



MEMORANDUM

TO: Marijuana Control Board DATE: January 24, 2024

FROM: Kristina Serezhenkov, Regulations RE: Regulations Project- Operating
Specialist Plans

This project was opened at the June 2023 meeting with the intent to simplify the application process in connection with operating plan requirements. It was discussed at both the August and November 2023 board meetings during which the Board provided guidance to remove operating plan regulations and instead require certifications. The draft included today repeals the requirement to provide an 'operating plan' and writes the possibility of 'certifications' into the application process.

In addition to repealing **3 AAC 306.730 Operations**, the main amendment is to **3 AAC 306.020(c)**, which is rewritten to replace the operating plans with a certification during the application process that 'the regulatory requirements' will be met for the following:

1. security
2. inventory tracking of all marijuana and marijuana products on the premises
3. employee qualification and training
4. waste disposal
5. transportation and delivery of marijuana and marijuana products
6. signage and advertising.

Background: The current requirement to submit a detailed operating plan correlates closely with the current FORM MJ-01: MARIJUANA ESTABLISHMENT OPERATING PLAN. The MJ-01 form is a standard form that is required for **all types of marijuana establishments and is the same for every applicant**. There are four license specific supplemental operating plan forms, the MJ-03, MJ-04, MJ-05, and MJ-06, that are required for applicants based on what license type they apply for. In conjunction with the proposed regulation changes, our strategy has been to review closely each of these forms and, where possible, make recommendations to change a required description into a required certification. Some of the information requested on the standard MJ-01 and much of the information requested on each of the license specific supplemental forms is not easily or appropriately turned into a certification and will need board discussion.

The Board packets include copies of the MJ-01, MJ-03, MJ-04, MJ-05, and MJ-06 forms. AMCO staff, including Enforcement staff, have gone over these forms, and provided recommendations for board review and discussion.

The regulations propose to amend the following:

3 AAC 306.020(c) Application for a new license.

Amended to remove the requirement to submit an operating plan and allow the applicant to provide a certification that regulatory requirements will be met upon licensure.

3 AAC 306.045(e) Application transfer of a license to another person.

Amended at (e) to remove mention of ‘operating plan’. An applicant can still certify that they wish to continue to operate a license using the already board approved licensed premises diagram.

3 AAC 306.046(c)(3) Application for transfer of a marijuana establishment license to another location.

Amended to remove mention of ‘operating plan’.

3 AAC 306.047(c)(2) License conversion.

Amended to repeal requirement to submit changes to an operating plan and instead, require certifications under 3 AAC 306.020(c). (recertify)

3 AAC 306.080(a) and (a)(5), (g)(6) Denial of license or endorsement application.

Removes ‘operating plan’ in the introductory language of (a) and repeals paragraphs (a)(5) and (g)(6) to ensure that applications cannot be denied due to an operating plan.

3 AAC 306.100(c) Fees; refund.

Removes ‘operating plan’ change as a change that is possible.

3 AAC 306.315(1)(B) Application for retail marijuana store.

Amended to remove ‘operating plan’ and leaving a description as required.

3 AAC 306.370(f)(1) and (g)(1) Onsite consumption endorsement for retail marijuana stores.

(f)(1) is amended to remove ‘operating plan’ and replaces with requirement to provide both certifications at 306.020(c) and a description of other information.

At (g)(1) removes mention of ‘operating plan’.

3 AAC 306.380(b) Walk-up or drive through exterior window pick-up for retail marijuana stores.

Amended to replace ‘operating plan’ with ‘information’ to include a depiction of the window area.

3 AAC 306.420(2) Application for marijuana cultivation facility license.

Amended to remove ‘operating plan’ and replaces with requirement to provide a description of other information.

3 AAC 306.520(1)(C) Application for marijuana product manufacturing facility license.

Amended to replace ‘operating plan’ with ‘information’ to include a description of other information required.

3 AAC 306.525(b) Approval of concentrates and marijuana products.

Amended to remove ‘operating plan’ with ‘application’ to request the board’s approval of new products.

3 AAC 306.615(1)(B) Application for marijuana testing facility license.

Amended to remove ‘operating plan’ and replaces with requirement to provide a description of other information.

3 AAC 306.703. Operations.

Repealed. Removes requirement to submit an operating plan.

