

Submitted by: ASSEMBLY CHAIR TRAINI,
VICE CHAIR FLYNN, AND ASSEMBLY
PUBLIC SAFETY
COMMITTEE CHAIR HONEMAN

CLERK'S OFFICE

Prepared by: Municipal Clerk

For reading: February 15, 2011

APPROVED

Date: 2-15-11

ANCHORAGE, ALASKA

AR NO. 2011-47

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY STATING ITS PROTEST REGARDING A TRANSFER OF OWNERSHIP OF A BEVERAGE DISPENSARY LIQUOR LICENSE #3518 AND RESTAURANT DESIGNATION PERMIT FOR JALAPENOS, INC. dba JALAPENOS MEXICAN RESTAURANT, LOCATED AT 11823 OLD GLENN HIGHWAY, AND AUTHORIZING THE MUNICIPAL CLERK TO TAKE CERTAIN ACTION.

WHEREAS, Jalapenos, Inc. has made an application with the Alcoholic Beverage Control (ABC) Board and has paid the required fee for a Transfer of Ownership of a Beverage Dispensary Liquor License #3518 and Restaurant Designation Permit, to be used for Jalapenos Mexican Restaurant, located at 11823 Old Glenn Highway, Anchorage, Alaska; and

WHEREAS, the Assembly must enter any protest to the ABC Board within 60 days following receipt of the application; and

WHEREAS, the Anchorage Municipal Clerk received a copy of this application on December 16, 2010 and has determined that the last day for the Assembly to file a protest is February 18, 2011 and

WHEREAS, the Assembly Meeting on February 15, 2011 is the last scheduled regular meeting of the Anchorage Assembly prior to the expiration of the protest period; and

WHEREAS, the Municipal Clerk reports the following status concerning this location:

1. No ABC Board violations and/or incidents that would lead to an ABC Board violation;
2. No taxes owing to the Municipality of Anchorage;
3. Anchorage Fire Department approval was received on **January 2, 2011**;
4. Conditional Use Permit required by AMC 21.50.160; **has not** been approved;

5. Approvals from the Municipal Health & Human Services and Building Safety Departments **have been received**; and

WHEREAS, protest by the Assembly is in order pending Municipal Clerk confirmation that outstanding items required for this location have been completed;

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The Anchorage Assembly hereby enters its PROTEST for a Transfer of Ownership of a Beverage Dispensary Liquor License #3518 and Restaurant Designation Permit until these conditions are met:

- Successful completion of the Conditional Use Permit under AMC 21.50.160 is confirmed by the Municipal Clerk.

Section 2. A copy of this Assembly Resolution may be presented to the Alcoholic Beverage Control Board as proof that the Anchorage Assembly, as the local governing body, has stated its protest in order to allow the Director of the Alcoholic Beverage Control Board to hold processing of Beverage Dispensary Liquor License #3518 and Restaurant Designation Permit under local protest, until receipt by the Director of confirmation from the Municipal Clerk that the conditions in Section 1 have been met, and this protest is lifted as authorized by this Assembly Resolution.

Section 3. The Anchorage Assembly hereby authorizes the Municipal Clerk, upon Municipal Clerk confirmation that all conditions in Section 1 have been met, to provide written notification to the Alcoholic Beverage Control Board that this protest by the Anchorage Assembly is lifted, without further action by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 15th day of February, 2011.


Chair

ATTEST:


Municipal Clerk



State of Alaska

Department of Public Safety

Alcoholic Beverage Control Board

Sean Parnell, Governor
Joseph A Masters, Commissioner

December 20, 2010

Municipality of Anchorage
Barbara Gruenstein
P.O. Box 196650
Anchorage, Alaska 99519

Re: Jalapenos Mexican Restaurant -- License #3518

☒ Transfer of Ownership ☐ Name Change ☒ Restaurant Designation Permit
☐ Transfer of Location Old License # (if changed): _____

We have received the enclosed liquor license application within the Municipality of Anchorage. This is the notice as required under AS 04.11.520. Additional information concerning filing a "protest" by a local governing body under AS 04.11.480 is included in this letter.

