

**Office of the City Clerk
City of Ketchikan, Alaska**

**Kim Stanker, City Clerk
Taylor Lee, Deputy City Clerk**

To: Mayor and City Council

From: Taylor Lee, Deputy City Clerk

Date: August 24, 2022

Subject: License Premises Diagram Change

Beverage Dispensary:

For: Cape Fox Lodge d/b/a 108 Tap House & Burger Bar

Attached are:

- (1) Memorandums from the Police Department indicating no objection.
- (2) Memorandums from the Borough Revenue Office regarding sales tax.
- (3) Memorandums from the Fire Department stating no objection.
- (4) Memorandums from Planning and Zoning stating no objection.

Recommended Motion:

I move the City Council approve the license premises diagram change for Beverage Dispensary License No. 810 – Cape Fox Lodge, LLC d/b/a 108 Tap House & Burger Bar, 108 Main Street Ketchikan, AK 99901.



Alaska Alcoholic Beverage Control Board

Form AB-14: Licensed Premises Diagram Change

Why is this form needed?

This licensed premises diagram change form is required for all liquor licensees seeking to alter the functional floor plan or reduce or expand the area of the establishment's existing licensed premises, under 3 AAC 304.185. **The required \$250 licensed premises diagram change fee may be made by check, cashier's check, money order, or credit card (VISA, MasterCard, American Express or Discover).**

Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, and consumption. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

If approved, this form will replace the existing licensed premises diagram on file. All sections of the currently licensed area that you wish to remain licensed must be included in the outlined area, as described on Page 2 of this form. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form, as long as it meets the requirements listed on this form. The first and third pages must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's Anchorage office prior to altering the existing floor plan. The licensed premises may not be altered unless and until the AMCO director has given written approval on this form. Please note that licensees seeking to change licensed premises diagrams for multiple licenses must submit a separate completed copy of this form and pay a separate fee for each license.

Section 1 – Establishment Information

Enter information for the licensed establishment.

Licensee:	Cape Fox lodge, LLC	License Number:	810
License Type:	Beverage Dispensary		
Doing Business As:	108 Tap House & Burger Bar		
Premises Address:	108 main Street		
City:	Ketchikan	State:	ak
		ZIP:	99901

Section 2 – Summary of Changes

Provide a summary of the changes for which you are requesting approval.

adding serving space in Virtual grounds allowing sale of Alcohol and food to the game bays.
also adding storage spaced to the back room of virtual grounds.

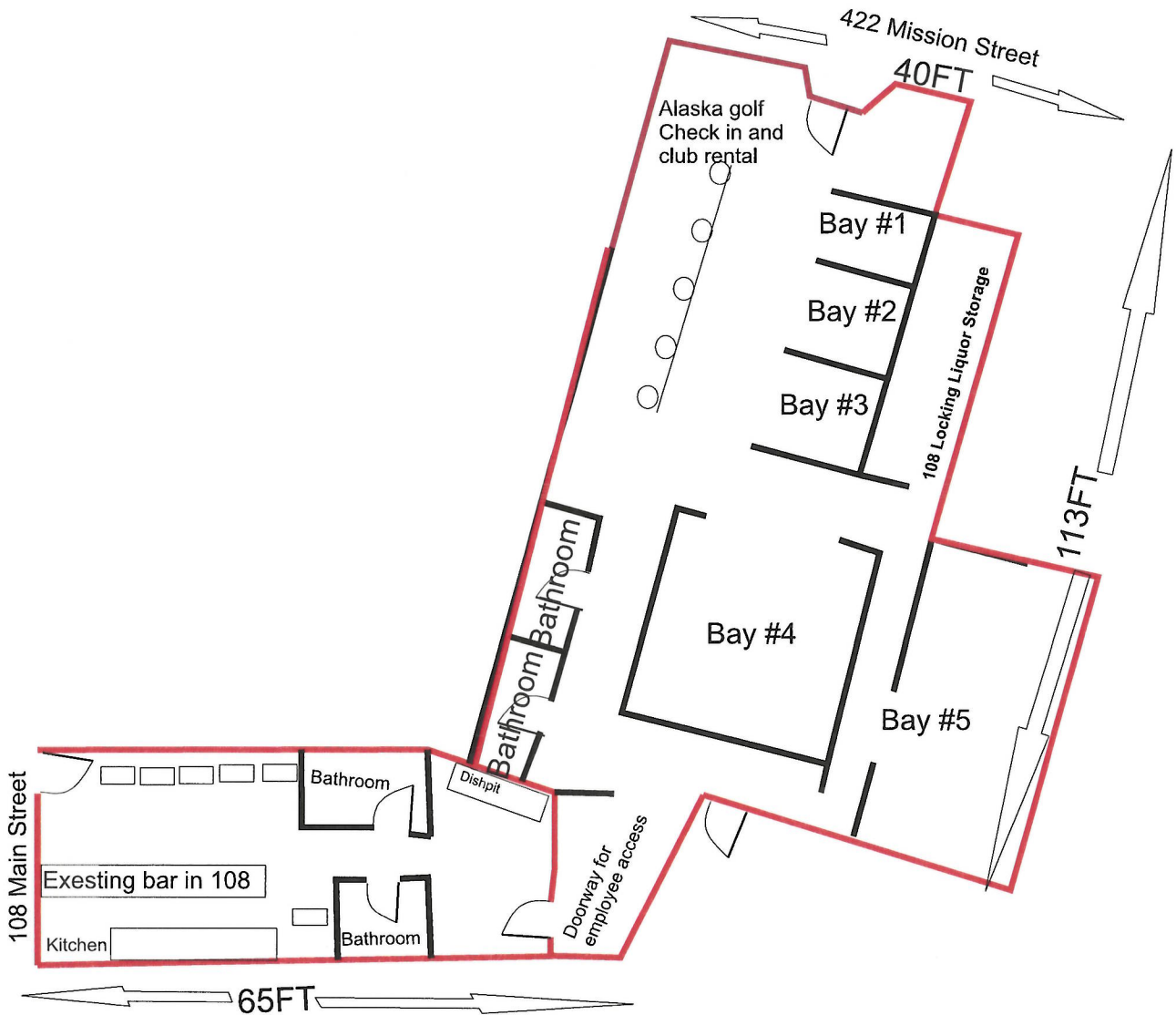


Alaska Alcoholic Beverage Control Board

Form AB-14: Licensed Premises Diagram Change

Section 3 – Detailed Premises Diagram

Clearly indicate the boundaries of the premises and the proposed licensed area within that property. Clearly indicate the interior layout of any enclosed areas on the proposed premises. Clearly identify all entrances and exits, walls, bars, and fixtures, and outline in red the perimeter of the areas designated for alcohol storage, service, and consumption. Include dimensions, cross-streets, and points of reference in your drawing. You may attach blueprints or other detailed drawings that meet the requirements of this form.





Alaska Alcoholic Beverage Control Board

Form AB-14: Licensed Premises Diagram Change

Section 4 – Declarations

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

Initials

The proposed changes conform to all applicable public health, fire, and safety laws.

Cl

I hereby certify that I am the person herein named and subscribing to this application and that I have read the complete application, and I know the full content thereof. I declare that all of the information contained herein, and evidence or other documents submitted are true and correct. I understand that any falsification or misrepresentation of any item or response in this application, or any attachment, or documents to support this application, is sufficient grounds for denying or revoking a license/permit. I further understand that it is a Class A misdemeanor under Alaska Statute 11.56.210 to falsify an application and commit the crime of unsworn falsification.

Cl

Christopher Luchtefeld

Printed name of licensee

Christopher
Luchtefeld

Signature of licensee

Digitally signed by Christopher
Luchtefeld
Date: 2022.07.29 14:45:41 -04'00'

Section 5 – Local Government & AMCO Review

Local Government Review (to be completed by an appropriate local government official):

Yes No Pending

The proposed changes shown on this form conform to all local restrictions and laws.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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A local building permit is required for the proposed changes.

<input type="checkbox"/>	<input type="checkbox"/>
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Signature of local government official

Building Permit #

Date

Printed name of local government official

Title

AMCO Review:

Approved Disapproved

<input type="checkbox"/>	<input type="checkbox"/>
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Signature of AMCO Enforcement Supervisor

Signature of Director

Printed name of AMCO Enforcement Supervisor

Printed name of Director

Date

AMCO Comments:



Alaska Alcoholic Beverage Control Board

Form AB-14: Licensed Premises Diagram Change

Section 4 – Declarations

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

The proposed changes conform to all applicable public health, fire, and safety laws.

Initials

CL

I hereby certify that I am the person herein named and subscribing to this application and that I have read the complete application, and I know the full content thereof. I declare that all of the information contained herein, and evidence or other documents submitted are true and correct. I understand that any falsification or misrepresentation of any item or response in this application, or any attachment, or documents to support this application, is sufficient grounds for denying or revoking a license/permit. I further understand that it is a Class A misdemeanor under Alaska Statute 11.56.210 to falsify an application and commit the crime of unsworn falsification.

CL

Christopher Luchtefeld

Printed name of licensee

Signature of licensee

Section 5 – Local Government & AMCO Review

Local Government Review (to be completed by an appropriate local government official):

Yes No Pending

The proposed changes shown on this form conform to all local restrictions and laws.

☐☐☐

A local building permit is required for the proposed changes.

☐☐

Signature of local government official

Building Permit #

Date

Printed name of local government official

Title

AMCO Review:

Approved Disapproved

☐☐

Signature of AMCO Enforcement Supervisor

Signature of Director

Printed name of AMCO Enforcement Supervisor

Printed name of Director

Date

AMCO Comments:

Virtual Grounds LLC
422 Mission ST
Ketchikan AK, 99901

COMMERCIAL LEASE

THIS COMMERCIAL LEASE ("Lease") is made and entered into this 29th day of June 2022, by and between Virtual Grounds LLC (hereinafter referred to as "Lessor"), and Cape Fox Lodge DBA 108 Tap House & Burger Bar (hereinafter referred to as "Lessee"). The Lease is made subject to the approval of an associated modification to Lessee's alcohol license. If such approval is not granted, the lease may be terminated in accordance with paragraph 7.13.1.

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**Summary of Lease Terms and
Definitions**

Virtual Grounds LLC
422 Mission ST
Ketchikan AK, 99901

Lessor: Virtual Grounds , LLC

Lessor's Address: 422 Mission Street
Ketchikan, AK 99901
907-247-8605

Lessee: Cape Fox Lodge DBA 108 Tap House Burger Bar
Lessee's Address: 620 Dock Street
Ketchikan, AK 99901
907-331-3075, tlewis@capefoxlodge.com

Premises: 422 Mission Street , Ketchikan, AK 99901 storage in back &
right to sell food Alcoholic & N/A beverage

Building Rentable Sq/Ft: Storage space. 400 SF
Sales space. 3885 SF

Use of Premises: Allow sales of Alcoholic beverages, food and N/A beverages
to customers of Virtual Grounds on premise, Storage of Food
and Beverages for 108 Taphouse and Burger Bar

Commencement Date: Term: July 1st, 2022

Renewals: Commencing upon the Commencement Date and expiring on the
"Termination Date," July 1st, 2023, one (1) year thereafter.

Renewal shall be negotiated at least ninety (90) days prior to the
Termination Date

Base Rent: Rent is fifteen hundred Dollars (1,500.00) per month plus Sales Tax

Sales Tax: City Sales Tax is currently charged at a rate of 6.5%
totaling \$97.50 per month.

Total Monthly Payment: One thousand five hundred and ninety seven dollars and fifty
cents (\$1,597.50) due by the first day of each month.

Security Deposit: One Thousand five hundred Dollars (\$1,500.00)

Initials: kmh_____

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ARTICLE II
Premises, Term, Renewals, and Security
Deposit

1. **PREMISES:** Lessor, in consideration of the rents hereinafter reserved and of the covenants and conditions herein set forth to be performed by Lessee, does hereby lease to Lessee the right to sell and monitor consumption of alcohol beverages, non-alcoholic beverages, and food in the entire premise as well as 400 SF of storage in the back room as described above (the "Premises"). The Premises consist of the space located at 422 Mission Street, Ketchikan, AK 99901 (a commercial space containing 3885 square feet of space) and inside that space (in the back-room storage space total 400 square feet of space) to allow for storage of backup food and beverages for 108 Taphouse and Burger Bar. In addition, Lessor will allow the installation of a doorway to allow access from the back door of 108 Tap House & Burger Bar into the premise.
2. **TERM:** The term of this Lease shall be for one (1) year beginning August 1, 2022 (the "Commencement Date") through August 1st, 2023. If Lessee takes possession of the Premises before the Commencement Date, Lessee shall pay the pro rata rent for the period prior to commencement of the Lease term.
3. **RENEWAL:** Lease Renewal shall be negotiated at least ninety (90) days prior to the expiration of the Term of this Lease. Renegotiated terms and conditions shall not materially deviate from the originally planned arrangement as indicated in this first lease nor should the rent deviate beyond normal annual escalation percentage. The option for renewal shall not be unreasonably withheld.
4. **SECURITY DEPOSIT:** Upon execution of this Lease, Lessee shall deliver to Lessor the security deposit specified in Article I above. Lessor may commingle the security deposit with its other funds. If Lessee breaches any covenant or condition of this Lease, including but not limited to the payment of Rent, Lessor may apply all or any part of the security deposit to the payment of any sum in default and any damage suffered by Lessor as a result of Lessee's breach. In such event, Lessee shall, within five (5) days after written demand therefore by Lessor, deposit with Lessor the amount so applied. Any payment to Lessor from the security deposit shall not be construed as a payment of liquidated damages for any default. If Lessee complies with all of the covenants and conditions of this Lease throughout the Lease term, the security deposit shall be repaid to Lessee, without interest, within thirty (30) days after the vacation of the Premises by Lessee.

ARTICLE III
Compensation, Rental
Adjustment

1. **RENT:** The term "Rent" as used herein includes Base Rent, Additional Rent, and other fees and charges assessed herein. Except as expressly provided elsewhere herein, Rent and all other sums payable by Lessee pursuant to this Lease shall be paid without the requirement that Lessor provide prior notice or demand, and shall not be subject to any counterclaim, setoff, deduction, defense or abatement

1.1. Rent shall be paid monthly in advance of, on, or before the first (1st) day of)

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each month beginning on the Commencement Date. A late charge of one percent (1%) per month will be assessed against past due Rent from the date such Rent became due. Additionally, if

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Rent is not received by the fifth (5th) day of any month, Lessee shall pay Lessor an additional fee of \$100 or 2 percent (2%) of the delinquent payment, whichever is greater, to defray costs of collecting and handling such late payment. All accrued interest and late charges shall be paid no later than the first (1st) day of the month following that month in which such interest or late charges accrued. If rent is not received by the tenth (10th) day of the month, Lessee shall be considered to have breached this agreement.

ARTICLE IV

Use of Premises, Condition of Property, Improvements, Removal of Property, Maintenance, and Utilities

1. **LESSEE'S USE OF THE PREMISES:** Lessee shall only conduct the following activity on the Premises: sales of alcoholic beverages, monitoring consumption of alcoholic beverages, sales of food and N/A beverages, and storage of food and beverages for 108 Taphouse and Burger Bar, in a manner consistent with all applicable AMCO rules, food safety rules, & zoning code (the "Authorized Use").
 - 1.1. Lessee shall be in default under this Lease if it: (i) ceases conducting the Authorized Use for any period of time exceeding thirty (30) days; or (ii) conducts any other business or activity on the Premises without first obtaining a validly executed lease modification.
 - 1.2. Notwithstanding the foregoing described use, the Premises shall not be used to store, distribute or otherwise handle flammable or dangerous materials, excepting only which are necessary to conduct the Authorized Use. At the request of Lessor, Lessee shall provide a list of all flammable or dangerous materials stored or used on the Premises.
2. **CONDITION OF PROPERTY:** Lessee accepts the Premises, including all existing improvements thereon, "as is" without further maintenance liability on the part of the Lessor, except as specifically noted herein. Lessee is not relying on any representations of Lessor as to condition, suitability, zoning restrictions, or usability, except Lessor's right to grant a lease of the Premises.
3. **CONSTRUCTION OF TENANT IMPROVEMENTS:** The Lessee and Lessor shall abide by the following terms with regard to making tenant improvements on the Premises ("Tenant Improvements"):
 - 3.1. Subject to obtaining Lessor's written approval, Lessee may make and install, at its own expense, such Tenant Improvements as are normal and customary in connection with the Authorized Use set forth herein. Lessee's contractor, if any, shall be subject to Lessor's approval, not unreasonably withheld. Lessor reserves the right to condition its approval upon the Lessee providing payment and/or performance bonds satisfactory to Lessor. Lessee shall submit plans to and obtain written approval from Lessor before commencing any Tenant Improvements. Lessor shall have a reasonable period of time to review such plans prior to issuing a decision. Lessor may charge Lessee a reasonable fee for staff, consultant or attorney time required to review the plans. All Tenant Improvements which are to be designated fixtures shall be so designated by Lessor upon Lessor's approval of the plans for such Improvements. All improvements by Lessee shall conform to the requirements of the Americans With Disabilities Act of 1990, 42 U.S.C. §12101 et seq. (the "ADA").

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4.3.3 **Unauthorized Improvements:** Any Tenant Improvements made on the Premises without Lessor's prior written consent or which are not in conformance with the plans submitted to and approved by the Lessor ("Unauthorized Improvements") may be reasonably subject to Lessee being required to sever, remove and dispose of them, Lessor charging rent for the use of them or both.

4. **REMOVAL OF PERSONAL PROPERTY AND TENANT IMPROVEMENTS AT END OF LEASE:** Prior to the conclusion of the Lease, at Lessor's option, Lessee shall remove the following from the Premises:

- a. All equipment;
- b. All personal property;
- c. All Tenant Improvements that are not designated fixtures; and

4.1. If any of the foregoing items are not removed from the Premises by the conclusion of the Lease or when Lessor has the right of re-entry, then Lessor may, at its sole option, elect any or all of the following remedies:

- a. To remove any or all of the items and to dispose of them without liability to Lessee. Lessee agrees to pay Lessor's costs and damages associated with Lessee's failure to remove such items, including, but not limited to, the following: storage, demolition, removal, transportation and lost rent (collectively "Disposal Costs"); provided, however, that any net proceeds recovered by Lessor in excess of its Disposal Costs will be deducted from Lessee's financial obligation set forth herein. Lessee's financial obligations herein shall survive the termination of this Lease.
- b. To have the title to any or all of such items revert to Lessor.
- c. To commence suit against Lessee for damages or for specific performance.

4.2. The foregoing remedies are cumulative, and Lessor shall not be required to elect its remedies.

5. **MAINTENANCE OF PREMISES:** Except as specifically provided herein, maintenance and repair of the storage space and all improvements thereon is the sole responsibility of Lessee. Without limiting the generality of the foregoing, Lessee shall maintain the storage space in good condition including, without limitation, repairing all walls, floors, ceiling, interior doors, interior and exterior windows and fixtures, as well as damage caused by Lessee, its employees, agents, licensees, invitees or anyone on the Premises as a result of Lessee's activities.

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ARTICLE V
Insurance and Financial
Security

1. **CASUALTY LOSS OF LESSEE:** The parties hereto agree that the Lessor shall not be responsible to the Lessee for any property loss or damage done to the Lessee's property, whether real, personal or mixed, occasioned by reason of any fire, storm or other casualty whatsoever. It shall be the Lessee's responsibility to provide its own protection against casualty losses of whatsoever kind or nature, regardless of whether or not such loss is occasioned by the acts or omissions of the Lessor, Lessee, third party, or act of nature.
2. **INSURANCE:** Lessee shall procure and maintain a comprehensive general liability policy covering all claims for personal injury (including death) and property damage (including all real and personal property located on the Premises) arising on the Premises or arising out of Lessee's operations. The limits of liability shall be not less than One Million Dollars (\$1,000,000.00) for each occurrence and in the aggregate unless the Lessee requests, and Lessor approves in writing, a lesser liability limit. Lessor may impose changes in the limits of liability: (i) at the same time as revaluation of the annual Rent; (ii) as a condition of approval of assignment or sublease of this Lease; (iii) upon any breach of the environmental liability provision herein; (iv) upon a material change in the condition of any improvements; or (v) upon a change in the permitted use. If the liability limits are changed, Lessee shall obtain new or modified insurance coverage within thirty (30) days after changes in the limits of liability are required by Lessor.

The foregoing insurance policy shall name Lessor as an additional insured. Lessee shall provide certificates of insurance and, if requested, copies of any policy to Lessor. Receipt of such certificate or policy by Lessor does not constitute approval by Lessor of the terms of such policy.

2. If Lessee fails to procure and maintain the insurance described above, Lessor shall have the right, but not the obligation, to procure and maintain substitute insurance and to pay the premiums. Lessee shall pay to Lessor upon demand the full amount paid by Lessor, if reasonable.

3. The Lessee believes and states that the insurance obligation herein does not exceed that which the Lessee would otherwise normally place upon itself and obtain in order to operate its business in a prudent manner.

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ARTICLE
VI
Environmental
Liability

1. **ENVIRONMENTAL INDEMNIFICATION:** Lessee shall defend (with legal counsel suitable to Lessor), indemnify and hold Lessor harmless from any and all claims, demands, judgments, orders or damages resulting from Hazardous Substances on the Premises caused in whole or in part by the activity of the Lessee, its agents, or subtenants on the Premises during any period of time that Lessee has occupied all or a portion of the Premises during the term of this Lease or any previous lease or agreement. The term "Hazardous Substances" as used herein shall mean any substance heretofore or hereafter designated as hazardous under the Resource Conservation and Recovery Act, 42 USC Sec. 6901 et seq.; the Federal Water Pollution Control Act, 33 USC Sec. 1257 et seq.; the Clean Air Act, 42 USC Sec. 2001 et seq.; the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 USC Sec. 9601 et seq.; or the Hazardous Waste Cleanup-Model Toxic Control Act, RCW 70.105D, all as amended and subject to all regulations promulgated there under.

1.1. Lessee's defense and indemnity obligations under this article are unconditional, shall not be discharged or satisfied by Lessor's re-entry of the Premises or exercise of any other remedy for Lessee's default under this Lease, shall continue in effect after any assignment or sublease of this Lease, and shall continue in effect after the expiration or earlier termination of this Lease.

1.2. Although Lessee shall not be liable for any Hazardous Substances that existed on the Premises prior to the inception of this Lease, Lessee shall be responsible for the costs of any environmental investigations or remediation arising from the development or use of the Premises by Lessee, and Lessee hereby releases the Lessor from any contribution claim for those costs. By way of example only, if the Lessee excavates soil on the Premises which contains Hazardous Substances, then the Lessee will be responsible for the cost associated with disposing of those soils.

2. **CURRENT CONDITIONS AND DUTY OF LESSEE:** Lessor makes no representation about the condition of the Premises. Hazardous Substances may exist in, on, under or above the Premises. Lessee should, but is not required to, conduct environmental assessments or investigations of the Premises prior to or during this Lease to determine the existence, scope and location of any Hazardous Substances. If there are any Hazardous Substances in, on, under or above the Premises as of the Commencement Date, Lessee shall exercise the utmost care with respect to the Hazardous Substances, the foreseeable acts or omissions of third

parties affecting the Hazardous Substances, and the foreseeable consequences of those acts or omissions.

2.1. Prior to conducting any environmental investigation of the subsurface of the Premises, the Lessee shall provide prior written notice to the Lessor. Lessee shall provide the Lessor with the results of all such investigations.

3. **NOTIFICATION AND REPORTING:** Lessee shall immediately notify Lessor if Lessee becomes aware of any of the following:

a. A release or threatened release of Hazardous Substances in, on under or above the Premises, any adjoining property, or any other property subject to use by Lessee in conjunction with its use of the Premises;

b. Any problem or liability related to or derived from the presence of any Hazardous Substance in, on under or above the Premises, any adjoining property or any other property subject to use by Lessee in conjunction with its use of the Premises;

c. Any actual or alleged violation of any federal, state or local statute, ordinance,

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rule, regulation or other law pertaining to Hazardous Substances with respect to the Premises, any adjoining property, or any other property subject to use by Lessee in conjunction with its use of the Premises; or

d. Any lien or action with respect to any of the foregoing.

3.1. Lessee shall, at Lessor's request, provide Lessor with copies of any and all reports, studies or audits which pertain to environmental issues or concerns and to the Premises, and which are or were prepared by or for Lessee and submitted to any federal, state or local authorities pursuant to any federal, state or local permit, license or law. These permits include, but are not limited to, any National Pollution Discharge and Elimination System permit, any Army Corps of Engineers permit, any State Hydraulics permit, any State Water Quality certification, or any Substantial Development permit.

ARTICLE VII
Miscellaneous Provisions

2. **LESSEE WILL OBTAIN PERMITS:** Lessee agrees to obtain and comply with all necessary permits for any leasehold improvement. If Lessee fails to obtain and comply with such permits, then Lessee accepts full responsibility for any and all costs incurred by Lessor, including actual attorneys' fees. In this way, Lessee agrees to be solely responsible for all damages, costs and expenses incurred as a result of Lessee's failure to fully comply with any necessary permit process and requirements.
3. **LIENS:** Lessee agrees to keep the Premises described herein free and clear of all liens and charges whatsoever. Lessee shall not allow any mechanics' and materialmen's or other liens to be placed upon the leased Premises. If such a lien is placed or recorded, Lessee shall cause it to be discharged of record, at its own expense, within ten (10) days of Lessor's demand. Failure to comply with Lessor's demand within ten (10) days shall be a default under the terms of this Lease.
4. **INDEMNIFICATION AND HOLD HARMLESS:** The Lessee agrees that it will defend (with legal counsel acceptable to Lessor), indemnify and hold harmless the Lessor, its officers, employees and agents from any and all demands, claims, judgments or liability for loss or damage arising as a result of accidents, injuries or other occurrences on the Premises or on Lessor's property, occasioned by either the negligent or willful conduct of the Lessee or its agents as a result of Lessee's activity, regardless of who the injured party may be.
5. **LAWS AND REGULATIONS:** Lessee agrees to conform to and abide by all applicable rules, codes, laws and regulations in connection with its use of the Premises and the construction of improvements and operation of Lessee's business thereon and not to permit said Premises to be used in violation of any applicable rule, code, law, or regulation.
 - 5.1. Lessee's obligations herein shall include, but in no way be limited to, the obligation to comply with all State and Federal environmental laws and regulations. Lessee shall defend (with legal counsel acceptable to Lessor), indemnify and hold harmless the Lessor from any fine, penalty or damage which may be imposed by any lawful authority, which may arise as a result of the Lessee's failure to comply with the obligations of this article.
6. **WASTE AND REFUSE:** Lessee agrees not to allow conditions of waste and refuse to exist on the Premises and to keep the Premises in a neat, clean and orderly condition and to be responsible for all damages caused to the Premises by Lessee or its agents on the Premises.
8. **SIGNS:** No signs shall be installed without the prior written permission of Lessor.

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9. **EQUAL OPPORTUNITY:** Lessee agrees that in the conduct of activities on the Premises, it will be an equal opportunity employer in accordance with Title VII of the Civil Rights Act of 1964, 42 USC §2000 et seq., and shall comply with all requirements of the ADA.

LITIGATION: In the event Lessor shall be made a party to any litigation commenced by or against Lessee (other than actions commenced by Lessee or Lessor concerning the interpretation or enforcement of any of the terms and conditions of this Lease), then Lessee agrees to pay all reasonable costs, expert witness fees, and attorneys' fees, including all customary charges incurred by Lessor in connection with such litigation. However, if Lessor is made a party defendant and Lessee undertakes the defense of the action on behalf of Lessor, then no obligation for costs and attorneys' fees will be chargeable against Lessee by Lessor for costs arising out of such undertaking. Lessee also agrees to pay all costs and attorneys' fees incurred by Lessor in enforcing any of the covenants, agreements, terms and provisions of this Lease.

10. **ASSIGNMENT OF LEASE:** Lessee shall not assign, rent or sublease any portion of this Lease or any extension thereof without written consent of Lessor.

13. **TERMINATION:** Upon termination of this Lease or any extension thereof, whether by expiration of the stated term or sooner termination thereon, as herein provided, Lessee shall surrender to Lessor the Premises peaceably and quietly. Lessee shall restore the Premises to the condition existing at the time of initiation of this Lease, except for: (i) normal wear and tear, and (ii) any improvements, which Lessor permits to remain on the Premises.

7.13.1 Lessee may terminate this agreement with five (5) days notice without any further obligation if the State of Alaska's Alcohol & Marijuana Control Office or other such authority does not approve the modification to Lessee's alcohol license.

14. **DEFAULT, CROSS DEFAULT, AND REMEDIES:** Failure to pay Rent in accordance with paragraph 3.1.1 of this agreement shall constitute a default under the terms of this Lease. If Lessee is in default in the payment of Rent or other monetary obligations, and does not cure the breach of agreement within ten (10) days, then, at Lessor's sole option and upon three (3) days' written notice, this Lease may be terminated and Lessor may enter upon and take possession of the Premises. Without limiting the generality of the foregoing, Lessee expressly authorizes Lessor to obtain a prejudgment writ of restitution in the event of default by Lessee. This remedy is in addition to and is not exclusive of any other remedies provided either by this Lease or by law.

14.1. If Lessee shall fail to perform any term or condition of this Lease, other than the payment of Rent or other monetary obligations, then Lessor, upon providing Lessee thirty (30)

days' written notice of such default, and failure of Lessee to cure with ten (10) days, may terminate this Lease and enter upon and take possession of the Premises. This remedy is in addition to and is not exclusive of any other remedies provided either by this Lease or by law.

14.2. If within any one (1) year period, Lessor serves upon the Lessee three (3) notices requiring Lessee either to: (i) comply with the terms of this Lease or to vacate the Premises or (ii) pay Rent or vacate (collectively referred to herein as "Default Notices"), then Lessee shall, upon a subsequent violation of any term of this Lease by the Lessee (including failure to pay Rent), be deemed to be in unlawful detainer, and Lessor may, in addition to any other remedies it may have, immediately terminate the Lease and/or commence an unlawful detainer action without further notice to Lessee.

14.3. The following shall also constitute a default under the terms of this Lease: A default by Lessee under any other agreement or lease with the Lessor; insolvency of Lessee; an assignment by Lessee for the benefit of creditors; the filing by Lessee of a voluntary petition in bankruptcy; an adjudication that Lessee is bankrupt or the appointment of a receiver of the properties of Lessee; the filing of an involuntary petition of bankruptcy and

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failure of Lessee to secure a dismissal of the petition within thirty (30) days after filing:
attachment of or the levying
of execution on the leasehold interest; and failure of Lessee to secure a discharge of the
attachment or release of the levy of execution within ten (10) days.

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Ketchikan AK, 99901

14.4. A default under this Lease shall constitute a default under any other lease or agreement, which Lessee has with Lessor (hereinafter such other agreements shall be referred to as "Collateral Agreements"). Likewise, any material breach or default under a Collateral Agreement shall be deemed a material breach or default under the terms of this Lease. If a Collateral Agreement is terminated for a material breach or default of Lessee, then Lessor shall, without limiting any other remedies it may have, be entitled to terminate this Lease upon five (5) days' written notice to Lessee.

14.5. In addition to the foregoing remedies specified in this article, Lessor may exercise any remedies or rights under the laws of the State of Alaska. Under no circumstances shall Lessor be held liable in damages or otherwise by reason of any lawful re-entry or eviction. Lessor shall not, by any re-entry or other act, be deemed to have accepted any surrender by Lessee of the Premises or be deemed to have otherwise terminated this Lease or to have relieved Lessee of any obligation hereunder.

14.6. Lessor shall be under no obligation to observe or perform any covenant of this Lease after the date of any material default by Lessee unless and until Lessee cures such default.

15. **NON WAIVER:** Neither the acceptance of Rent nor any other act or omission of Lessor after a default by Lessee shall operate as a waiver of any past or future default by Lessee, or to

deprive Lessor of its right to terminate this Lease, or be construed to prevent Lessor from promptly exercising any other right or remedy it has under this Lease. Any waiver by Lessor shall be in writing and signed by Lessor in order to be binding on Lessor.

16. **NOTICES AND COMMUNICATION:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing addressed to the other party at the addresses as follows:

TO LESSOR: Virtual Grounds
LLC
422 Mission St
Ketchikan, AK 99901

TO LESSEE: Cape Fox Lodge DBA 108 Tap
House & Burger Bar 620 dock
street
Ketchikan, AK 99901

or such address as may have been specified by notifying the other party of the change of address. Notice shall be deemed served on the date of actual delivery or the first attempted delivery as shown on the return receipt if mailed with the United States Postal Service by certified mail, return receipt requested.

Virtual Grounds LLC
422 Misslon ST
Ketchikan AK, 99901

17. **LESSOR DOES NOT PROVIDE SECURITY:** Lessee specifically acknowledges that Lessor has no duty to provide security for any portion of the Premises or surrounding areas. Lessee assumes sole responsibility and liability for the security of itself, its employees, customers, and invitees, and their respective property in or about the Premises. Lessee agrees that to the extent Lessor elects to provide any security, Lessor is not warranting the effectiveness of any such security personnel, services, procedures or equipment and that Lessee is not relying and shall not hereafter rely on such security personnel, services, procedures or equipment. Lessor shall not be responsible or liable in any manner for failure of any such security personnel, services, procedures or equipment to prevent or control, or apprehend anyone suspected of personal injury or property damage in, on or around the Premises.
18. **QUIET ENJOYMENT:** Lessor acknowledges that it has ownership of the Premises and that it has the legal authority to lease the Premises to Lessee. Lessor covenants that Lessee shall have quiet enjoyment of the Premises during the term of this Lease so long as the terms
are compiled with by Lessee and subject to Lessor's right of entry onto the Premises as set forth herein.
- 18.1. The Lessor reserves the right to grant easements and other land uses on the Premises to others when the easement or other land uses applied for will not unduly interfere with the use to which the Lessee is putting the Premises, or interfere unduly with the approved plan of development for the Premises.
- 18.2. Lessee understands that various federal agencies, including the Department of Homeland Security and U.S. Coast Guard, have the authority to restrict access to certain areas on property owned by Lessor in order to counter a terrorist or other threat. Such restrictions could impact Lessee's ability to access the Premises for an indefinite period of time. Since such restrictions on access are outside the control of Lessor, Lessee agrees that such interruptions shall not be deemed a violation of this Lease or the Covenant of quiet enjoyment.
19. **LESSOR MAY ENTER PREMISES:** It is agreed that the duly authorized officers or agents of Lessor may enter to view said Premises at any time, and if the business or normal function of Lessor should at any time require that it enter upon the Premises to perform any work or make any improvements, it may do so, but not in such manner as to materially injure Lessee with its normal and usual operation. The drainage on property will be checked regularly by 3rd party hired by Lessor.
20. **TIME:** It is mutually agreed and understood that time is of the essence of this Lease and that a waiver of any default of Lessee shall not be construed as a waiver of any other default.

Virtual Grounds LLC
422 Mission ST
Ketchikan AK, 99901

21. **INTERPRETATION:** This Lease has been submitted to the scrutiny of the parties hereto and their counsel, if desired. In any dispute between the parties, the language of this Lease shall, in all cases, be construed as a whole according to its fair meaning and not for or against either the Lessor or the Lessee. If any provision is found to be ambiguous, the language shall not be construed against either the Lessor or Lessee solely on the basis of which party drafted the provision. If any word, clause, sentence, or combination thereof for any reason is declared by a court of law or equity to be invalid or unenforceable against one party or the other, then such finding shall in no way affect the remaining provisions of this Lease.
22. **HOLDING OVER:** If the Lessee remains in possession of said Premises after the date of expiration of this Lease without Lessor's prior written consent, such holding over shall constitute and be construed as tenancy at sufferance only, at a monthly rent equal to one hundred fifty percent (150%) of the Base Rent owed during the final month of the Term of this Lease and otherwise upon the terms and conditions in this Lease. If Lessee holds over with Lessor's prior written consent, then until such time as a new written Lease is executed by the parties hereto, Lessee shall continue to make payments to Lessor on a month-to-month basis as provided for in this Lease. Such holdover tenancy may be terminated by either party at the end of any such monthly period by sending written notice not less than five (5) days before the end of such period. Such holdover tenancy shall be subject to all terms and conditions contained herein.
23. **SURVIVAL:** All obligations of the Lessee, as provided for in the Lease, shall not cease upon the termination of this Lease and shall continue as obligations until fully performed. All clauses of this Lease, which require performance beyond the termination date, shall survive the termination date of this Lease.
24. **GOVERNING LAW:** This Lease, and the right of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Alaska, and the parties agree that in any such action jurisdiction and venue shall lie exclusively in Ketchikan Gateway Borough.
25. **ESTOPPEL CERTIFICATES:** At Lessee's request, Lessor agrees to execute and deliver to Lessee or its lender(s), a customary estoppel certificate in a form acceptable to the Lessor which sets forth the following information: (i) the terms and conditions of this Lease, (ii) the status of the Rent payments under the Lease; and (iii) Lessor's knowledge of any breaches or anticipated breaches of the Lease. Lessor shall have no obligation to execute an estoppel certificate which requests any information other than as set forth above. Lessee agrees to reimburse the Lessor for all attorneys' fees paid by Lessor for the review and opinion of such attorney acting on the request for such estoppel certificate and in negotiating acceptable language in the estoppel certificate. A failure to reimburse Lessor within sixty (60) days of the mailing of notice of such charges shall constitute a default under the terms of this Lease.
26. **SUBORDINATION:** The rights of Lessee hereunder are and shall be, at the election of any mortgagee or the beneficiary of a deed of trust encumbering the Property and/or Building, subject and subordinate to the lien of such mortgage or deed of trust, or the lien resulting from any other method of financing or refinancing, now or hereafter in force against the Property and/or the Building, and to all advances made or hereafter to be made upon the security

Virtual Grounds LLC
422 Mission ST
Ketchikan AK, 99901

thereof. Provided, however, that notwithstanding such subordination, so long as Lessee is not in default under any of the terms, covenants and conditions of the Lease, neither the Lease nor any of the rights of Lessee hereunder shall be terminated or subject to termination. If requested, Lessee agrees to execute such documentation as may be required by Lessor or its lender to further affect the provisions of this paragraph.

27. **ATTORNMENT:** In the event the Premises are sold, Lessee shall attorn to the purchaser upon the sale provided that the purchaser expressly agrees in writing that, so long as Lessee is not in default under the Lease, Lessee's possession and occupancy of the Premises will not be disturbed and that such purchaser will perform all obligations of Lessor under the Lease.
28. **RECORDING:** Lessee may record a memorandum of this Lease within thirty (30) days of its mutual execution
29. **AUTHORITY TO EXECUTE THE LEASE:** The undersigned each represent and warrant that they have authority to execute this lease on behalf of their respective party without any further action or approval from the party and when executed the lease will become the binding obligation of that party subject only to the terms and conditions herein.
30. **ENTIRE AGREEMENT:** This Lease contains all of the understandings between the parties. Each party represents that no promises, representations or commitments have been made by the other as a basis for this Lease, which have not been reduced to writing herein. No oral promises or representations shall be binding upon either party, whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a modification to this Lease executed with all necessary legal formalities by the Lessor.

LESSEE:

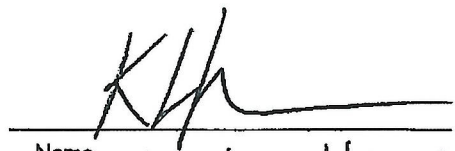
Cape Fox Lodge DBA 108 Tap House &
Burger Bar



Name Tim Lewis
Its: President

LESSOR:

Virtual Grounds LLC



Name Kayla Howe
It's: manager

AMCO Received 7/21/22

Virtual Grounds LLC
422 Mission ST
Ketchikan AK, 99901

AMCO Received 7/21/22

Virtual Grounds LLC
422 Mission ST
Ketchikan AK, 99901

On this _____ day of July 2022, before me, the undersigned, a Notary Public in and for State of Alaska, duly commissioned and sworn, personally appeared _____, _____ to me known to be Member of Cape Fox Property Management LLC, the company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that she/he is authorized to execute said instrument on behalf of the company.

Witness my hand and official seal hereto affixed the day and year first above written.

Dated: _____

Signed Name: _____
Printed Name: _____
NOTARY PUBLIC in and for the State of
Alaska, residing at: _____
My commission expires: _____

On this 19 day of July 2022, before me, the undersigned, a Notary Public in and for State of Alaska, duly commissioned and sworn, personally appeared Kayla Howe, _____, to me known to be Member of Cape Fox Property Management LLC, the company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that she/he is authorized to execute said instrument on behalf of the company.

Witness my hand and official seal hereto affixed the day and year first above written.

Dated: 07/19/22

Signed Name: Kristen Peterson
Printed Name: Kristen Peterson
NOTARY PUBLIC in and for the State of
Alaska, residing at: Ketchikan
My commission expires: January 25, 2026

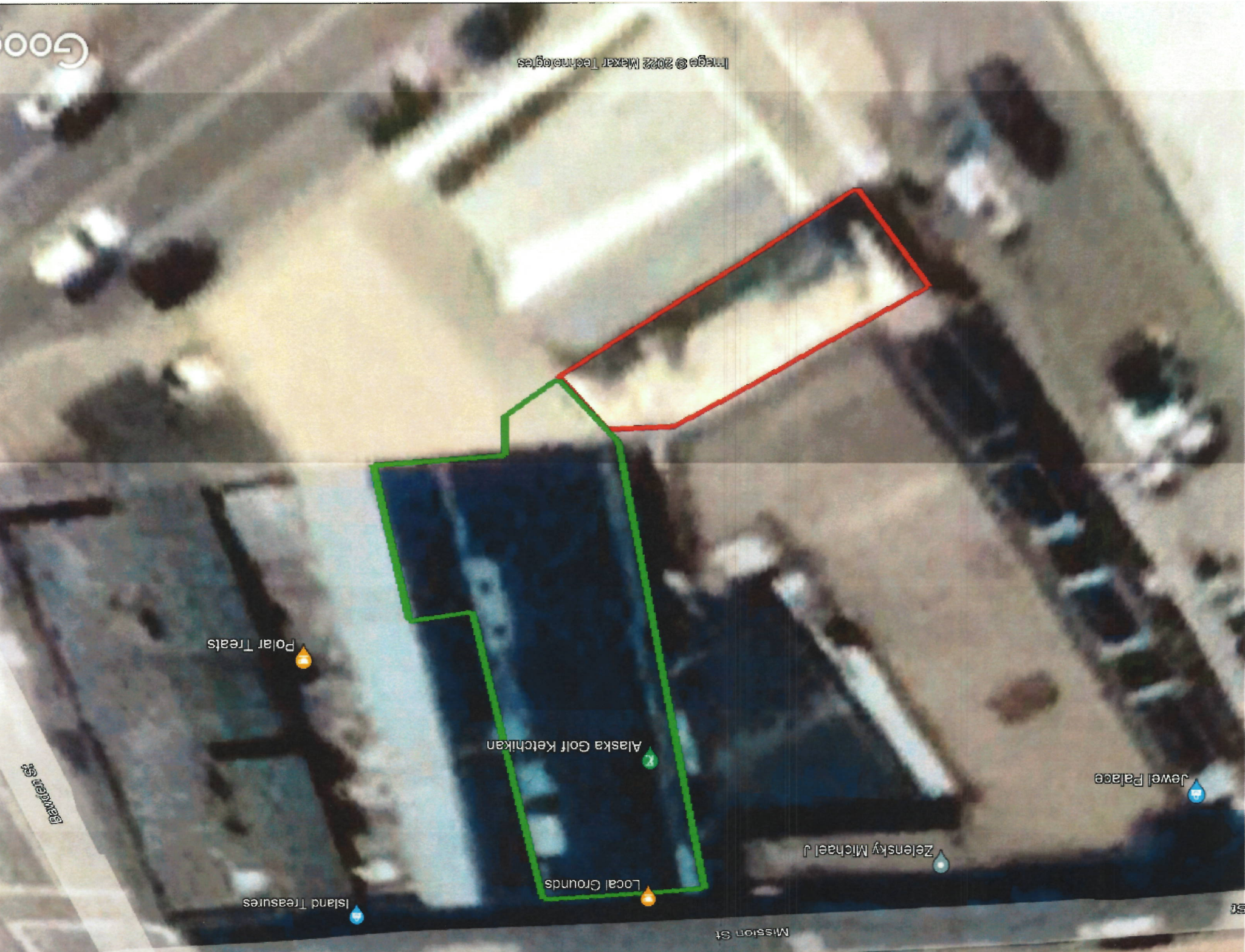


108 Tap house & Burger Bar
Outdoor/Indoor Serving Security Plan

1. All minors must be accompanied by an adult (age over 21) while in the restricted area when any alcohol is being served/sold/consumed.
2. All new patrons are carded upon ordering alcohol.
3. All staff is trained in the identification of fake IDs.
4. Underaged persons will be monitored closely by our professionally trained alcohol servers.
5. ABC mandated posters as required by law are posted inside 108 Tap house & Burger Bar.
6. All entrances and exits will provide clear notice that NO ALCOHOL IS ALLOWED BEYOND THIS POINT.
7. All safety related operations for our current liquor service will additionally be enforced in the new service area.
8. Proper signage at points of entry indicating no minors without a parent or legal guardian will be posted.
9. All servers will closely monitor that only the guests that have been carded will have alcoholic beverages.
10. Our top priority continues in providing safety for all guests regarding the service of alcoholic beverages.

RECEIVED

By Audrey Saylor at 11:58 am, Aug 01, 2022



Taylor Lee

From: Corey Bingham
Sent: Wednesday, August 3, 2022 4:02 PM
To: Taylor Lee
Subject: RE: Liquor License - Licensed Premises Diagram Change

The Building Division has no reason to recommend an objection.

Thanks,

Corey Bingham
Building Official
(907) 228-4737
coreyb@ktn-ak.us



From: Taylor Lee <taylorl@City.Ketchikan.Ak.Us>
Sent: Monday, August 1, 2022 2:18 PM
To: jonathanl@kgbak.us; charlannet@kgbak.us; Gretchen O'Sullivan <gretcheno@City.Ketchikan.Ak.Us>; Corey Bingham <coreyb@City.Ketchikan.Ak.Us>; Eric Mattson <EricM@City.Ketchikan.Ak.Us>; Jeff Walls <jeffreyw@City.Ketchikan.Ak.Us>
Cc: Kim Stanker <KimS@City.Ketchikan.Ak.Us>
Subject: Liquor License - Licensed Premises Diagram Change

Hi all,

Attached is a notification from the Alcohol & Marijuana Control Office for a **liquor license premises diagram change** for liquor license:

Brewery –

Package Store –

Club –

Restaurant/Eating Place –

Beverage Dispensary – Tourism – 108 Tap House & Burger Bar

Please respond by Wednesday, August 24, 2022 in order to put it on the agenda for City Council consideration at the September 1, 2022 meeting.

Thank you,

Taylor

Taylor Lee, CMC
Deputy City Clerk
334 Front Street
Ketchikan, AK 99901
907.228.5604
taylorl@ktn-ak.us



Taylor Lee

From: Gretchen O'Sullivan
Sent: Wednesday, August 10, 2022 10:55 AM
To: Taylor Lee
Subject: RE: Liquor License - Licensed Premises Diagram Change

Yes, he is working with someone to get the plans together. I have no objections!

Thank you!

From: Taylor Lee <taylorl@City.Ketchikan.Ak.Us>
Sent: Wednesday, August 10, 2022 10:02 AM
To: Gretchen O'Sullivan <gretcheno@City.Ketchikan.Ak.Us>
Cc: Kim Stanker <KimS@City.Ketchikan.Ak.Us>
Subject: RE: Liquor License - Licensed Premises Diagram Change

Hi Gretchen,

Have you heard back from Mr. Lewis?

Thank you,

Taylor

From: Gretchen O'Sullivan <gretcheno@City.Ketchikan.Ak.Us>
Sent: Monday, August 8, 2022 8:31 AM
To: Taylor Lee <taylorl@City.Ketchikan.Ak.Us>
Subject: RE: Liquor License - Licensed Premises Diagram Change

Hi Taylor,
I emailed Tim Lewis asking about renovation plans. Hopefully I can get back to you soon with an update.

Gretchen

From: Taylor Lee <taylorl@City.Ketchikan.Ak.Us>
Sent: Monday, August 1, 2022 2:18 PM
To: jonathanl@kgbak.us; charlannet@kgbak.us; Gretchen O'Sullivan <gretcheno@City.Ketchikan.Ak.Us>; Corey Bingham <coreyb@City.Ketchikan.Ak.Us>; Eric Mattson <EricM@City.Ketchikan.Ak.Us>; Jeff Walls <jeffreyw@City.Ketchikan.Ak.Us>
Cc: Kim Stanker <KimS@City.Ketchikan.Ak.Us>
Subject: Liquor License - Licensed Premises Diagram Change

Hi all,

Attached is a notification from the Alcohol & Marijuana Control Office for a **liquor license premises diagram change** for liquor license:

Taylor Lee

From: Jonathan Lappin <jonathanl@kgbak.us>
Sent: Monday, August 1, 2022 2:38 PM
To: Taylor Lee; Charlanne Thomas; Gretchen O'Sullivan; Corey Bingham; Eric Mattson; Jeff Walls
Cc: Kim Stanker
Subject: RE: Liquor License - Licensed Premises Diagram Change

CAUTION: External Email

This email originated from a source outside the City of Ketchikan. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The Planning Department has no reason to reason to recommend an objection.

Jonathan Lappin, AICP
Associate Planner

From: Taylor Lee <taylorl@City.Ketchikan.Ak.Us>
Sent: Monday, August 1, 2022 2:18 PM
To: Jonathan Lappin <jonathanl@kgbak.us>; Charlanne Thomas <charlannet@kgbak.us>; Gretchen O'Sullivan <gretcheno@City.Ketchikan.Ak.Us>; Corey Bingham <coreyb@City.Ketchikan.Ak.Us>; Eric Mattson <EricM@City.Ketchikan.Ak.Us>; Jeff Walls <jeffreyw@City.Ketchikan.Ak.Us>
Cc: Kim Stanker <KimS@City.Ketchikan.Ak.Us>
Subject: Liquor License - Licensed Premises Diagram Change

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Attached is a notification from the Alcohol & Marijuana Control Office for a **liquor license premises diagram change** for liquor license:

Brewery –

Package Store –

Club –

Restaurant/Eating Place –

Beverage Dispensary – Tourism – 108 Tap House & Burger Bar

Please respond by Wednesday, August 24, 2022 in order to put it on the agenda for City Council consideration at the September 1, 2022 meeting.

Thank you,

Taylor

Taylor Lee

Subject: FW: Liquor License - Licensed Premises Diagram Change

From: Eric Mattson <EricM@City.Ketchikan.Ak.Us>
Sent: Tuesday, August 2, 2022 1:54 PM
To: Taylor Lee <taylorl@City.Ketchikan.Ak.Us>
Subject: RE: Liquor License - