

Assembly Public Safety Committee

Code Provisions related to PSC

2.30.120 - Action on liquor license applications.

- A. Before acting on an application for a new liquor license or transfer of location of an existing liquor license for which a conditional use permit is required under Title 21, the assembly shall first conduct a public hearing under [Section 21.15.005](#).
- B. Separate votes shall be taken and recorded on whether the assembly will protest the issuance or transfer of location of a liquor license, and on the question of whether to approve the terms and conditions of a conditional use permit for that use under Title 21. Six affirmative votes of the assembly are required to protest the issuance or transfer of location of a license under AS 4.11.480, and six affirmative votes are required to create a conditional use permit required under Title 21 for uses involving the retail sale or service of alcoholic beverages. A motion to reconsider may not be made regarding the assembly's action on whether to protest a liquor license application.
- C. On or before September 1 of each year, the municipal clerk shall notify all community councils of liquor licenses located within their boundaries that will be reviewed for renewal during the following year, and advise councils they may request a public hearing before the assembly on any renewal within their boundaries. Requests for an assembly resolution as provided in subsection F. of this section made by a community council under this section shall be made by no later than October 15 of that same year, and shall be submitted to the assembly as part of its packet before action is taken on those renewals. Holders of licenses for which a public hearing has been requested shall also be notified by the municipal clerk of the request for a public hearing.
- D. If the chief determines continued operation of a license poses a demonstrated risk to public order, at any time the chief of police may prepare and submit to the **assembly public safety committee** a memorandum with such supporting documentation as is determined appropriate requesting an informal meeting of the **committee** and a licensee to discuss concerns the chief may have over the operation of the license. Licensees invited to appear informally before the **committee** shall be given copies of the chief's memorandum and supporting documentation with sufficient advance notice of the meeting that will enable them to respond to the memorandum or to propose appropriate corrective actions. After meeting with the chief and the licensee involved, the **committee** may recommend corrective measures and/or introduction of a formal resolution stating grounds for protest authorized under this section, or other appropriate action.
- E. For law enforcement purposes, the chief may submit to the entire assembly or its **public safety committee** a compilation of non-confidential police incident reports relating to licensed premises for which renewal of a license required under AS 4.11 has been or will likely be requested. At a minimum, the compilation shall describe the dates, the relevant case number, and a brief summary of each incident reported. Licensees invited to appear informally before the **public safety committee** under D of this section, or subject to formal revocation proceedings upon introduction of a resolution under F of this section, shall be provided in advance of the informal meeting of the **public safety committee** or formal assembly hearing, copies of all non-confidential documents pertaining to such incidents in the

possession of the chief, and from the department of law a report showing the disposition of all matters described in those reports which have been referred to the municipal attorney for prosecution. Upon request by a licensee at any time and payment of a research fee set out on a uniform schedule promulgated by the municipal manager, licensees shall be entitled to receive a compilation of police incident reports pertaining to the requesting establishment, non-confidential reports and file materials pertaining to incidents still in the possession of the chief, and a disposition report on each incident from the municipal attorney.

F. The assembly shall act on state liquor license applications by resolution, with grounds for protest specified, if any. The municipal clerk shall prepare a proposed resolution and send it to the licensee and to the community council involved at least ten days prior to the date set for assembly action. The assembly shall schedule and conduct a public hearing before exercising or waiving its right to:

1. Protest the issuance, renewal, relocation, transfer or continued operation of an alcoholic beverage license under AS 04.11.480; or
2. Recommend imposition of conditions on a license under AS 04.11.480(c); or
3. Notify the alcoholic beverage control board that a licensee has violated assembly or board imposed conditions on an alcoholic beverage license.
4. Notice of public hearing required under this section shall be published at least seven days in advance.
5. Notwithstanding the requirements and procedure in this section, if there is no request for a protest or a hearing from an assembly member or the relevant community council, and all certifications of compliance required from municipal departments have been received, in lieu of a resolution the municipal clerk may prepare a memorandum for the assembly's approval stating its non-objection or waiver of the right to protest.