Options for the board:

- Move to approve and send to Law for initial review and (with Law’s approval) subsequent public comment
- Move to amend and then send to Law for initial review and (with Law’s approval) subsequent public comment
- Move to send back to staff for more work
- Close the regulations project

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

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

This draft includes section headings and entire sections for ease of reading and review.

3 AAC 306.020(c) is amended to read:

3 AAC 306.020. Application for new license

(a) An applicant for a new marijuana establishment license must file an application as provided in 3 AAC 306.025, on a form the board prescribes, with the information and documents described in this section, along with the application fee and the annual license fee set out in 3 AAC 306.100, and the fingerprint cards and fees required by 3 AAC 306.055(a). The application must be initiated electronically; the completed application and fees may be filed electronically, or mailed or delivered to the director at the office of the board.

(b) An application for a new marijuana establishment license must include

(1) the name of the applicant and any business name the applicant will use for the proposed marijuana establishment, along with the applicant's state business license number issued under AS 43.70;

(2) the name, mailing address, telephone number, and social security number of each proposed licensee; unless the context requires otherwise, "licensee" means each individual named in an application that complies with this section; an individual to be identified as a licensee under this section includes

(A) if the applicant is an individual or a sole proprietor, the individual or sole proprietor;

(B) if the applicant is a partnership, including a limited partnership, each general partner and each partner holding any interest in the partnership;

(C) if the applicant is a limited liability company, each member holding any ownership interest and each manager;

(D) if the applicant is a corporation, each owner of any of the corporation's stock, each officer, and each director; and

(E) if the applicant is a local government, an authorized official of the local government;

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

(3) for each applicant that is not an individual, the applicable documents and information as follows:

(A) for a partnership, including a limited partnership, the partnership agreement, the name of each general or managing partner, and a list of all partners with the percentage of ownership of each partner;

(B) for a limited liability company, the limited liability company agreement, and a list of all members with the percentage of ownership of each member;

(C) for a corporation, the certificate of incorporation, the corporate bylaws, the name of each corporate officer and each director, and a list of all shareholders with the percentage of ownership of each shareholder;

(D) for a local government, a resolution of the governing body approving the application and designating an official responsible for the proposed marijuana establishment;

(4) for each person listed in compliance with (2) of this subsection, a statement of financial interest on a form the board prescribes;

(5) for each applicant that is not an individual, the name of the individual licensee or designated government official listed in the application under (2) of this subsection who is responsible for

(A) management of the marijuana establishment; and

(B) compliance with state laws;

(6) an electronic mail address at which the applicant agrees to receive any correspondence from the board before and after it receives a license; an applicant and a licensee must ensure that any electronic mail address provided to the board is current so that the board can contact the applicant or licensee at any time;

(7) the type of license the applicant is requesting;

(8) the address of the premises to include global positioning system (GPS) coordinates where the applicant intends to operate a marijuana establishment, and 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);

(9) the title, lease, or other documentation showing the applicant's sole right to

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

possession of the proposed licensed premises;

(10) affidavit showing where and when the applicant posted notice of the application, and proof of advertising as required in 3 AAC 306.025(b); and

(11) additional information that the board requires as follows:

(A) for a retail marijuana store, the information required under 3 AAC 306.315;

(B) for a marijuana cultivation facility, the information required under 3 AAC 306.420;

(C) for a marijuana product manufacturing facility, the information required under 3 AAC 306.520;

(D) for a marijuana testing facility, the information required under 3 AAC 306.615.

(c) A marijuana establishment license application must include **a certification that the applicant will meet upon licensure the regulatory requirements applicable [THE APPLICANT'S OPERATING PLAN, IN A FORMAT THE BOARD PRESCRIBES, DESCRIBING TO THE BOARD'S SATISFACTION THE PROPOSED MARIJUANA ESTABLISHMENT'S PLANS]** for

(1) security;

(2) inventory tracking of all marijuana and marijuana products on the premises;

(3) employee qualification and training;

(4) waste disposal;

(5) transportation and delivery of marijuana and marijuana products; and

(6) signage and advertising.

(d) An application for a marijuana establishment license must be signed by

(1) the applicant, if the applicant is an individual;

(2) an authorized general partner if the applicant is a partnership, including a limited partnership;

(3) a member who owns at least 10 percent of the limited liability company if the applicant is a limited liability company;

(4) the authorized officers of the corporation if the applicant is a corporation; or

(5) a designated official if the applicant is a local government.

