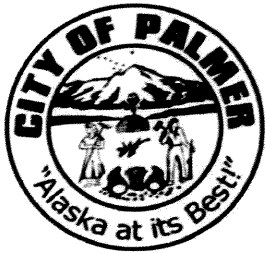




CITY OF HOUSTON
Mayor Sandy McDonald
Council Member Rosemary Burnett
Council Member Carla Hendrix
Council Member Lee Himes
Council Member Roger Purcell
Council Paul Stout
Council Member Glen Tilgman



CITY OF PALMER
Mayor John Combs
Mayor Pro-Tempore Kathrine Vanover
Council Member Richard Best
Council Member Mike Chmielewski
Council Member Ken Erbey
Council Member Brad Hanson
Council Member Tony Pippel



CITY OF WASILLA
Mayor Dianne M. Keller
Deputy Mayor Kristofer Larson
Council Member Doug Holler
Council Member Stephanie Massie
Council Member Steve Menard
Council Member Marty Metiva
Council Member Dianne Woodruff



MATANUSKA-SUSITNA BOROUGH
Mayor Curt Menard
Deputy Mayor Lynne Woods, District 1
Pete Houston, District 2
Michelle R. Church, District 3
Mary Kvalheim, District 4
Cindy Bettine, District 5
Robert F. Wells, District 6
Tom Kluberton, District 7

Joint Borough and Cities Special Meeting

City of Houston

City of Palmer

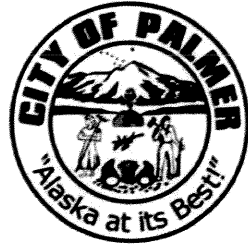
City of Wasilla

Matanuska-Susitna Borough

**Thursday, March 27, 2008
6 p.m.**

**Palmer Community Center
(Railroad Depot)
610 S. Valley Way, Palmer, Alaska**

- I. Call to Order** (Mayor Combs)
- II. Roll Call**
- III. Approval of Agenda**
- IV. Pledge of Allegiance**
- V. Items of Business**
 - A. Wasilla Multimodal Corridor Project (Requested by Wasilla)
 1. Presentation by HDR Alaska, Inc. (15 minutes)
 - B. Regional Wastewater Treatment Plan (Requested by Palmer)
 - C. Bed Tax Distribution (Requested by Palmer and Wasilla)
 - D. Liquor License Transfers from Borough to Cities (Requested by Wasilla)
- VI. Audience Participation** (Three minutes per person)
- VII. Mayor, Assembly, Council Comments**
- VIII. Adjournment**



Item V. Items of Business

D. Liquor License Transfers from Borough to Cities

AS 04.11.400. Population Limitations.

- (a) Except as provided in (d) - (h) and (k) of this section, a new license may not be issued and the board may prohibit relocation of an existing license
- (1) outside an established village, incorporated city, unified municipality, or organized borough if after the issuance or relocation there would be (A) more than one restaurant or eating place license for each 1,500 population or fraction of that population, or (B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population, in a radius of five miles of the licensed premises, excluding the populations of established villages, incorporated cities, unified municipalities, and organized boroughs that are wholly or partly included within the radius;
 - (2) inside an established village, incorporated city, or unified municipality if after the issuance or relocation there would be inside the established village, incorporated city, or unified municipality
 - (A) more than one restaurant or eating place license for each 1,500 population or fraction of that population; or
 - (B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population;
 - (3) inside an organized borough but outside an established village or incorporated city located within the borough, if after the issuance or relocation there would be inside the borough, but outside the established villages and incorporated cities located within the borough,
 - (A) more than one restaurant or eating place license for each 1,500 population or fraction of that population; or
 - (B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population excluding the population of those established villages that have adopted a local option under AS 04.11.491(b)(1), (3), or (4), and excluding the population of incorporated cities located within the organized borough.
- (b) If the radius described in (a)(1) of this section encompasses all of an established village, incorporated city, or unified municipality and the population resident inside and outside the established village, incorporated city, or unified municipality but inside the radius described in (a)(1) of the section is less than 3,000, the board may deny the issuance or relocation of the license.
- (c) [Repealed, Sec. 88 ch 74 SLA 1985].
- (d) The board may approve the issuance or transfer of ownership of a beverage dispensary or restaurant or eating place license without regard to (a) of this section if it appears that the issuance or transfer will encourage the tourist trade by encouraging the construction or improvement of
- (1) a hotel, motel, resort, or similar business relating to the tourist trade with a dining facility or having kitchen facilities in a majority of its rental rooms and at least a minimum number of rental rooms required according to the

population of the established village, incorporated city, unified municipality, or population area established under (a) of this section in which the facility will be located, as follows:

- (A) 10 rental rooms if the population is less than 1,501;
 - (B) 20 rental rooms if the population is 1,501 - 2,500;
 - (C) 25 rental rooms if the population is 2,501 - 5,000;
 - (D) 30 rental rooms if the population is 5,001 - 15,000;
 - (E) 35 rental rooms if the population is 15,001 - 25,000;
 - (F) 40 rental rooms if the population is 25,001 - 50,000; and
 - (G) 50 rental rooms if the population is greater than 50,000; or
- (2) an airport terminal.
- (e) The board may approve the issuance or transfer of ownership of a restaurant or eating place license without regard to (a) of this section if
- (1) the premises of the restaurant or eating place are more than 18 miles from the corporate limits of a city or unified municipality;
 - (2) the premises will serve food to the traveling public; and
 - (3) the board finds that the public convenience will be served by the issuance or transfer.
- (f) An application requesting a transfer of location of licensed premises limited under (a) or (b) of this section shall be granted without regard to (a) of this section if the new location is less than one mile from the original location and
- (1) no ground for denial exists under AS 04.11.340 (1) or (3); and
 - (2) relocation of the licensed premises is necessary due to
 - (A) termination of a lease or rental agreement;
 - (B) condemnation of the premises;
 - (C) the substantial destruction of the premises by any cause.
- (g) The board may approve the issuance or transfer of ownership of a restaurant or eating place license in a municipality without regard to (a) of this section if the board finds that issuance or transfer of the license is necessary for the public convenience.
- (h) Except as provided in (f) of this section, within an incorporated city, unified municipality or an organized borough, a new club license may be issued, and the relocation of an existing club license may be approved by the board if
- (1) the issuance or relocation of club licenses under the population limitation contained in (2) of this subsection has been approved by resolution adopted by the incorporated city, unified municipality, or organized borough within which the club license is to be issued or relocated; and
 - (2) after issuance or relocation there would not be, inside the incorporated city or unified municipality, or inside the organized borough but outside the incorporated cities located within the borough, more than one club license for each 1,500 population or fraction of 1,500 population.
- (i) In (a)(1) of this section, "population" includes only those persons residing inside the radius not later than the date the application is received by the board and not earlier than 60 days before the application is received by the board.

- (j)** In (a)(2) and (3) of this section, "population" includes only those persons residing inside the established village, incorporated city, unified municipality, or organized borough as of December 31 of the year preceding the date of application.
- (k)** This section does not apply to a golf course license issued under AS 04.11.115.
- (l)** In this section "radius" means the circular area or distance limited by the sweep of a straight line originating at the proposed licensed premises and extending outward.
- (m)** The board may approve the issuance of a outdoor recreation lodge license without regard to (a) of this section if it appears that the issuance will encourage the tourist trade by encouraging the construction or improvement of a business relating to the tourist trade and the business meets the requirements for issuance of the license under AS 04.11.225.
- (n)** The board may allow the relocation of an existing beverage dispensary license under AS 04.11.090 to a restaurant, eating place, or hotel, motel, resort, or similar business that contains a restaurant or eating place, in a borough with a population of 60,000 or more if the governing body of the borough approves the relocation. However, if the relocation of the license is into or within an incorporated city in the borough, the board may not approve the relocation unless the governing bodies of both the borough and the incorporated city approve the relocation. The board may allow not more than three relocations in a borough under this subsection each decade. In this subsection, "decade" means each 10-year period beginning April 1 in a year ending in zero.



MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department

Planning Division

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 745-9833 • Fax (907) 745-9876

MEMORANDUM

DATE: January 29, 2008
TO: Distribution (see list)
THRU: Mark Mayo, Planning and Land Use Director *MM*
FROM: Emerson Krueger, Planner II *EMK 1/29/08*
SUBJECT: Request for review and comments

Attached is a draft ordinance amending MSB 8.40 Liquor License Referrals. The intent of this ordinance is to provide a defensible process for assembly review and approval or disapproval of relocation applications.

New state legislation [AS 04.11.400(n)] allows for the relocation of up to three beverage dispensary liquor licenses, per decade, from an unincorporated area of the borough into an incorporated city in the borough. The new state legislation was signed into law June 26, 2007. It contained a transitional provision stating the first decade shall extend from the effective date of the new law through March 31, 2010. A beverage dispensary liquor license authorizes a facility to serve beer, wine, and liquor.