A local governing body as defined under AS 04.21.080(11) may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the board and the applicant with a clear and concise written statement of reasons in support of a protest within 60 days of receipt of this notice. If a protest is filed, the board will not approve the application unless it finds that the protest is "arbitrary, capricious and unreasonable". Instead, in accordance with AS 04.11.510(b), the board will notify the applicant that the application is denied for reasons stated in the protest. The applicant is entitled to an informal conference with either the director or the board and, if not satisfied by the informal conference, is entitled to a formal hearing in accordance with AS 44.62.330-44.62-630. **IF THE APPLICANT REQUESTS A HEARING, THE LOCAL GOVERNING BODY MUST ASSIST IN OR UNDERTAKE THE DEFENSE OF ITS PROTEST.**

Under AS 04.11.420(a), the board may not issue a license or permit for premises in a municipality where a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages, unless a variance of the regulation or ordinance has been approved. Under AS 04.11.420(b) municipalities must inform the board of zoning regulations or ordinances which prohibit the sale or consumption of alcoholic beverages. If a municipal zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages at the proposed premises and no variance of the regulation or ordinance has been approved, please notify us and provide a certified copy of the regulation or ordinance if you have not previously done so.

Protest under AS 04.11.480 and the prohibition of sale or consumption of alcoholic beverages as required by zoning regulation or ordinance under AS 04.11.420(a) are two separate and distinct subjects. Please bear that in mind in responding to this notice.

AS 04.21.010(d), if applicable, requires the municipality to provide written notice to the appropriate community council(s).

If you wish to protest the application referenced above, please do so in the prescribed manner and within the prescribed time. Please show proof of service upon the applicant. For additional information please refer to 13 AAC 104.145, Local Governing Body Protest.

Note: Applications applied for under AS 04.11.400(g), 13 AAC 104.335(a)(3), AS 04.11.090(e), and 13 AAC 104.660(e) must be approved by the governing body.

tj

Alcoholic Beverage Control Board
5848 E Tudor Rd - Anchorage, AK 99507 - Voice (907) 269-0350 - Fax (907) 272-9412

This application is for:

- ☐ Seasonal - Two 6-month periods in each year of the biennial period beginning _____ and ending _____
Mo/Day Mo/Day
☐ Full 2-year period

17047

SECTION A - LICENSE INFORMATION. Must be completed for all types of applications.			FEES
License Year: 2011-2012	License Type: Beverage Dispensary License	Statute Reference Sec. 04.11.090	License Fee: \$ Filing Fee: \$100.00 Fingerprint: (\$54.25 per person) Total Submitted: \$ 150
Local Governing Body: (City, Borough or Unorganized) Municipality of Anchorage	Community Council Name(s) & Mailing Address: Eagle River Community Council 13135 Old Glenn Highway Suite 200 Eagle River, Alaska 99577		Business Telephone Number: 694-1888 Fax Number: 694-1887
Name of Applicant (Corp/LLC/LP/LLP/Individual/Partnership): Jalapenos, Inc.	Doing Business As (Business Name): Jalapenos Mexican Restaurant	Email Address: Jalapenos77@gci.net	
Mailing Address: 11823 Old Glenn Highway	Street Address or Location of Premise: 11823 Old Glenn Highway Eagle River, Alaska 99577		
City, State, Zip: Eagle River, Alaska 99577			

SECTION B - TRANSFER INFORMATION.

<input checked="" type="checkbox"/> Regular Transfer <input type="checkbox"/> Transfer with security interest: Any instrument executed under AS 04.11.670 for purposes of applying AS 04.11.360(4)(b) in a later involuntary transfer, must be filed with this Application (15 AAC 104.107). Real or personal property conveyed with this transfer must be described. Provide security interest documents. <input type="checkbox"/> Involuntary Transfer. Attach documents which evidence default under AS 04.11.670.	Name and Mailing Address of CURRENT Licensee: 4th Avenue Theatre Inc. P.O. Box 93650 Anchorage, AK 99509 Business Name (dba) BEFORE transfer: 4th Avenue Theatre Street Address or Location BEFORE transfer: NO PREMISE
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SECTION C - PREMISES TO BE LICENSED. Must be completed for RELOCATION applications.

Closest school grounds: Eagle River Elementary, 1500+ ft away	Distance measured under: X AS 04.11.410 OR <input type="checkbox"/> Local ordinance No.	<input type="checkbox"/> Premises is GREATER than 50 miles from the boundaries of an incorporated city, borough, or unified municipality. <input type="checkbox"/> Premises is LESS than 50 miles from the boundaries of an incorporated city, borough, or unified municipality. X Not applicable
Closest church: Church in Wildwood, 500+ ft away	Distance measured under: X AS 04.11.410 OR <input type="checkbox"/> Local ordinance No.	
Premises to be licensed is: <input type="checkbox"/> Proposed building X Existing facility <input type="checkbox"/> New building	<input type="checkbox"/> Plans submitted to Fire Marshall (required for new & proposed buildings) X Diagram of premises attached	

Does any individual, corporate officer, director, limited liability organization member, manager or partner named in this application have any direct or indirect interest in any other alcoholic beverage business licensed in Alaska or any other state?

X Yes ☐ No If Yes, complete the following. Attach additional sheets if necessary.

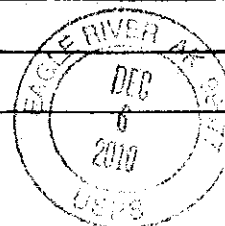
Name	Name of Business	Type of License	Business Street Address	State
Jalapenos, Inc.	Jalapenos Mexican Restaurant	Beer & wine license	11823 Old Glenn Highway Eagle River	Alaska

Has any individual, corporate officer, director, limited liability organization member, manager or partner named in this application been convicted of a felony, a violation of AS 04, or been convicted as a licensee or manager of licensed premises in another state of the liquor laws of that state?

☐ Yes X No If Yes, attach written explanation.

Office use only

Date Approved	Director's Signature
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Liquor License

Corporations, LLCs, LLPs and LPs must be registered with the Dept. of Community and Economic Development.

Name of Entity (Corporation/LLC/LLP/LP) (or N/A if an Individual ownership): Jalapenos, Inc.		Telephone Number: 907-694-1888	Fax Number: 907-694-1887
Corporate Mailing Address: 11823 Old Glenn Highway	City: Eagle River	State: Alaska	Zip Code: 99577
Name, Mailing Address and Telephone Number of Registered Agent: Gilbert Ramos, 11823 Old Glenn Highway, Eagle River, AK 99577 694-1888		Date of Incorporation OR Certification with DCED: August 2004	State of Incorporation: Alaska
Is the Entity in compliance with the reporting requirements of Title 10 of the Alaska Statutes? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If no, attach written explanation. Your entity <u>must</u> be in compliance with Title 10 of the Alaska Statutes to be a valid liquor licensee.			

Entity Members (Must include President, Secretary, Treasurer, Vice-President, Manager and Shareholder/Member with at least 10%)

Name	Title	%	Home Address & Telephone Number	Work Telephone Number	Date of Birth
Gilbert Ramos	Pres.	40	7500 Highland Road, Eagle River, Alaska 696-7180	694-1888	6-25-1974
Sandra Ramos	Sec. - Tres	60	7500 Highland Road, Eagle River, Alaska 696-7180	694-1888	12-27-1978

NOTE: On a separate sheet provide information on ownership other organized entities that are shareholders of the licensee.

Individual Licensees/Affiliates (The ABC Board defines an "Affiliate" as the spouse or significant other of a licensee. Each Affiliate must be listed.)

Name: Address:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>	Name: Address:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>
Home Phone: Work Phone:	Date of Birth:	Home Phone: Work Phone:	Date of Birth:
Name: Address:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>	Name: Address:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/>
Home Phone: Work Phone:	Date of Birth:	Home Phone: Work Phone:	Date of Birth:

Declaration

- I declare under penalty of perjury that I have examined this application, including the accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete, and this application is not in violation of any security interest or other contracted obligations.
- I hereby certify that there have been no changes in officers or stockholders that have not been reported to the Alcoholic Beverage Control Board. The undersigned certifies on behalf of the organized entity, it is understood that a misrepresentation of fact is cause for rejection of this application or revocation of any license issued.
- I further certify that I have read and am familiar with Title 4 of the Alaska statutes and its regulations, and that in accordance with AS 04.11.450, no person other than the licensee(s) has any direct or indirect financial interest in the licensed business.
- I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

Signature of Current Licensee(s) Signature <i>[Signature]</i>	Signature of Transferee(s) Signature <i>[Signature]</i>
Signature Robert Gottstein, President	Signature Gilbert Ramos
Name & Title (Please Print) Tamera Huffman, paralegal	Name & Title (Please Print) Krystal Hoke, Public Notary
Subscribed and sworn to before me this 16 th day of November, 2010.	Subscribed and sworn to before me this 17 day of November, 2010.
Notary Public in and for the State of Alaska <i>[Signature]</i> my commission expires 6/24/14	Notary Public in and for the State of Alaska <i>[Signature]</i> My commission expires 5/6/2013

The granting of this permit allows access of persons under 21 years of age to designated licensed premises for purposes of dining, and persons under the age of 19 for employment. If for employment, please state in detail, how the person will be employed, duties, etc. (13 AAC 104.715)

This application is for designation of premises where (please mark appropriate items)

- 1 ☒ Under AS 04.16.010(c) Bona fide restaurant/eating place
 2 ☒ Persons age 16 to 20 may dine unaccompanied
 3 ☒ Persons under 16 may dine accompanied by a person 21 years or older
 4 ☒ Persons between 16 and 19 years may be employed. (See note below).

LICENSEE:

Salapenos Inc.

D/B/A:

Salapenos Mexican Restaurant

ADDRESS:

11823 Old Glenn Hwy

- 1 Hours of Operation: 1100 AM to 1000 PM Telephone # (907) 694-1888
 2 Have police ever been called to your premises by you or anyone else for any reason: ☐ Yes ☒ No
 If yes, date(s) and explanation(s):

3 Duties of employment: Clean tables - Host/esses - Dishwasher - Waitstaff

4 Are video games available to the public on your premises? NO

5 Do you provide entertainment: ☐ Yes ☒ No If yes, describe:

6 How is food served? ☒ Table Service ☐ Buffet Service ☐ Counter Service ☐ Other*

7 Is the owner, manager, or assistant manager always present during business hours? ☒ Yes ☐ No

*** A MENU AND A DETAILED LICENSED PREMISES DIAGRAM MUST ACCOMPANY THIS APPLICATION ***

This permit remains in effect until the liquor license is transferred OR at the discretion of the Alcoholic Beverage Control Board. (13 AAC 104.795)

I certify that I have read AS 04.16.049, AS 04.16.060, 13 AAC 104.715-795 and have instructed my employees about provisions contained therein.

Applicant(s) signature

Subscribed and sworn to before me this

20th day of December 2010

Notary Public in and for Alaska

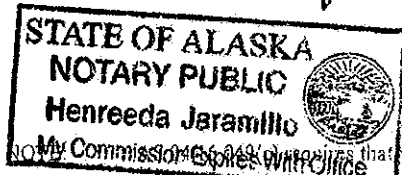
My Commission expires

Application approved (13 AAC 104.725(e))
 Governing Body Official

Date:

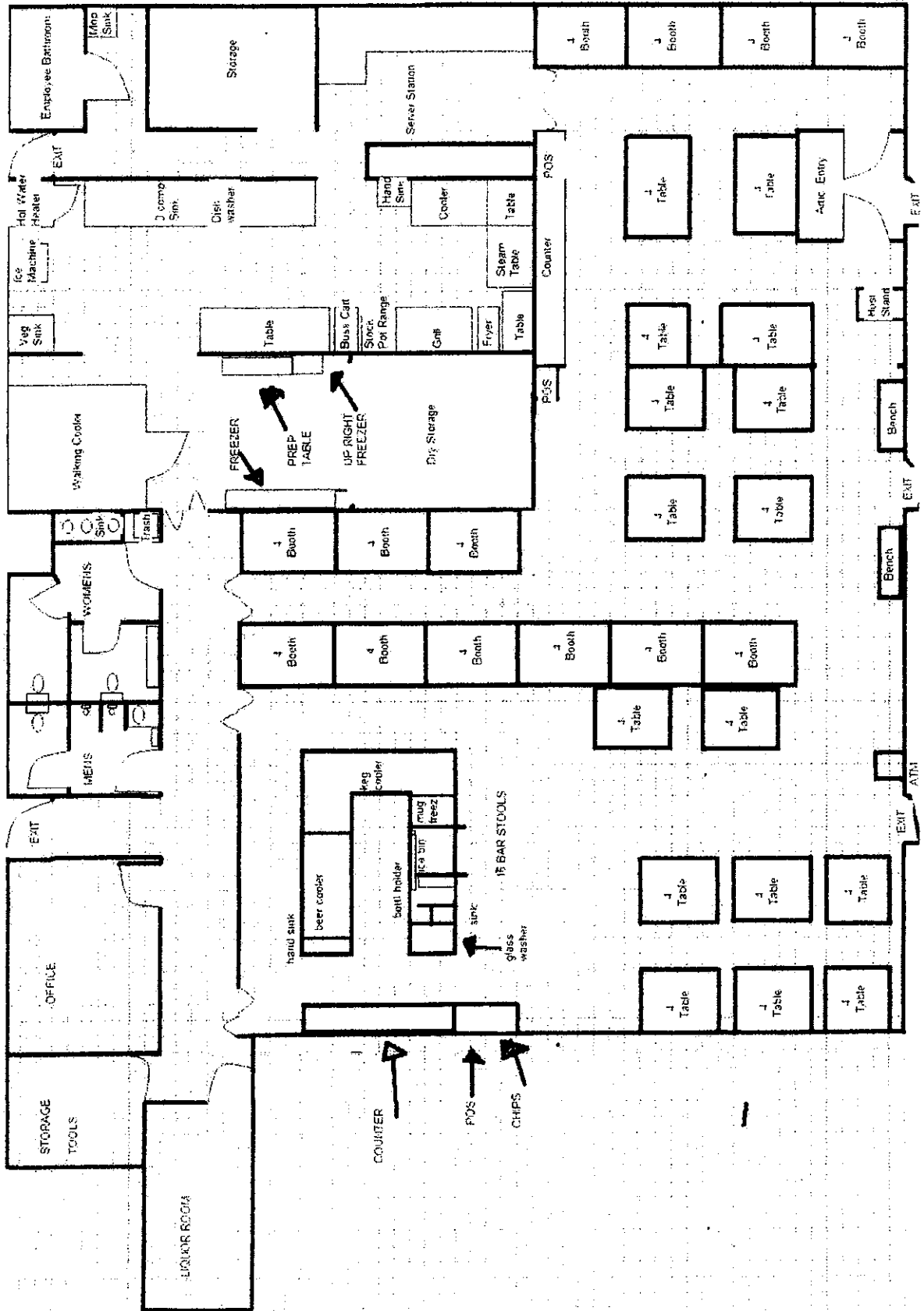
Director, ABC Board

Date:



My Commission Expires 12/31/11. I certify that written parental consent and an exemption by the Department of Labor must be provided to the licensee by the employee who is under 19 years of age. Persons 19 and 20 years of age are not required to have the consent or exemption.

* Describe how food is served on back of form



Content ID: 009880**Type:** AR_AllOther - All Other Resolutions

A Resolution of the Anchorage Municipal Assembly stating its Protest regarding a Transfer of Ownership of a Beverage Dispensary Liquor License #3518 and Restaurant Designation Permit for Jalapenos, Inc. dba Jalapenos Mexican Restaurant, located at 11823 Old Glenn Highway, and authorizing the Municipal Clerk to take certain action, Assembly Chair Traini, Assembly Vice-Chair Flynn, and Assembly Public Safety Committee Chair Honeman.

Author: moserak**Initiating
Dept:** MMStaff**Date
Prepared:** 2/4/11 11:39 AM**Assembly
Meeting
Date:** 2/15/11

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
Clerk_Admin_SubWorkflow	2/4/11 11:44 AM	Exit	Amanda Moser	Public	009880
AllOtherARWorkflow	2/4/11 11:44 AM	Checkin	Amanda Moser	Public	009880