Commented [KRS1]: Removes operating plan and replaces with certifications. 306.020c will be referred back to throughout. This amendment in combination with repeal of 306.703 (Operations) to remove 'operating plan'.

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

(e) Each person signing an application for a marijuana establishment license must declare under penalty of unsworn falsification that

- (1) the application is true, correct, and complete;
- (2) the applicant has read and is familiar with AS 17.38 and this chapter; and
- (3) the applicant will provide all information the board requires in support of the

application. (Eff. 2/21/2016, Register 217; am 8/11/2018, Register 227; am 12/10/2020, Register 236; 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 17.28.121

Editor's note: Forms and instructions for filing an application for a marijuana establishment license can be obtained online at the Marijuana Control Board's website. The board's Internet address is www.commerce.alaska.gov/web/abc/ and its office is at 550 West 7th Ave. Suite 1600, Anchorage, AK 99501. The board's telephone number is (907) 269-0350.

3 AAC 306.045(e) is amended to read:

3 AAC 306.045. Application for transfer of a license to another person

(a) A person may not receive or transfer a marijuana establishment license or a controlling interest in a marijuana establishment license issued to a partnership, including a limited partnership, a limited liability company, a corporation, or a local government, without applying for and receiving the written consent of the board. Transfer of a license includes a sale of all or part of the interest of an individual owner.

(b) An application for transfer of a marijuana establishment license, or of a controlling interest in a marijuana establishment license issued to a partnership, a limited liability company, a corporation, or a local government, must be filed in writing on a form the board prescribes, in compliance with the application procedure set out in 3 AAC 306.025. The application must name the current holder of the marijuana establishment license and the proposed transferee, including all persons listed in 3 AAC 306.020 if the transferee is a partnership, limited liability company, a corporation, or a local government. The application must contain

- (1) the same information about each transferee as is required of an applicant for a

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

new license under 3 AAC 306.020;

(2) a statement, under oath, executed by the current holder of the marijuana establishment 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 marijuana establishment license has submitted a copy of the transfer application to all creditors; and

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

(c) When the board receives a complete application for transfer of a license to another person, the director shall immediately send written notice of the proposed transfer to

(1) each listed creditor of the current holder of the marijuana establishment license, along with the amount shown as owed to that creditor;

(2) each local government with jurisdiction over the applicant's proposed licensed premises;

(3) the community council if the licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(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.

(e) When a transferee intends to continue to operate a marijuana license with the licensed premises [OPERATING PLAN] approved by the board for the transferor, the transferee may submit a form 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 306.420, 3 AAC 306.520(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; 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 17.28.121

Commented [KRS2]: Applicant will now have to do certifications under 306.020c

Commented [KRS3]: Amended so now the transferee will have to recertify and provide license specific operations information (if applicable). However-keeping the currently common practice of using the already approved licensed premises.

Commented [KRS4]: 306.020b---This is about premises--other cites are operating plan cites...

3 AAC 306.046(c)(3) is amended 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) **the** [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

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

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.

Commented [KR55]: Applicant will now have to do certifications under 306.020c

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

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

_____/_____/_____, 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 17.28.121

3 AAC 306.047(c)(2) is repealed and readopted to read:

3 AAC 306.047. License conversion

(a) An application must be filed in writing on a form the board prescribes, in compliance with the application procedure set out under 3 AAC 306.025 to convert an existing

(1) limited marijuana cultivation facility license to a standard marijuana cultivation facility license;

(2) standard marijuana cultivation facility license to a limited marijuana cultivation facility license;

(3) marijuana concentrate manufacturing facility license to a standard marijuana product manufacturing facility license; or

(4) standard marijuana product manufacturing facility license to a marijuana concentrate manufacturing facility license.

(b) To qualify for a license conversion under this section, neither the licensee nor the license location may change.

(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);

(2) **the information required under 3 AAC 306.020(c)** ~~any changes proposed to the approved operating plan;~~

(3) a detailed diagram of the 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

Commented [KRS6]: Repeal and readopt (2) to read...the information required at 306.020c; making them do certifications. And any other information applicable to a cultivation or production facility.