Previously, liquor license relocations were restricted based on the incorporated city boundaries, where licenses granted to cities remained in the city and licenses outside cities remained in the unincorporated area of the borough. Under the new law, relocation of a license from an unincorporated area of the borough into an incorporated city is dependant on the approval of the governing bodies of the city and borough.

The proposed amendment states "Not more than one relocation of an existing beverage dispensary license from an unincorporated area to a particular incorporated city shall occur each decade." Representatives from each incorporated city have expressed an interest in such a limitation between cities. Limiting relocations to not more than one per city provides for fair distribution of the licenses and minimizes the competition that could be associated with this process.

An application to relocate a license will not be considered until the subject city has approved the relocation. This is to minimize unnecessary borough cost and time spent in the process. Since the ABC Board requires both city and borough approval, and the city stands to gain from the relocation, the city's approval is paramount to the borough's consideration. If the city does not approve of the relocation then the borough will not start a review process.

Relocation is contingent upon a number of criteria including the availability of a beverage dispensary license within the city. If public comment or other information indicates a beverage dispensary license is already available in the city for sale or transfer the planning and land use director will consider the impact of the relocation on the value of the existing licenses in the city. This consideration seeks to mitigate the potential economic impacts to existing license holders within the city. The limited number of licenses in incorporated cities and relatively high demand causes the value of licenses in cities to be higher than the value of licenses in the unincorporated area of the borough.

Review of relocation applications is conducted by the planning and land use director with input from the economic development director. A best interest finding will be included in the recommendation by the planning and land use director to address the potential social and economic effects on the area from which the license is being relocated, the effects on the proposed area of relocation, and the effects on the borough as a whole. The potential future need for beverage dispensary licenses in developing areas of the borough and the impact of a relocation on the number of transferable licenses is included for consideration.

Applications for relocation will be considered incomplete and will be rejected if the existing beverage dispensary licensed facility or the applicant has delinquent debts or taxes owing to the borough arising from the conduct of the existing business or the business making the application. Complete applications will be reviewed in the order in which they were received.

Comment is being solicited on the attached draft ordinance. Once this review period is complete, comments will be considered and appropriate changes will be made.

Please review the revised draft and provide written comments by **February 29, 2008 at 5:00pm.**

DISTRIBUTION

Matanuska-Susitna Borough Assembly
Community Councils
Houston City Clerk
Palmer City Clerk
Wasilla City Clerk

8.40.060 REVIEW OF LIQUOR LICENSE REFERRAL FOR RELOCATION

(A) Upon notice from the Alaska Alcoholic Beverage Control Board of an application within the borough for the relocation of an existing beverage dispensary license, as defined in AS 04.11.090, from an unincorporated area to a restaurant, eating place, hotel, motel, resort, or a similar business that contains a restaurant or eating place, as defined in 13 AAC 104.305(a), in an incorporated city, and in accordance with AS 04.11.400(n), the Matanuska-Susitna Borough Assembly shall consider a request for its approval.

(1) The assembly's decision to approve or disapprove an application shall be based on review of the application for the proposed relocation, the planning and land use director's best interest finding, staff recommendation, public testimony, and other relevant information.

(2) Assembly decision on this matter is a final legislative decision and is not subject to appeal.

8.40.070 APPLICATION PROCESS

(A) An applicant under this chapter shall submit a complete liquor license relocation application to the planning and land use director on a form provided by the planning and land use department.

(1) Not more than one relocation of an existing beverage dispensary license from an unincorporated area to a particular incorporated city shall occur each decade. "Decade" means each 10-year period beginning April 1 in a year ending in zero. In accordance with AS 04.11.400(n) The first "decade" shall extend from June 25, 2007 through March 31, 2010.

(2) A non-refundable application fee as established by the assembly, payable to the Matanuska-Susitna Borough, shall be submitted with the application.

(3) The application will be considered incomplete and not acceptable for further action if, through finance department review, it is determined that the existing beverage dispensary licensed facility or the applicant has delinquent debts or taxes owing to the borough arising from the conduct of the existing business or the business making the application. An application shall be considered incomplete if the required fee is not included at the time the application is submitted.

(4) The planning and land use director will review the application for completeness. The director may reject any application which is incomplete or fails to meet the requirements of this section. An incomplete application shall be sent to the applicant with a written explanation of application deficiencies within ten working days of the date the application is received in the planning and land use department. Once the deficiencies have been corrected, the complete application will be considered received and will be processed.

(5) Applications determined to be complete will be considered in the order in which the complete applications are received.