G. In the exercise of its right to determine whether to protest issuance, relocation, transfer, continued operation or renewal of any liquor license, the assembly may elect to take any of the actions listed in subsection F of this section unless permanent terms and conditions set by the assembly and communicated in writing to the state alcoholic beverage control board are imposed by the board. A protest by the assembly under this section cannot be based in whole or in part on police reports or other written materials available to the municipality but which were not provided to the affected owner or operator before the public hearing on that protest.

H. The prohibition against ex parte communication does not apply to the assembly's decision whether to protest issuance of a new license, renewal or transfer of an existing license, transfer of ownership, or issue of a duplicate license until such time as a protest has been filed with the State of Alaska Alcoholic Beverage Control Board.

(AO No. 93-139(S-1), § 1, 7-1-94; AO No. 2000-72, § 1, 7-25-00; AO No. 2005-30, § 1, 3-8-05; AO No. 2009-134, § 1, 1-12-10; AO No. [2018-101](#), § 1, 11-20-18; AO No. [2019-84](#), § 2, 7-9-19)

2.30.125 - Standards governing assembly protests to state alcoholic beverage control board.

In the exercise of its powers and under AS 4.11.480 and 13 AAC 104.145 to protest issue, renewal and transfer of alcoholic beverage licenses within the municipality, the assembly shall consider whether the proposed license meets each and every factor and standard set forth in this subsection, as follows:

- A. *Concentration and land use.* Whether transfer of location or issuance of the requested license will negatively impact the community through an increase in the concentration of uses involving the sale or service of alcoholic beverages within the area affected and will conform to the separate standards of [section 21.50.020](#).
- B. *Training.* If application is made for issuance, renewal or transfer of a beverage dispensary license, restaurant or eating place license, or package store license, whether the applicant can demonstrate prospective or continued compliance with a liquor server awareness training program approved by the state alcoholic beverage control board, such as or similar to the program for techniques in alcohol management (T.A.M.). Until such plan is approved, training by a licensee's employees in the T.A.M. shall constitute compliance with this section. (This subsection is effective December 1, 1985.)
- C. *Operations procedures.* If application is made for issue, renewal or transfer of a license, whether the applicant can demonstrate prospective or continued compliance with operations procedures for licensed premises set forth in [section 10.50.035](#).
- D. *Public safety.* When application is made for the renewal or transfer of location or transfer of ownership of a beverage dispensary license, restaurant or eating place license, or package store license, the assembly shall consider whether the operator can demonstrate the ability to maintain order and prevent unlawful conduct in licensed premises. In determining the operator's demonstrated ability to maintain order and prevent unlawful conduct, the assembly may consider police reports, testimony presented before the assembly, written comments submitted prior to or during the public hearing, or other evidence deemed to be reliable and relevant to the purpose of this subsection. For purposes of this section and [section 10.50.035](#) the term "licensed premises" shall include any adjacent area under the control or management of the licensee.
- E. *Payment of taxes and debts.* When application is made for renewal of a license the assembly shall consider, pursuant to AS 4.11.330, whether the applicant is delinquent in payment of taxes owed to the municipality. When application is made for transfer of ownership of a license the assembly shall consider, pursuant to AS 4.11.360, whether the municipality has received either payment or adequate security, as described in subsection G of this section, for the payment of any debts or taxes, including any estimated taxes for the current year. arising from the conduct of the licensed business.
- F. *Notice of possible protest.* If at any time there appears to be a readily identifiable pattern or practice of recurring violent acts or unlawful conduct in a licensed premises, the municipality may notify the licensee that he or she must submit and implement a plan for remedial action or be in jeopardy that a protest will be filed to any renewal, transfer of location or transfer of ownership sought by the licensee. If such notice is issued to the licensee, the assembly in applying the standards set forth above shall consider:

1. Whether a plan has been submitted;
2. The reasonableness of any plan that has been submitted; and
3. The diligence and effectiveness of the licensee in implementing remedial measures.

A notice as authorized by this subsection shall be forwarded to the applicant five days prior to the filing of a protest or to any other legal action against the licensee or others.

G. *Security for payment of debts and taxes.* For the purposes of subsection E of this section, adequate security for the payment of debts and taxes may be in the form of:

1. Escrowed funds sufficient to pay the debts and taxes claimed and any escrow fees;
2. Actual payment of debts and taxes claimed; or
3. A guarantee agreement in accordance with this subsection. Any guarantee agreement under this subsection shall be in writing, shall be signed by the transferor, transferee and municipality, and must include:
 - a. Acknowledgment and acceptance of responsibility by the transferee for the debts and taxes due to the municipality;
 - b. Recognition of the municipality as the beneficiary of the agreement; and
 - c. Recognition of the municipality's remedies for breach of the agreement including:
 - i. A civil suit for enforcement of the agreement;
 - ii. Protest of a subsequent renewal for nonpayment of taxes arising from conduct of the licensed business or breach of the guarantee agreement; and
 - iii. Any other remedies or claims that the municipality might have asserted against the transferor.

Release of guarantee. Upon payment of all debts and taxes due the municipality pursuant to the written guarantee agreement, the municipality shall execute a written release of guarantee.

H. *Public health.* If application is made for the renewal or transfer of location or transfer of ownership of a license, the assembly shall consider whether the operator has engaged in a pattern of practices injurious to public health or safety, such as providing alcohol to minors or intoxicated persons, committing serious violations of state law relevant to public health or safety, or other actions within the knowledge and control of the operator which place the public health or safety at risk. In determining if a pattern of practices injurious to public health or safety exists, the assembly may consider criminal convictions, credible proof of illegal activity even if not prosecuted, police reports, testimony presented before the assembly, written comments submitted prior to or during the public hearing, or other evidence deemed to be reliable and relevant to the purpose of this subsection.

(AO No. 85-128(S); AO No. 86-58; AO No. 93-117, § 1, 8-10-93; AO No. 93-141(S-1), § 1, 2-1-94)

Editor's note— This section was formerly codified in the 1977 Code as [section 10.50.030](#).

Cross reference— Alcoholic beverages, [ch. 10.50](#); transfer of alcoholic beverage license, payment of taxes, [§ 12.05.065](#); uses involving sale of alcoholic beverages, [§ 21.50.160](#).

State Law reference— Alcoholic beverages, AS 4.11.480—4.11.506, 4.21.010; protests regarding licenses, AS 4.11.480; power to regulate, AS 29.35.080.

2.30.130 - Compliance with conditions of alcoholic beverage licenses.

A. The municipal clerk will provide the Anchorage Police Department with all conditions imposed on alcoholic beverage licenses by the assembly or the alcoholic beverage control board on the recommendation of the assembly.

B. The police department may inspect any premises with an alcoholic beverage license for compliance with conditions on the license. Upon discovering a violation of such conditions, the police department shall submit a written report of the violation to the assembly, and provide a copy thereof [to] the licensee.

C. Upon receiving a report of conditions violation, the assembly may:

1. Revoke the premise's conditional use permit;
2. Protest the issuance, renewal, transfer, relocation or continued operation of the license pursuant to [section 2.30.120](#);
3. Recommend imposition of conditions on the state liquor license pursuant to AS 04.11.480(c); or
4. Notify the alcoholic beverage control board that a licensee has violated conditions and request that an accusation pursuant to AS 04.11.510(c) be brought against the licensee.

D. Prior to taking any of the actions listed in subsection C of this section, the assembly shall give the permittee or licensee notice and an opportunity to be heard on the accusation(s) in accordance with [section 2.30.120](#).

(AO No. 2000-72, § 2, 7-25-00)