |                 |     |      |       |
|--------------------|--------------------------------|-----------------|-----|------|-------|
| Licensee:          | Northern Hospitality Group Inc | License Number: | New |      |       |
| License Type:      | Package Store                  |                 |     |      |       |
| Doing Business As: | 49th Spirits and Gifts         |                 |     |      |       |
| Premises Address:  | 717 West 3rd Avenue            |                 |     |      |       |
| City:              | Anchorage                      | State:          | Ak  | ZIP: | 99501 |



3rd Avenue

Main Floor Bar & Theater



Main Floor Bar & Theater

These drawings are for the purpose of design only and are the property of Commercial Kitchen Solutions.

|   |                        |                  |
|---|------------------------|------------------|
| Commercial Kitchen Solutions, LLC<br>45th State Brewery<br>717 W 3rd Ave<br>Anchorage, AK 99501 | PROJECT NO.<br>25/2016 | SHEET NO.<br>R/A |
|---|------------------------|------------------|

Christensen Drive

APPROVED DIAGRAM  
 STATE OF ALASKA - DEPT. OF COMMERCE  
 COMMUNITY AND ECONOMIC DEVELOPMENT  
 ALCOHOLIC BEVERAGE CONTROL BOARD

Date 7/1/16

RECEIVED  
 APR 19 2018  
 ALCOHOL MARIJUANA CONTROL OFFICE  
 STATE OF ALASKA

RECEIVED  
 MAR 11 2016  
 ALCOHOL MARIJUANA CONTROL OFFICE  
 STATE OF ALASKA

Level 2