(B) A complete application will contain the following:

(1) a complete copy of the material required by the Alcoholic Beverage Control Board for the relocation including any additional material required by the subject incorporated city;

(2) proof of the incorporated city governing body approval of the relocation;

(3) a map with the application illustrating existing operational beverage dispensary licensed facilities in a radius of ten miles of the existing licensed facility. If no beverage dispensary licensed facilities exist within ten miles of the existing licensed facility, the applicant shall provide a map showing the nearest similar operational licensed facility;

(4) proof that the applicant is:

(a) the owner of the license that is to be transferred into the incorporated city; or
(b) the purchaser under a contract to purchase the license that is to be transferred into the city under which the obligations of the purchaser to purchase, and the seller to sell the license, are unconditional except for the following:

(i) approval of the transfer of location of the license by the incorporated city;
(ii) approval of the transfer of location of the license by the Matanuska-Susitna Borough;
(iii) approval of the transfer of location of the license, and transfer of ownership of the license to the applicant, by the Alcoholic Beverage Control Board; and
(iv) a statement of financial interest (signed by the appropriate corporate officers and notarized).

(5) the following information about the existing licensed facility and the facility to which the license is proposed to be relocated:

(a) location;

(b) days and hours of operation;

(c) seating capacity at the bar, tables and chairs;

(d) average number of employees;

(e) characteristics of the neighborhood within one mile to include the existence and location of other liquor licensed facilities, commercial establishments, schools, churches, and community councils.

(i) percent residential;

(ii) percent commercial; and

(iii) percent rural.

(D) The borough shall adopt application fees to offset the cost of review of applications required under MSB 8.40.060.

8.40.080 NOTICE

(A) When a complete application is received, the borough shall give notice of the application by publication in the newspaper of general circulation in the borough within ten working days. Notice of the application shall also be mailed to owners of all property within one-half mile from the exterior boundary of the property of the existing licensed facility and one-half mile from the exterior boundary of the proposed relocation property. Notice of the application shall also be posted at the existing licensed facility for the duration of the review process.

(B) A copy of the material submitted to the borough shall be sent to the community council(s) in which the existing licensed facility is located or within one mile thereof.

(C) A copy of the material submitted to the borough shall be sent to the community council(s) if the proposed location within an incorporated city is within one mile from the boundary of a community council(s).

(D) A copy of the material submitted to the borough shall be sent to the other incorporated cities in the borough.

(E) The applicant shall pay the cost of all mailings and advertisements as required by MSB 8.40.060 in addition to application fees.

(F) Active community council(s) notified in accordance with MSB 8.40.080 shall have 90 days from the date the complete application is received by the borough to provide a written recommendation concerning the proposed relocation to the planning and land use director.

8.40.090 APPLICATION REVIEW

(A) The planning and land use director shall evaluate the application for relocation in consideration of its effects on the borough; the area from where the license is coming and the area to where it is proposed to be relocated. The planning and land use director will consider following criteria:

- (1) potential economic effects;
- (2) potential future need of a license in an unincorporated area of the borough
 - (a) the impact of the transfer on the availability of licenses in the unincorporated area;
- (3) impact to access to similar licensed facilities;
- (4) community council(s) comment;
- (5) decision of the affected city;
- (6) public comment;
- (7) availability of a beverage dispensary license for sale or transfer within the subject city;
 - (a) availability of a beverage dispensary license within the subject city will be given due deference;
- (8) other relevant information.

(B) The director may require independent, third party analysis, at the applicant's cost, of the potential economic and social effects of the relocation.

(C) Within 90 days of receipt of a complete application, the planning and land use director shall prepare a best interest finding and a resolution recommending assembly approval or denial of the relocation application.

(D) After notice and public hearing, the assembly shall approve or disapprove the application, taking into consideration the best interest finding, staff recommendation, public testimony, and other relevant information.

(E) The planning and land use director shall notify the applicant, the owner of the existing licensed beverage dispensary facility, the affected incorporated city, and the Alcoholic Beverage Control Board of the assembly decision.



CITY OF WASILLA

• Economic Development Office •

February 27, 2008

TO: Mark Mayo
Planning and Land Use Director
Matanuska-Susitna Borough
350 East Dahlia Ave.
Palmer, AK 99645

Re: Review and comments on proposed amendments to MSB 8.40 Liquor License Referrals

Dear Mr. Mayo,

Below are comments in response to the borough's proposed amendments to MSB 8.40 Liquor License Referrals. The city of Wasilla Community and Economic Development Department has been working on this issue for over a year and a half and assisted in the crafting of the state law these amendments attempt to address. We believe the proposed amendments can accomplish their desired intent effectively if a few modifications are made. Without these changes, however, we are convinced the proposed language will effectively negate any area wide benefits created by the state law change.

