



MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: November 25, 2022

FROM: Kristina Serezhenkov, OLE

RE: #3009 The Rock Wood Fired Pizza
& Spirits

Requested Action: Third AB-29 Waiver of Operation request

Statutory and Regulatory Authority:

Sec. 04.11.330. Denial of license or permit renewal.

(a) An application requesting renewal of a license shall be denied if

- (1) the board finds, after review of all relevant information, that renewal of the license would not be in the best interests of the public;
- (2) the license has been revoked for any cause;
- (3) the applicant has not operated the licensed premises for at least 240 hours during each of the two preceding calendar years, unless the board determines that the licensed premises are under construction or cannot be operated through no fault of the applicant;

3 AAC 304.170. Waiver of annual operating requirement and minimum operating requirements

(a) Except as provided in this section, the board will deny an application for renewal of a license if the licensed premises were not operated for the time required by AS 04.11.330(a)(3) or (d).

(b) A licensee may apply to the board, requesting that the board waive the operating requirement of AS 04.11.330 (a)(3) or (d). Under AS 04.11.330(a)(3), the board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises could not be operated for the required time during the preceding calendar year.

(c) An application for waiver for a calendar year must be made in writing to the board and must be accompanied by a non-refundable application fee of:

- (1) an amount equal to one-half the applicable biennial license fee if a waiver application was not made for the previous year; or
- (2) double the amount of the fee paid for the previous year's waiver application;

(d) In an application for waiver, the licensee must explain why the licensed premises were not operated. Additionally, the licensee must provide a copy of the application to the local governing body, if any, having jurisdiction over the license and licensed premises.

(e) The board will, in its discretion, deny a third or subsequent consecutive application for waiver unless the licensee clearly shows that the licensed premises were not operated because the premises were condemned or substantially destroyed by any cause. If the premises identified on an applicant's license are not leased or owned by the licensee, the

third or subsequent application will, in the board's discretion, be denied. Additionally, a third or subsequent consecutive application for waiver that does not identify a licensed premises location will, in the board's discretion, be denied.

(f) The board will, in its discretion, impose conditions along with the approval of an application for waiver.

(g) If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the board under AS 04.11.330(a)(3).

(h) In addition to the application fee under (c) of this section, the applicant shall pay \$1,000 for an application that is received too late for board consideration at its last meeting of the calendar year for which waiver is requested.

(i) In circumstances of death of a licensee, destruction of the premises, or comparable circumstances showing extraordinary hardship, the board will, in its discretion, waive the fees under (c) and (h) of this section.

(j) If a license is exercised only to satisfy the minimum operating requirement under AS 04.11.330(a)(3) or 3 AAC 304.107(c)(1), a licensee shall operate in a similar fashion to other licensed premises of the same type by meeting the following operating requirements if appropriate for the license type:

(1) provide signage, of sufficient size and visibility to show that the premises is open for business, stating business name and hours of operations;

(2) offer for sale at the licensed premises, as appropriate to the type of license, a variety of malt beverages, wines, and distilled spirits;

(3) visibly display the alcoholic beverages stock in a licensed package store premises;

(4) provide seating in beverage dispensary licensed premises for at least one-half of the maximum number allowed by the occupancy permit;

(5) comply with all state or municipal health, fire, and zoning laws or ordinances required for the operation of business;

(6) maintain a record of all purchases of alcoholic beverages for resale on the licensed premises; and

(7) record sales with a cash register or point of sale system that retains a record of transactions.

(k) The licensee has the burden of proof to show that the licensed premises was operated for the minimum required period of time and met the operating requirements under (j) of this section. The licensee may provide receipts, invoices, photographs, permits, timecards, and other records to meet the burden of proof. If the licensee fails to provide proof that one or more of the operating requirements was met, the board may consider additional documentation provided by the licensee to determine whether the licensee has met the burden of proof.

Staff Rec.: Evaluate third AB-29 Waiver request in accordance with above statutes and regulation

Background: The licensee is requesting a third AB-29 Waiver.

Attachment: AB-29 form



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

What is this form?

This form is the means by which a licensee may request that the Alcoholic Beverage Control (ABC) Board waive the operating requirement of AS 04.11.330(a)(3) or (d). If a recreational site license has not been operated at least once in a calendar year, or if a license of any other type has not been operated for at least 240 hours in a calendar year, then a complete copy of this form and the corresponding fees must be submitted for that calendar year, per 3 AAC 304.170.

This application must be accompanied by a non-refundable waiver application fee of:

- for a 1st request, an amount equal to 1/2 the applicable biennial license fee; or
- for a 2nd or subsequent request, double the amount of the fee paid for the previous waiver application.

The ABC Board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises could not be operated for the required time during the calendar year. The ABC Board may impose conditions along with the approval of an application for waiver, and it may deny a third or subsequent application for waiver. If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the Board. In addition to the waiver application fee, the applicant must pay a late fee of \$1,000 for an application that is received too late for Board consideration at its meeting before November 30 of the year for which the waiver is requested. Please check AMCO's website for meeting agenda deadlines.

Please note that a licensee must submit a separate completed copy of this form and pay a separate corresponding fee for each license and for each calendar year during which a license was not operated in compliance with AS 04.11.330.

Section 1 - Establishment Information

Enter information for the license that has not been operated for the time required under AS 04.11.330.

Licensee:	The Wedge Corp	License Number:	3009		
License Type:	Beverage Dispensary				
DBA:	The Rock Wood Fired Pizza & Spirits				
Premises Address:	No Premises				
City:	Anchorage	State:	Alaska	ZIP:	
Local Governing Body:	MOA				

Section 2 - Request Number and Calendar Year

1st Request
 2nd Request
 3rd Request
 Other _____

Request for Calendar Year 2022

100496694



Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol_licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

Section 3 – Reason for Non-operation

Provide an explanation as to why the licensed premises were not operated.

Just completed the transfer of the license to a new premises and looking for a buyer for the license.

Section 4 – Certifications

The following must be completed for establishments located within the boundaries of a local governing body:

Read the line below, and then sign your initials in the box to the right of the statement:

I certify that I will provide a true copy of this application to the local governing body listed on Page 1 of this form prior to ABC Board consideration of this application.

Initials



As a liquor licensee, I declare under penalty of perjury that this form, including all attachments, is true, correct, and complete.

Signature of licensee
 John Allegretti
 Printed name of licensee

CHELIE CURRAN
 Notary Public
 State of Washington
 License Number 171977
 My Commission Expires
 February 28, 2026

Notary Public in and for the State of ~~Alaska~~ WA
 My commission expires: 02.28.2026

Subscribed and sworn to before me this 23rd day of November, 2022

Office Use Only			
Waiver Application Fee:	5000 -	Late Fee:	
		Transaction #:	100496694

Craig, Carrie D (CED)

From: Amanda Shawcross <ashawcross@eclawfirm.org>
Sent: Wednesday, November 23, 2022 3:47 PM
To: Alcohol Licensing, CED ABC (CED sponsored)
Cc: Chelie Curran; Don Bellis; John Allegretto; Sherman Ernouf
Subject: Waiver of Operation 2022 BDL #3009 The Rock Wood Fired Pizza
Attachments: AK Liqr Lic_WaiverApp3rdfor2020FINALAMCO112322.pdf

Categories: Needs to be claimed

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

Please find attached a Waiver of Operation for the year 2022 for BDL #3009, The Rock Wood Fired Pizza. Our client requested we send this electronically due to the holiday weekend. Please confirm receipt and let me know if anything else is needed.

Thank you, Happy Thanksgiving!

Amanda

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