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

AAC 306.710(d);

(4) 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;

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

(6) the application fee; and

(7) 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; am 4/16/2023, Register 246; 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 17.28.121		

3 AAC 306.080(a) introductory language is amended to read:

3 AAC 306.080(a)(5) is repealed:

3 AAC 306.080(g)(6) is repealed:

3 AAC 306.080. Denial of license or endorsement 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 or new onsite consumption endorsement 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 or endorsement would violate any restriction in 3 AAC 306.010 or 3 AAC 306.015;

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

(4) the license or endorsement is prohibited under this chapter as a result of a ordinance or election conducted under AS 14.38.210, 3 AAC 306.200, or 3 AAC 306.230;

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

(5) ~~the applicant's actions or the operating plan does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter;~~

Commented [KRS7]: Repeal. 'applicants actions' not to be kept as reason for denial here.

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

(7) a protest by the local government 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) that the license or endorsement has been operated in violation of a condition or restriction the board previously imposed;

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

(4) that a protest by the local government is not arbitrary, capricious, and unreasonable; or

(5) that the applicant has lost right to possession of the applicant's licensed premises.

(c) After review of the application and all relevant information, the board will deny an application for reinstatement of license due to failure to submit a timely renewal if the board finds

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

(2) violation of any terms of an administrative hold on or seizure of marijuana or any marijuana product as described in 3 AAC 306.830;

(3) the application was submitted later than September 30 of the given applicable year;

(4) the applicant has had an application for reinstatement granted during the five years before application submittal; or

(5) the failure to submit a timely renewal application is due to inexcusable oversight; inexcusable oversight includes failure to submit a renewal application, if the director proves that the license

(A) was sent communications by the director that an application was due but ignored the notice; or

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

(B) engaged in other conduct evidencing bad faith or disregard of the application requirements.

(d) 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 the 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;

(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 government is not arbitrary, capricious, and unreasonable.

(e) If the board denies an application for a new marijuana establishment license, renewal of a marijuana establishment license, reinstatement of license, license conversion, 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.

(f) 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, 3 AAC 306.200, or 3 AAC 306.230;

(4) the applicant's actions or the application does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter;

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

(5) a protest by the local government is not arbitrary, capricious, and unreasonable; or

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

(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 restrictions 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 license 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; 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 17.28.121

Commented [KRS8]: Repeal. 'applicants actions' not to be kept as reason for denial here.

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 306.100(c) is amended to read:

3 AAC 306.100. Fees; refund

(a) The non-refundable fee for an application for a new marijuana establishment license, license conversion, 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.

(b) The non-refundable application fee for a license renewal application is \$600. If a renewal application is late as provided under 3 AAC 306.035(e), an additional non-refundable late renewal application fee is \$1,000. The non-refundable application fee for renewal of an onsite consumption endorsement is \$600. The non-refundable reinstatement fee for an expired license under 3 AAC 306.035(i) is equal to 100 percent of the applicable renewal license fee in addition to the applicable renewal fees.

(c) The non-refundable fee to request board approval of a change in a licensed marijuana establishment's business name, 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, transfer of controlling interest to another person, or transfer of a marijuana establishment license to another location.

Commented [KR59]: Removed.

(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; am 4/16/2023, Register 246; am 1/19/2024, Register 249; am ____/____/____, Register ____)

3 AAC 306.315(1)(B) is amended/repealed.....

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

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

information required under 3 AAC 306.020 and

(A) 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;

(B) 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

Commented [KRS10]: For Board discussion. Can (B) be removed/repealed? Or does the board want this description as part of the application process?

(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 306.380 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; am 8/13/2023, Register 247; 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 17.28.121

3 AAC 306.370(f)(1) is amended to read:

3 AAC 306.370(g)(1) is amended to read:

3 AAC 306.370. Onsite consumption endorsement for retail marijuana stores

(a) Unless prohibited by local or state law, the board may approve an onsite consumption endorsement for a licensed retail marijuana store for consumption, on the marijuana retail store premises,

(1) of edible marijuana product only, in compliance with this section, in an indoor or outdoor area, regardless of whether the licensed retail marijuana store is freestanding;

(2) by any method, in compliance with this section, in an indoor or outdoor area of a freestanding licensed retail marijuana store.

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

(b) A licensed retail marijuana store with an approved onsite consumption endorsement is authorized to sell, for consumption at the time of purchase and only in an area designated as the marijuana consumption area,

(1) marijuana bud or flower, in quantities not to exceed one gram to any one person per day;

(2) edible marijuana products in quantities not to exceed 25 milligrams of THC to any one person per day; and

(3) a vaping device that contains not more than 0.3 grams of marijuana concentrate to any one person per day; a person may not consume marijuana concentrate onsite by a means other than vaping as described in this paragraph.

(c) A licensed retail marijuana store with an approved onsite consumption endorsement may

(1) sell food or beverages not containing marijuana or alcohol; and

(2) allow a person to remove from the licensed premises marijuana or marijuana products that have been purchased on the licensed premises for consumption under this section, if they are packaged in accordance with 3 AAC 306.345.

(d) A licensed retail marijuana store with an approved onsite consumption endorsement may not

(1) allow any licensee, employee, or agent of a licensee to consume marijuana or marijuana products, including marijuana concentrate, during the course of a work shift;

(2) allow a person to consume tobacco or tobacco products in the marijuana consumption area;

(3) allow a person to bring into or consume in the marijuana consumption area any marijuana or marijuana product that were not purchased at the licensed retail marijuana store;

(4) sell, offer to sell, or deliver marijuana or marijuana products at a price less than the price regularly charged for the marijuana or marijuana products during the same calendar week;

(5) sell, offer to sell, or deliver an unlimited amount of marijuana or marijuana products during a set period of time for a fixed price;

(6) sell, offer to sell, or deliver marijuana or marijuana products on any one day

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

at prices less than those charged the general public on that day;

(7) encourage or permit an organized game or contest on the licensed premises that involves consuming marijuana or marijuana products or the awarding of marijuana or marijuana products as prizes; or

(8) advertise or promote in any way, either on or off the licensed premises, a practice prohibited under this section.

(e) A marijuana consumption area must have the following characteristics:

(1) the marijuana consumption area must be isolated from the other areas of the retail marijuana store, must be separated by walls and secure door, and must have access only from the retail marijuana store;

(2) the licensed marijuana retail store must provide a smoke-free area for employees to monitor the marijuana consumption area;

(3) a marijuana consumption area that is indoors and in which smoking is permitted must have a ventilation system

(A) that is separate from the ventilation system of the other areas of the licensed retail marijuana store or other licensed marijuana establishments in a freestanding building; and

(B) that directs air from the marijuana consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line;

(4) if outdoors, the marijuana consumption area must be found by the board to be compatible with uses in the surrounding area through evaluation of

(A) neighboring uses;

(B) the location of air intake vents on neighboring buildings, if consumption by smoking is permitted;

(C) a sight-obscuring wall or fence around the outdoor marijuana consumption area;

(D) objections of property owners, residents, and occupants within 250 linear feet or the notification distance required by the local government, whichever is greater; and

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

(E) any other information the board finds relevant.

(f) An applicant for an onsite consumption endorsement must file an application on a form the board prescribes, including the endorsement fee set out in 3 AAC 306.100, and

(1) **the information required under 3 AAC 306.020(c), and information on operations**[APPLICANT'S OPERATING PLAN], in a format the board prescribes, describing the retail marijuana store's plan for

(A) security, in addition to what is required for a retail marijuana store, including

- (i) doors and locks;
- (ii) windows;
- (iii) measures to prevent diversion; and
- (iv) measures to prohibit access to persons under 21 years of age;

(B) ventilation, if consumption by smoking is to be permitted in an indoor area; ventilation plans must be

- (i) signed and approved by a licensed mechanical engineer;
- (ii) sufficient to remove visible smoke; and
- (iii) consistent with all applicable building codes and ordinances;

(C) monitoring overconsumption;

(D) unconsumed marijuana, by disposal or by packaging in accordance with 3 AAC 306.345; and

(E) preventing introduction into the marijuana consumption area of marijuana or marijuana products not sold by the retail marijuana store, and marijuana or marijuana products not sold specifically for onsite consumption;

(2) the applicant's detailed diagram of the marijuana consumption area which must show the location of

- (A) the licensed premises of the retail marijuana store;
- (B) the serving area or areas;
- (C) ventilation exhaust points, if applicable;
- (D) the employee monitoring area;
- (E) doors, windows, or other exits; and
- (F) access control points;

Commented [KRS11]: (1) the information required under 306.020c and additional information about the applicant's operations , including a description of the retail marijuana store's plan for.....

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

(3) the title, lease, or other documentation showing the applicant's sole right of possession of the proposed marijuana consumption area, if the area is not already part of the approved licensed premises for the retail marijuana store; and

(4) for an outdoor marijuana consumption area,

(A) an affidavit that notice of an outdoor marijuana consumption area has been mailed to property owners, residents, and occupants of properties within 250 linear feet of the boundaries of the property on which the onsite consumption endorsement is proposed, or the notification distance required by the local government, whichever is greater.

(g) The retail marijuana store holding an onsite consumption endorsement under this chapter shall

(1) destroy all unconsumed marijuana left abandoned or unclaimed in the marijuana consumption area in accordance with [THE OPERATING PLAN AND] 3 AAC 306.740;

(2) monitor patrons in the marijuana consumption area at all times, specifically for overconsumption;

(3) display all warning signs required under 3 AAC 306.360 and 3 AAC 306.365 within the marijuana consumption area, visible to all consumers;

(4) provide, at no cost to patrons, written materials containing marijuana dosage and safety information for each type of marijuana or marijuana product sold for consumption in the marijuana consumption area;

(5) package and label all marijuana or marijuana products sold for consumption on the premises as required in 3 AAC 306.345; and

(6) comply with any conditions set by the local government or placed on the endorsement by the board.

(h) The holder of an onsite consumption endorsement must apply for renewal annually at the time of renewal of the underlying retail marijuana store license. (Eff. 4/11/2019, Register 230; am 8/7/2021, Register 239; am ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.301
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.28.121 AS 17.38.200

3 AAC 306.380(b) is amended to read:

3 AAC 306.380. Walk-up or drive-through exterior window pick-up for retail marijuana stores

(a) Unless prohibited by local law, a licensed retail marijuana store may serve a consumer through a walk-up or drive-through exterior window in compliance with the requirements of this section.

(b) Before accepting orders for sales of marijuana or marijuana products through a walk-up or drive-through exterior window, a licensed retail marijuana store shall submit information about the proposed operations [AN **OPERATING PLAN** OR MODIFICATION OF AN **OPERATING PLAN**] of the licensed premises to the board for approval. The information [**OPERATING PLAN** OR MODIFIED **OPERATING PLAN**] must include a depiction of [DEPICT] the walk-up or drive-through exterior window area and the video surveillance of the walk-up or drive-through exterior window area.

(c) The area immediately outside a walk-up or drive-through exterior window must be under the licensee's sole possession and control and may not include any public property including public streets, public sidewalks, or public parking lots.

(d) The licensed retail marijuana store may accept Internet or telephone orders or may accept orders from the consumer at the walk-up or drive-through exterior window. Internet or telephone orders must be paid for and picked up in person by the consumer placing the order. All orders received through the walk-up or drive-through exterior window must be placed by the consumer from a menu. The retail marijuana store may not display marijuana or marijuana products at the walk-up or drive-through exterior window.

(e) Before completing a sale at a walk-up or drive-through exterior window, the licensee or the employee shall physically view and inspect the consumer's photographic identification. Each person in a vehicle at the drive-through exterior window must be 21 years of age or older, unless the person is the consumer's own child, grandchild, or ward who is not older than seven years of age seated or otherwise required by local or state law to be seated in a car seat or booster seat.

(f) All sales must occur within the licensed premises. This requirement is satisfied if payment is made through the following means:

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

- (1) by an electronic Internet-based payment platform;
- (2) by a mobile payment point-of-sale system;
- (3) by payment transferred through the walk-up or drive-through exterior window

into the interior of the retail marijuana store.

(g) A walk-up or drive-through exterior window area must be located so as to minimize compromises to security. For every transfer of marijuana or marijuana product through a walk-up or drive-through exterior window, the licensed retail marijuana store's video surveillance must enable the recording of the licensee or the employee verifying the consumer's photographic identification and the completion of the transaction.

Commented [KRS12]: Another open regs project and the wording here may be amended. Project is to define that the window must be in the primary retail store and not a separate structure.

(h) The licensee shall ensure that sales and all interactions at the walk-up or drive-through exterior window are video recorded and the records are stored in compliance with 3 AAC 306.720.

(i) Sales of marijuana or marijuana products via a walk-up or drive-through exterior window are subject to requirements and restrictions imposed by the relevant local government. (Eff. 8/13/2023, Register 247; am ____/____/____, Register ____)

3 AAC 306.420(2) is amended to read:

3 AAC 306.420. Application for marijuana cultivation facility license

An applicant for a new standard marijuana cultivation facility license or a new limited marijuana cultivation facility license must file an application on a form the board prescribes, including

- (1) the information required under 3 AAC 306.020; and
- (2) **information about** the proposed marijuana cultivation facility's **operations**

Commented [KRS13]: To ask for info under 306.020c- certifications

[OPERATING PLAN], **which includes a description of** [INCLUDING, IN ADDITION TO THE INFORMATION REQUIRED UNDER 3 AAC 306.020(c)],

- (A) the size of the space intended to be under cultivation;
- (B) the growing medium to be used;
- (C) fertilizers, chemicals, gases, and deliver systems, including carbon dioxide, management, to be used;
- (D) the irrigation and waste water systems to be used;
- (E) waste disposal arrangements;

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

(F) odor control; and

(G) the testing procedure and protocols the marijuana cultivation facility will follow. (Eff. 2/21/2016, Register 217; 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 17.28.121

3 AAC 306.520(1)(C) is amended to read:

3 AAC 306.520. Application for marijuana product manufacturing facility license

An applicant for a marijuana product manufacturing facility license must

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

(A) 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) a diagram of the proposed licensed premises required in 3 AAC 306.020(b), identifying the area where

- (i) in-house testing, if any, will occur;
- (ii) marijuana and any marijuana product, including marijuana concentrate, will be stored;

(C) **information about the proposed product manufacturing facility's operations** [THE APPLICANT'S **OPERATING PLAN** REQUIRED UNDER 3 AAC 306.020(c)], which includes a description of

- (i) the equipment, solvents, gases, chemicals, and other compounds used to create concentrates and the processes to be used;
- (ii) each marijuana product the applicant intends to process at this location;
- (iii) the color, shape, texture, ingredients and standard production procedure to be used;
- (iv) the additional information required for product approval in 3

Commented [KRS14]: To ask for info under 306.020c--certifications

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

AAC 306.525;

(D) the packaging to be used for each type of product;

(E) sample labels showing how the labeling information required in 3

AAC 306.570 will be set out;

(F) 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; am 4/16/2023, Register 246; 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 17.28.121

Editor's note: The form for an application for a marijuana product manufacturing facility license or a marijuana concentrate manufacturing facility license is available online as provided in the editor's note under [3 AAC 306.020](#).

3 AAC 306.525(b) is amended to read:

3 AAC 306.525. Approval of concentrates and marijuana products

(a) A marijuana product manufacturing facility must obtain the board's approval for each product that it will manufacture for sale or transfer to another licensed marijuana establishment. A standard marijuana product manufacturing facility must obtain the board's approval for each product that it will use as an in-house ingredient in another marijuana product. The board will not approve a product that is prohibited under 3 AAC 306.510(a)(4).

(b) An applicant for a marijuana product manufacturing facility license may request the board's approval of its intended products with a new license application by including, in its

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

application [OPERATING PLAN]

(1) a photograph, drawing, or graphic representation of the expected appearance of each final product; and

(2) the proposed standard production procedure and detailed manufacturing process for each product.

(c) A licensed marijuana product manufacturing facility may submit at any time a new product approval request to the board on a form the board prescribes along with the fee required under 3 AAC 306.100(c).

(d) A licensed marijuana product manufacturing facility shall keep its ingredient list and potency limits for any food-based concentrate or food product containing marijuana on file at the marijuana product manufacturing facility's licensed premises. The ingredient list and potency limits for any product manufactured at the facility must be made available for inspection on request by the director, or an employee or agent of the board. (Eff. 2/21/2016, Register 217; am 4/16/2023, Register 246; 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 17.28.121

3 AAC 306.615(1)(B) 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) the information required under 3 AAC 306.020;

(B) **information about** the proposed marijuana testing facility's

operations [OPERATING PLAN], **which includes a description of** [INCLUDING, IN ADDITION TO THE INFORMATION REQUIRED UNDER 3 AAC 306.020(c)],

(i) each test the marijuana testing facility will offer;

(ii) the marijuana testing facility's standard operating procedure for each test the marijuana testing facility will offer; and

(iii) the acceptable range of results for each test the marijuana

Commented [KRS15]: Also certifications under 306.020c

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

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 a 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; 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 17.28.121

3 AAC 306.703 is repealed:

3 AAC 306.703. Operations

~~A licensed marijuana establishment shall operate in accordance with the operating plan approved by the board. The licensee may request an operating plan change in accordance with 3 AAC 306.100(e).~~ (Eff. 5/9/2019, Register 230; repealed ____/____/____, 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 17.28.121

Commented [KRS16]: Repeal this. Operating plan is removed.