Comments Regarding:

“(B) A complete application will contain the following:

...(2)proof of the incorporated city governing body approval of the relocation;

AND

(C) Within 90 days of receipt of a complete application, the planning and land use director shall prepare a best interest finding and a resolution recommending assembly approval or denial of the relocation application.”

It is important to understand the process timeline this language will create. With the proposed timeline a city within the borough will require at least 30-60 days to process and approve any application at the city council level. The Mat-Su Borough will then take 90 days for their review and additional time for the public hearing and approval at the assembly level. The ABC Board will then need at least 60 days to process an application. This means from start to finish, even if there are no complications, the process for a transfer will take a private business 6-8 months. This is simply excessive and cumbersome.

In Mr. Krueger's memorandum on this ordinance he states the reason for waiting until cities approve the application is to save the borough time and cost. The Mat-Su borough, however, will only see 3-5 of these applications every 10 years. Considering the Mat-Su borough already processes over 180 liquor license actions each year it strains credibility to claim these 3-5 applications per decade will drain borough resources. Being proactive towards this processing will have an absolute minimal impact on borough staff and finances.

This process can be streamlined by allowing borough planners to process the application within 90 days of receipt of an application, but not allowing for the issue to be put before the Assembly until the administration receives notice the appropriate city council has approved a corresponding application. This will speed up the process by 60-90 days without losing any of the review process or impacting borough resources.

Comments Regarding:

"A best interest finding will be included in the recommendation by the planning and land use director to address.....the effects on the proposed area of relocation."

AND

"(7) Availability of a beverage dispensary license for sale or transfer within the subject City;"

It is odd that the Mat-Su borough would require city approval of a relocation claiming "the city's approval is paramount to the borough's consideration" while writing into same the code the city's input is essentially worthless. If the borough wishes to do a review of the impacts to the city it should feel free to do so, but the borough shouldn't then cost private citizens time and money waiting for consecutive city and borough approvals in the pretense that the borough needs city input before making its own decision. Likewise, if the borough truly does consider city input as "paramount" then the borough should accept the city's review of the impacts to their community as sufficient review and remove these extraneous borough level reviews of impacts within cities.

It is important to note the borough has delegated land use zoning powers to the cities of Palmer and Wasilla, therefore for those cities there is already a mechanism in place to assure a new restaurant is compatible with surrounding land uses.

Comments Regarding:

"If public comment or other information indicates a beverage dispensary license is already available in the city for sale or transfer the planning and land use director will consider the impact of the relocation on the value of the existing licenses in the city."

AND

"(7) Availability of a beverage dispensary license for sale or transfer within the subject city; (a) availability of a beverage dispensary license within the subject city will be given due Deference"

The concern here is how the borough will decide whether or not a license is for sale. Any transferable license holder can claim their license is for sale, but how can the borough check on this completely unverifiable assertion? Considering the other license holders will be in some way competitors there is a huge incentive for those license holders to make this claim, especially when they know it will effectively veto the transfer and can't be proven one way or the other. This is essentially the same as allowing McDonalds to stop Burger King from getting a business license because they claim their franchise is for sale.

The solution here is to allow the planning department to enter a negative finding for the relocation if there is a transferable license in a city that is going un-operated. This is to say that someone owns a license but does not have a functioning business attached to it. In this situation that license can be reasonably assumed to be for sale and has the added merit of being verifiable using ABC Board records.

Sincerely,

Casey Reynolds
Economic Development Planner
City of Wasilla
(907) 373-9030



CITY OF PALMER

231 West Evergreen Avenue
Palmer, Alaska 99645
Phone (907) 745-3271 • Fax (907) 745-0930
www.cityofpalmer.org

"Alaska at its Best!"

August 23, 2007

John Duffy, Borough Manager
Matanuska-Susitna Borough
350 E. Dahlia
Palmer, AK 99645

Dear Mr. Duffy,

As you are aware, Senate Bill 128 grants the Matanuska-Susitna Borough the authority to transfer three of its liquor licenses to the Cities within its jurisdiction.

The City of Palmer encourages the equitable division of these licenses and requests that one of the licenses be designated to the City of Palmer.

My office has received an inquiry regarding the process for obtaining a license. It is my understanding the Borough has begun preliminary discussions regarding the application process and criteria for the distribution of licenses. Please note our overall interest and desire to be informed of the process.

Thank you for your attention and assistance in this matter.

Kind regards,

A handwritten signature in black ink, appearing to read "Janette M. Bower".

Janette M. Bower, CMC
City Clerk

Cc: David Hanson, MSB Economic Development Director