ANCHORAGE, ALASKA
AO No. 2023-25


WHEREAS, Anchorage Municipal Code (AMC) section 21.03.040 governs the application and review process for special land use permits for alcohol; and

WHEREAS, in order to modify a licensed premise under AMC subsection 21.03.040C., a licensee must file an application and go through a review procedure and meet certain conditions of approval; and

WHEREAS, the need to update the special land use permit for alcohol application and modification process precedes the foregoing actions by a few years, since the current Code language allows a premises modification-a shorter, simpler process allowing the Planning Director’s administrative approval-if is based on the “first duplicate liquor license” being issued by the state, but the state discontinued that form of license, in effect making all modifications to a SLUP-A subject to the full application and review, with no avenue remaining under current code to obtain administrative approval of a premises modification; and

WHEREAS, the Planning Department and Assembly Counsel’s Office worked together to develop this proposed ordinance to reinstate a streamlined and efficient process for obtaining administrative approval of premises modifications, including expanding licensed premises for onsite consumption of alcoholic beverages in areas adjacent to an already licensed premises, such as outdoors;

WHEREAS, text amendments to Title 21 of the Code require review and consideration by the Planning and Zoning Commission under AMC section 21.03.210, with a few exceptions, but the process for application and review of special land use permits for alcohol, including modifications, does not have any involvement by the Commission, thus such review of the amendments proposed by this ordinance is unnecessary; now, therefore

THE ANCHORAGE ASSEMBLY ORDAINS:
Section 1. Anchorage Municipal Code section 21.03.040 is hereby amended to read as follows:

21.03.040 Alcohol—Special land use permit.

A. Applicability.

1. Any use that includes the retail sale of alcoholic beverages is subject to the review process set forth in this section. This process shall apply to such a use regardless of whether it is listed in the use table in section 21.05.010 as being permitted as a matter of right or subject to site plan review or the conditional use process. The applicant shall be required to obtain approval through both the process in this section and the separate process referenced in the use table.

2. Notwithstanding A.1. above, catering and special event permits issued by the state alcoholic beverage control board are exempt from these approval requirements, but shall meet AMC Title 10 requirements and the following:
   a. When multiple permits are issued for the same location, the permits shall be for discrete [DISCREET] events, and shall not be used to avoid the special land use permit process; and
   b. The catering and special event permit shall be reviewed by the chief of police in order to address any recurring problems at the site that have involved the police.

[3. NO MODIFICATION OF AN EXISTING SPECIAL LAND USE PERMIT FOR ALCOHOL SHALL BE REQUIRED FOR THE FIRST DUPLICATE LIQUOR LICENSE PROVIDED:
   A. THERE IS NO INCREASE IN THE SQUARE FOOTAGE OF THE PREMISE LICENSED FOR THE RETAIL SALE OR DISPENSING OF ALCOHOLIC BEVERAGES; OR
   B. IF THERE IS AN INCREASE IN THE SQUARE FOOTAGE OF THE LICENSED PREMISE, SUCH INCREASE IS FIVE HUNDRED SQUARE FEET OR LESS, WHETHER OR NOT THE AREA OF INCREASE IS USED YEAR-ROUND. IN SUCH CASE THE LICENSED BUSINESS SHALL REQUEST A MINOR MODIFICATION TO THEIR APPROVAL BY SUBMITTING A SITE PLAN FOR DEPARTMENT REVIEW, ALONG WITH THE FEE SPECIFIED IN AMCR 21.20. THE DEPARTMENT SHALL REVIEW THE SITE PLAN FOR POTENTIAL IMPACTS INCLUDING, BUT NOT LIMITED TO, PARKING, LIGHTING, NOISE, AND TRAFFIC.]

B. General standards. Any use, whether principal or accessory, involving the retail sale or dispensing of alcoholic beverages is permitted only by approval
under this section. This provision applies to all uses, in all districts, involving the retail sale, dispensing, or service of alcoholic beverages including, but not limited to, liquor stores, restaurants, bars, dinner theaters, movie theaters, brew pubs, tearooms, and cafes, but applies only to the retail sale or dispensing of alcoholic beverages and not to related principal or accessory uses.

