



MEMORANDUM

TO: Alcohol Beverage Control Board
Marijuana Control Board

DATE: August 17, 2021

FROM: Glen Klinkhart, Director

RE: Estimating and examining local population numbers for Public Convenience License applications (ABC) and/or license petitions with no local government (MCB)

PUBLIC CONVENIENCE LICENSES (ABC):

This communication is designed to bring the board's attention to the ongoing process and frustration on the part of AMCO and license applicants in regard to applying, designing, implementing, and determining populations within an specific geographical area in order to properly evaluate and approve a Public Convenience Licenses (ABC) and/or a license petition with no local government (MCB).

Note this is not in regard to the new option of obtaining signatures via online signature collections (which is working well for some applicants) rather it is how statutes, AMCO internal processes, and board expectations may be able balance the desires of a community to have an additional license in the area and those who may feel differently.

RELEVANT STATUTES/REGULATIONS – ALCOHOL:

Sec. 04.11.400. Population limitations. (a) Except as provided in (d) – (k) of this section, a new license may not be issued and the board may prohibit relocation of an existing license (1) outside an established village, incorporated city, unified municipality, or organized borough if, after the issuance or relocation, there would be

(A) more than one restaurant or eating place license for each 1,500 population or fraction of that population, or

(B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population, in a radius of

five miles of the licensed premises, excluding the populations of established villages, incorporated cities, unified municipalities, and organized boroughs that are wholly or partly included within the radius;

(2) inside an established village, incorporated city, or unified municipality if, after the issuance or relocation, there would be inside the established village, incorporated city, or unified municipality

(A) more than one restaurant or eating place license for each 1,500 population or fraction of that population; or

(B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population;

AS 04.11.400(e) The board may approve the issuance or transfer of ownership of a restaurant or eating place license without regard to (a) of this section if

(1) the premises of the restaurant or eating place are more than 18 miles from the corporate limits of a city or unified municipality;

(2) the premises will serve food to the traveling public; and

(3) the board finds that the public convenience will be served by the issuance or transfer.

Sec. 04.11.460. Prior public approval. (a) A new license or the transfer of location of an existing license may not be approved by the board in an area outside but within 50 miles of the boundaries of a municipality unless a petition asking that the license be issued or transferred within the area containing signatures of a majority of the permanent residents residing within one mile of the proposed premises is filed with the board.

(c) In this section, "permanent resident" means a person 21 years of age or older who has established a permanent place of abode.

3 AAC 304.115. Petitions (a) If required by statute or regulation, a petition is a necessary part of an application for a new license, and for renewal, transfer, or relocation of an existing license. An application submitted without the required petition is incomplete. All petitions must be on forms prescribed by the board. Petition signatures must be obtained within the 90-day period immediately preceding the submission of the application. After an application has been filed, no

additional signatures may be added to the petition, and no signatures may be withdrawn.

(b) A person signing a petition relating to a license must be 21 years of age or older and must be a permanent resident of the geographical area relevant to the petition. A person may have only one permanent residence.

(c) Municipal boundaries shall be disregarded when gathering petition signatures.

(d) When submitting a petition under AS 04.11.460, an applicant shall assist in the determination of population by submitting the following information with the application:

- (1) a graphic designation on a United States Geodetic Survey map with a scale of at least one inch to the mile showing the population within a circle of the applicable radius, and showing where petition signatures were obtained; and
- (2) the population within the applicable area and narrative of how the population was determined.

RELEVANT STATUTES/REGULATIONS – MARIJUANA:

3 AAC 306.030. Petition for license or endorsement in area with no local government (a) The board will not approve a new license or new onsite consumption endorsement 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.

HISTORICAL BACKGROUND

In the past the boards have been less concerned with the exactness of each specific application, rather looking at the totality as to whether or not the local community supports or objects to the new establishment. If there are objections to an application, the boards have relied on asking if the objection is reasonable and weighing the benefits to the applicant and the community. In general, the question the board has asked is, “is the community okay with this license in their area?” If so, the board has historically supported the application.

Although not in statute or regulation, in the past, the Alcohol Marijuana Control Office has required applicants who are required to submit a petition to determine by themselves the population around the proposed facility. Only then can the applicant figure out how to obtain signatures from 51% or two thirds of the population. The applicants then send

AMCO those data points, all of the signatures collected, and a written explanation of how they calculated the numbers and obtained the signatures. The applicants may or may not have the assistance of local governments or reliable data to help determine if they are going to have reasonable numbers to work with. The applicants then submit their applications with the hopes they have done an acceptable job on the petition. Only then does the AMCO office then decide whether or not the application is acceptable. An application is often rejected against those who are new to the process or who had limited resources to help with population requirements. There is often little explanation or assistance from AMCO.

Additionally, the statutes explicitly list the radius requirements where the applicant must gather signatures. However, in most cases it is almost impossible to determine a reasonable population base within the required radius and therefore the majority of applications with petitions are rejected and the applicant must start the process over from the beginning.

For example, a restaurant in a township makes an application to serve beer and wine at their pizza place. They are told by AMCO to go figure out as the statute says, the population of all adults, who are permanent residents, over the age of 21 in a one square mile of their establishment. Their city likely does not have or has very old population numbers. When population numbers are provided, there is little or no way to determine who are over 21 years of age. U.S. Census data may be helpful but in many cases the census data does not provide enough information to determine the population of such a small portion of the area. The applicant is left with the difficult task of overcoming a process with no guidance, one which takes months to obtain signatures, and in the end, it may still be rejected by AMCO due to incompleteness.

ACTION TAKEN:

The Alcohol and Marijuana Control Office has recently attempted to help this confusing and ambiguous process by looking into ways to assist the applicants along the way and to be able to present the board(s) with good information and recommendations.

RECCOMENDATION(S):

We have yet to find a perfect solution that will fit every applicant's specific geographic location. We were hoping to create a partial process or guideline which is reasonable, repeatable, and flexible enough to work in different situations. We are proposing two main ideas which we are hope will make this process more efficient and successful for both the applicant and AMCO.

1. The process we are creating begins with written guidance in the form of instructions to help the applicant use publicly available information to figure out a reasonable population estimate. Ultimately AMCO and the board will make the final determination of the reasonableness, however these suggestions are a guideline designed to help support a final estimated population count. See

attached DRAFT Guideline: **AMCO Process for assisting in determining number of signatures required for Public Convenience Applications DRAFT 08/02/2021**

2. Giving the examiners and our new Local Government Specialist the ability to use a process such as noted above to provide such tools and guidance in navigating how to determine and obtain enough reasonable population numbers and signatures for the board to consider. AMCO would still look to the reasonableness and the documented common good/convenience of the public in determining a completed application before presentation to the board.

REQUEST OF THE BOARD(S):

We are requesting the board to consider the above and attached information and to consider the some of the following actions:

1. Accept AMCO staff's recommendations.
2. Acknowledge and reinforce the historical judgement of the board in deciding applications based upon the common good/convenience of the public within a reasonable amount of area of the establishment.
 - a. Note this may be within the spirit of the statute however it is not completely in line with the letter of the statute.
3. Propose other possible solutions to meeting the statute requirements
4. The board can provide a different or even a more ridged interpretation of the statute and our AMCO processes.

This has not been an easy problem to try and solve. The AMCO team as well as several recent applicants have been incredibly helpful and willing to try to find answers to this perpetuating issue. In the end there may not be any easy solutions or one simple fix. My hope is the board will appreciate the situation, provide direction, and allow for us to use a fair and open process for our license applicants.



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AMCO Process for assisting in determining number of signatures required for Public Convenience Applications DRAFT 08/02/2021

Public Convenience applications require a certain number of signatures from adults within the area(s) around the location of the establishment. Determining how many signatures are needed can be a daunting task as populations in and around a specific area may be difficult to determine. The following is a guideline to help determine the minimum number of signatures that AMCO will be looking for in a Public Convenience Application.

These proposed processes are not going to work for every applicant or in every situation. These examples are designed to help guide the applicant in successfully applying. If the applicant requires additional help or guidance, please contact the AMCO main office at: (907) 269-0350 or direct your written questions via email to either,

For Alcohol licensing: alcohol.licensing@alaska.gov

For Marijuana licensing: marijuana.licensing@alaska.gov


1. Two potential ways to determine the most current population number for the city in which the establishment resides.
 - a. U.S. Census has some population numbers for some cities on their website
 - i. <https://www.census.gov/quickfacts/fact/table/US/PST045219>
 1. Enter the city and if it is available, obtain the latest population estimate
 - ii. **SAMPLE: Fairbanks City, Alaska; United States**



1. Here U.S. Census provides a 2019 estimate of population at 30,917

- b. OR obtain city total population numbers from the AMCO website at:


- i. <https://www.commerce.alaska.gov/web/amco/OtherAlcoholResources.aspx>
 - ii. Click on the latest "Populations Figures – Updated XX/XX/XXXX"
 - iii. Locate the city/township and extract the "Net Pop" (Net Population) number
 1. Here AMCO provides a 2020 estimate of population at 31,137
 - c. Or contact or attempt to contact your local government for population numbers
 2. Attempt it determine the number of persons under the age of 18 within city in which the establishment resides (The US Census does not obtain under 21 numbers) or attempt to contact your local government to help determine the number of persons under the age of 18.
 - a. U.S. Census has some under 18 population estimate numbers for some cities on their website
 - i. <https://www.census.gov/quickfacts/fact/table/US/PST045219>
 1. Enter the city and if it is available, obtain the latest population estimate
- This is also from the US Census search of Fairbanks City, Alaska; United States

 Persons under 18 years, percent

 24.0%

3. Find the estimated number of people over the age of 18 within the population's numbers provided:
 - a. SAMPLE: U.S. Census Fairbanks 2019 population estimate = 30,917

Minus the 24% of the estimated people under 18 gives the amount of people over 18 at 23,497
4. Attempt to determine the approximate square miles the city in which the establishment resides.
 - a. U.S. Census has some township square miles estimate numbers for some cities on their website
 - i. <https://www.census.gov/quickfacts/fact/table/US/PST045219>
 1. Enter the city and if it is available, and obtain the latest township square miles estimate This is also from the US Census search of Fairbanks City, Alaska; United States

 Land area in square miles, 2010

31.69

5. Take the square miles of the township and divide that into the estimated number of adults from above to determine the estimated number of adults within a given square mile of the establishment:
 - a. Estimated number of persons OVER 18 (Fairbanks) = 23,497
 - b. Estimated square miles the city/township (Fairbanks) = 31.69
 - c. estimated number of adults within a given square mile = 741 adults per square mile
6. For the total number of signatures required the applicants needs 51% of the adults within a square mile of the establishment
 - a. Estimated number of adults within a given square mile = 741 adults per square mile

- b. Divided by 51% required
- c. The total number of signatures required = **378 valid signatures***

*Valid Signatures are those signatures which include:

- Legal Name (first, last and middle name)
- Complete Date of Birth
- Physical Address, including city name (no PO Boxes) and zip code within the city
- Question: "Do you understand that your signature on this petition indicates your support of a Restaurant/Eating Place – Public Convenience (Beer & Wine) license for this business?" Yes or No
- Actual Signature
- Date Signed

