



## MEMORANDUM

TO: Marijuana Control Board                      DATE: February 20, 2019

FROM: Erika McConnell, Director              RE: Regulations Project – Denial of  
Marijuana Control Board                      License Application

The board initiated this project in October of 2018, to fine tune 3 AAC 306.080 which states reasons the board may deny a new, renewal, or transfer application, or an application for license conversion. It adds conditions of residency, losing right of possession of the premises, and local governing body protests as a reason for denial, and removes license revocation as a reason for not being renewed. Another reason added is the board's finding that the actions of an applicant indicate they will not comply with the regulations—this attempts to get at those applicants who have violated the laws before they are even licensed—but it is possible the phrasing could be improved.

The intent of this project has not been to provide new reasons for the board to deny a license, but rather to better document those reasons the board has experienced in the last two and a half years.

Options for the board:

- Put out for public comment as written
- Amend and put out for public comment
- Send back to staff for revisions
- Close the project without action

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.080 is amended to read:

**3 AAC 306.080. Denial of License application.** (a) After review of the application, including the applicant's proposed operating plan and all relevant information, the board will deny an application for a new license if the board finds that

(1) the application is not complete as required under the applicable provisions of 3 AAC 306.020 - 3 AAC 306.055, or contains any false statement of material fact;

(2) the license would violate any restriction in 3 AAC 306.010 **or 3 AAC 306.015**;

(3) the license would violate any restriction applicable to the particular license type authorized under this chapter;

(4) the license is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.210, 3 AAC 306.200, or 3 AAC 306.230;

(5) [THE BOARD FINDS THAT] the **applicant's actions or the** operating plan does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter; [OR]

(6) the license would not be in the best interests of the public; **or**

**(7) a protest by the local governing body is not arbitrary, capricious, and unreasonable.**

(b) After review of the application and all relevant information, the board will deny an application for renewal of a marijuana establishment license if the board finds

(1) any cause listed in (a) of this section;

(2) **repealed** / / \_\_\_\_\_ [THAT THE LICENSE HAS BEEN REVOKED FOR ANY CAUSE];

(3) that the license has been operated in violation of a condition or restriction the board previously imposed; or

(4) that the applicant is delinquent in the payment of taxes due in whole or in part from operation of the licensed business;

**(5) that a protest by the local governing body is not arbitrary, capricious, and unreasonable; or**

**(6) that the licensee has lost right to possession of its licensed premises.**

(c) After review of the application and all relevant information, the board will deny an application for transfer of license to another person if the board finds

(1) any cause listed in (a) of this section;

(2) that the transferor 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;

(3) that transfer of the license to another person would result in violation of the provisions of this chapter relating to identity of licensees and financing of licensees; [OR]

(4) that the prospective transferee does not have the qualifications of an original applicant required under this chapter; **or**

**(5) that a protest by the local governing body is not arbitrary, capricious, and unreasonable.**

(d) If the board denies an application for a new license, renewal of a license, license conversion, or transfer of a license to another person, 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.

(e) After review of the application and all relevant information, the board will deny an application for license conversion if the board finds **that**

(1) the application contains any false statement of material fact;

(2) the license would violate any restriction applicable to the particular license type authorized under this chapter;

(3) the license is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.210, 3AAC 306.200, or 3 AAC 306.230;

(4) [THE BOARD FINDS THAT] the **applicant’s actions or the** application does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter;

(5) **a protest by the local governing body is not arbitrary, capricious, and unreasonable** [THE APPLICATION IS PROTESTED BY THE LOCAL GOVERNMENT]; or

(6) the license conversion would not be in the best interest of the public. (Eff.

2/21/2016, Register 217; am 2/21/19, Register 229; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

- 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