C. **Application and review procedure.**

1. **Application submittal.** Applications for a special land use permit for alcohol shall be submitted to the director after application is made to the state alcoholic beverage control board for issue or transfer of location of a liquor license. Applications shall contain a zoning map showing the proposed location and any other information specified on the application form. The assembly may promulgate regulations concerning the mandatory information to be submitted with the application for a special land use permit for alcohol.

2. **Departmental review.** The department shall prepare and submit a report and a list of all licenses located within a minimum of 1,000 feet of the proposed use to the assembly, and shall address the conformity of the proposed application with this title and AMC Chapter 10.50. The department shall also submit a proposed resolution for assembly consideration in connection with liquor license applications.

3. **Public notice.** Notice for original applications and modifications that require a public hearing shall be provided in accordance with subsection 21.03.020H., notice.

4. **Action.**
   a. The special land use permit for alcohol for any use that includes the retail sale of alcoholic beverages, with the exception of a restaurant or eating place that sells beer and wine for consumption only on the licensed premises, shall be considered by the assembly. After holding a public hearing, the assembly shall approve, approve conditionally, or deny the application. In considering action, the assembly shall apply the criteria set forth in this title for conditional uses in subsection 21.03.080D., approval criteria. The assembly shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested.
   b. The special land use permit for alcohol for a restaurant or eating place that sells beer and wine for consumption only on the licensed premises, shall be considered by the director. In considering whether to approve, approve conditionally, or deny the application, the director shall apply the criteria set forth in
this title for conditional uses in subsection 21.03.080D., approval criteria. The director shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested. The director’s decision may be appealed to the assembly.

5. **Conditions of approval.**
   a. The assembly or the director may, in connection with an approval under this section, impose such special terms and conditions or modify existing conditions governing operation of that license as are in the public interest, and are consistent with the purposes of this title.
   b. Conditions of approvals under this section are enforceable under the provisions of this title. The assembly may revoke such an approval for failure to comply with conditions of the permit, provided a public hearing with notice to the owner affected is first held.
   c. The assembly may, at its discretion, modify the conditions of approval of a special land use permit for alcohol, when the assembly finds this is warranted by public safety concerns or negative impacts on surrounding properties. Before the assembly acts to modify the conditions of approval on a special land use permit for alcohol, notice shall be provided to the permit holder and in accordance with subsection 21.03.020H., and a public hearing shall be held.
   d. A copy of the conditions imposed by the assembly or the director in connection with approval under this section shall be maintained on the premises involved at a location visible to the public.

6. **Effect of denial.** An application for approval under this section that has been denied shall not be accepted for rehearing for a period of one year following such denial if the director finds the proposed application is substantially the same as that denied, and if no substantially new evidence or change in circumstances has occurred. This paragraph shall not apply to an application filed under assembly direction at a hearing at which a like application was considered. This paragraph does not apply if the alcoholic beverage control board remands a case that was previously denied.

7. **Modifications**
   a. The licensed business may request a modification to their approval by submitting an application, site plan and floor plan for department review, along with the fee specified in AMCR 21.20. The department shall review the application for potential impacts including, but not limited to parking, lighting, noise, and
traff

b. Applications for an increase in the square footage of the original licensed premise of more than one thousand square feet, whether or not the area of increase is used year-round, shall be decided by the assembly after a public hearing.

c. The first modification to the licensed establishment submitted by the licensee for changes that increase the licensed premises area not requiring assembly approval or its hours of service, and all other modifications that change other use conditions in the special land use permit shall be considered by the director, although the director may require a proposed change to be brought to the assembly if the director determines the proposed change is significant and warrants assembly consideration. Where a modification to the licensed premises area will shorten the distance between the licensed premises service area and adjacent residential parcels and it is less than 500 feet, the director shall determine whether such material change will intensify the impact on adjacent residential parcels, and if so it shall require approval by the assembly. Upon denial by the director, a licensee may request that the director’s decision be vacated and the unchanged modification application be considered de novo by the assembly after a public hearing.

d. At any time, the assembly may, at its discretion, modify the conditions of approval of a special land use permit for alcohol in accordance with subsection C.5.c.

8. Expiration. An approval granted under this section shall expire:
   a. One hundred twenty days after the transfer of the license to sell alcoholic beverages from the premises has been approved by the state alcoholic beverage control board, unless there is an application filed with the control board prior to the expiration of the 120-day period;
   b. The use holding the permit has been discontinued, vacant, or inactive for a continuous period of at least one year; or
   c. If the operation of the business becomes substantially different from the business and operation reviewed by the assembly or the director when the alcohol approval was granted under this section, unless the licensee applies for and receives approval for a modification of the existing alcohol approval to reflect the change.

D. [EXCEPTIONS; TEMPORARY USE OF OUTDOOR AREAS PERMIT.]
1. NOTWITHSTANDING SUBSECTION C.7 OF THIS SECTION AND FOLLOWING WRITTEN APPROVAL FROM THE DIRECTOR OF THE ALCOHOL AND MARIJUANA CONTROL OFFICE (AMCO), PURSUANT TO STATE REGULATION 3 AAC 304.185, HOLDERS OF STATE OF ALASKA LIQUOR LICENSES WITHIN THE MUNICIPALITY MAY TEMPORARILY EXPAND THEIR LICENSED PREMISES TO INCLUDE OUTDOOR AREAS:
   A. WITHIN THE SAME LEGAL PROPERTY AS AN EXISTING LICENSED PREMISES; OR
   B. CONTIGUOUS TO OR DIRECTLY ADJACENT TO THE EXISTING LICENSED PREMISES WHEN THE TEMPORARY LICENSED PREMISES INCLUDE PUBLIC RIGHTS-OF-WAY, SUBJECT TO OBTAINING A CORRESPONDING RIGHT-OF-WAY PERMIT FROM THE MUNICIPALITY.

2. BUSINESSES WITH A SPECIAL LAND USE PERMIT FOR ALCOHOL OR CONDITIONAL USE PERMIT FOR RETAIL SALE OF ALCOHOLIC BEVERAGES THAT RECEIVE APPROVAL FROM AMCO TO MODIFY THEIR LICENSED PREMISES MAY, IN COMPLIANCE WITH STATE REGULATIONS, APPLY FOR A MUNICIPAL TEMPORARY USE OF OUTDOOR AREAS PERMIT.
   A. APPLICANTS SHALL NOT BE CONSIDERED TO HAVE MADE ANY MATERIAL CHANGE IN THE OPERATION OF THEIR BUSINESS AND THE OPERATION WILL NOT BE CONSIDERED SUBSTANTIALLY DIFFERENT THAN AS APPROVED IN THE PERMIT CONTEMPLATED BY SECTION 21.03.040C.7.C; AND
   B. SHALL BE EXEMPTED FROM THE REQUIREMENTS FOR MODIFICATION OF FINAL APPROVAL CONTAINED IN SECTION 21.15.030G (OLD CODE).

3. BUSINESSES APPLYING FOR A MUNICIPAL TEMPORARY USE OF OUTDOOR AREAS PERMIT SHALL BE EXEMPT FROM OFF STREET PARTING REQUIREMENTS CONTAINED IN SECTION 21.45.080 (OLD CODE) AND 21.07.090E IF THE TEMPORARY USE INCLUDES PORTIONS OF THE PARKING LOT FOR THE SUBJECT BUSINESS.

4. ALL REMEDIES AND PENALTIES AVAILABLE TO THE MUNICIPAL PLANNING DIRECTOR SHALL REMAIN IN EFFECT, INCLUDING CIVIL REMEDIES AND ENFORCEMENT POWERS UNDER SECTION 21.13.040.

5. TEMPORARY USE OF OUTDOOR AREAS PERMITS SHALL BE EFFECTIVE UNTIL 11:59 P.M. ON MAY 31, 2023, AT WHICH TIME ALL TEMPORARY MODIFICATIONS TO THE LICENSED
PREMISES GRANTED UNDER THIS SUBSECTION D MUST RETURN TO THEIR ORIGINAL CONFIGURATION AND ALL TEMPORARY EXEMPTIONS FROM OFF-STREET PARKING SHALL TERMINATE.]

[E. ] For the purposes of this section, "substantially different" means any material change in the operation of the business which could result in significant impact on the use and enjoyment of adjacent properties by property owners or occupants. A material change includes, without limitation, an increase in the late night or early morning hours of operation; a change involving the type of entertainment presented which results in an increase in noise level at the property line; or a change from a business which meets the requirements of the state alcoholic beverage control board statutes and regulations for a restaurant designation permit to a business which would not meet such requirements.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2021-14 , § 2, 2-23-21; AO No. 2021-89(S) , § 21, 2-15-22; AO No. 2022-68 , § 2, 6-21-22)

Section 2. Anchorage Municipal Code section 21.03.020 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

21.03.020 - Common procedures.

H. Notice.

2. *Summary of notice requirements.* The following Table 21.03-1 summarizes the notice requirements of the procedures set forth in this chapter. Unless otherwise specified in this title, procedures not listed in this table have no public notice requirements.

![Table 21.03-1: Summary of Notice Requirements](image-url)
AO No. 2017-75, § 1, 5-9-17; AO No. 2017-175(S), § 1, 2-13-18; AO No. 2019-67, § 1, 6-18-19; AO No. 2021-46(S), § 5, 6-8-21; AO No. 2021-69, § 1, 8-10-21; AO No. 2021-89(S), § 21, 2-15-22

Section 3. Anchorage Municipal Code of Regulations section 21.20.002 is hereby amended to read as follows *(the remainder of the section is not affected and therefore not set out)*:

### 21.20.002 Schedule of fees—Zoning.

The following fees shall be paid for the services described:

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<td>3.</td>
<td>Area master plan, development master plan, conditional use or major amendments to conditional use where the gross site area is:</td>
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<td>f. Special land use permit [CONDITIONAL USE] involving sale of alcoholic beverages, other than restaurant or eating place alcoholic beverage use:</td>
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<td></td>
<td>i. Original beverage dispensary license</td>
<td>$3.00/sf</td>
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<td>ii. Modifications to Special Land Use Permit for Alcohol considered by the director</td>
<td>$425</td>
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<td>iii. Modifications to Special Land Use Permit for Alcohol considered by the assembly</td>
<td>$850</td>
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<td>iv. Modification to an approved Special Land Use Permit for Alcohol, considered by the assembly after denial by the planning director</td>
<td>$425</td>
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<td>[ II. DUPLICATE BEVERAGE DISPENSARY LICENSE FEE FOR AN EXISTING PREMISE WITH NO ADDITIONAL SQUARE FOOTAGE ] BASE $1,180 FEE ONLY</td>
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<td>III. DUPLICATE BEVERAGE DISPENSARY LICENSE FOR AN EXISTING PREMISE ADDING 500 SQUARE FEET OR LESS OR A SEASONAL OUTDOOR DECK OR SIMILAR OUTDOOR USE BASE $1,180 FEE PLUS $295</td>
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<td>IV. ANY OTHER DUPLICATE BEVERAGE DISPENSARY LICENSE FOR A NEW AND/OR ADDITIONAL PREMISE (I.E. ADDITION TO AN EXISTING PREMISE) GREATER THAN 500 SQUARE FEET $3.00/SF ]</td>
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<td>v. Club license</td>
<td>$1.40/sf</td>
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<td>vi. Package store license</td>
<td>$1.80/sf</td>
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<td>vii. Recreational site or pub license</td>
<td>$0.95/sf</td>
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<td>viii. Brewpub license</td>
<td>$0.60/sf</td>
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<td>g. For a golf course license, without regard to gross site area or square footage</td>
<td>$3,540 flat fee</td>
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<td>16.</td>
<td>Restaurant or eating place alcoholic beverage license use - Administrative site plan review</td>
<td>$1,180 plus $0.70/sf, not to exceed $4,720 total</td>
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Section 4. Notwithstanding Anchorage Municipal Code section 21.03.210 for text amendments to Title 21, review and consideration of this ordinance by the Planning and Zoning Commission is not required prior to Assembly action. Additionally and relevant to waiver of that process, the 21-day published notice requirement of AMC subsection 21.03.020H.4. is waived and this ordinance shall comply with Charter § 10.01(b) notice requirements before the public hearing.

Section 5. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this ___ day of ______, 2023.

__________________________
Chair

ATTEST:

__________________________
Municipal Clerk
MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 121-2023

Meeting Date: February 21, 2023

From: Assembly Chair LaFrance, Vice Chair Constant, and Member Volland


A special land use permit for alcohol (SLUP-A) is required for a business that includes retail sales, dispensing or service of alcoholic beverages in the Municipality of Anchorage, pursuant to Anchorage Municipal Code section 21.03.040. Before the COVID-19 pandemic spread to our region, this code section was last updated in 2013. When the COVID-19 pandemic required social distancing and caused many service establishments to provide outdoor areas and curbside delivery, emergency state regulations and Municipal orders issued to accommodate and enable businesses to continue operating. These were later codified for a temporary outdoor seating permit under AMC subsection 21.03.040D. As the corresponding state regulations expired December 31, 2021 and the Municipality looked at converting the temporary permit process to a permanent one, it became apparent a more inclusive change for business owners’ applications to modify their SLUP-A was needed. And, just prior to the pandemic a change by the Alaska Alcohol Beverage Control Board and Alcohol and Marijuana Control Office where it ceased issuing duplicate liquor licenses had an effect of nullifying the Title 21 process for modifying a SLUP-A because it relied on issuance of duplicate licenses by the state.

The proposed ordinance accompanying this memorandum is a broader change to the SLUP-A modification process that is more efficient, affordable and collaborative than only addressing outdoor seating. Using the successful modification application process for marijuana establishments as a model, at AMC subsection 21.03.0105C.9., only these modifications go through a full public notice and hearing process for the Assembly to consider and approve: (1) those that increase the business’s liquor licensed premises area by more than 1,000 feet, (2) an increase of any size that shortens the distance between the premises area and adjacent residential property and is less than 500 feet, and intensifies the potential impacts to the neighboring residents, or (3) are otherwise a significant change that warrant Assembly consideration as determined by the Planning Department Director. All other changes to use conditions, or those of a small scale to the current liquor
license premises area under the expansion threshold above can be approved by
the Director of the Planning Department, without the time or expense of mailing and
publishing notices at least 21 days before holding a public hearing. Moreover, the
Planning Department’s review of a SLUP-A modification application process has
become simplified if the business intends to expand outdoors to an area that was
used for parking, thanks to the removal of minimum parking spaces requirements
by the Assembly’s approval of AO 2022-80(S), As Amended, in November of 2022.
Finally, the fees associated with modifications of a SLUP-A are reduced
substantially.

The Planning and Zoning Commission considers and approves most conditional use
permits and other Title 21 land use entitlement applications, but has no involvement
in SLUP-A’s or marijuana use applications. The processes amended by this
proposed ordinance only involve the Planning Department and the Assembly,
therefore the usual process for PZC review of Title 21 text amendments is
unnecessary and waived. Additionally, the published notice period of 21 days in
AMC subsection 21.03.020H.4. is waived, but this ordinance will be in compliance
with the Charter notice requirement for ordinances and could be published 15 days
prior to the intended public hearing date of March 7, 2023. This will also expedite
the path for this ordinance to the Assembly for consideration and action, ahead of
the upcoming tourist season.

Summer is the time for many businesses to improve their success, especially those
that want to expand to service in outdoor areas. The more efficient and expedited
process proposed by this ordinance for those businesses serving alcohol is needed.
The Planning Department was consulted and reviewed the proposed ordinance, and
liquor license holders that experienced frustration with the current Code process
provided input. We worked together to seek solutions and streamline the process.

**We request your support for the ordinance.**

Prepared by: Assembly Counsel’s Office
Respectfully submitted: Assembly Chair Suzanne LaFrance
District 6, South Anchorage

Assembly Vice Chair Christopher Constant
District 1, North Anchorage

Assembly Member Daniel Volland
District 1, North Anchorage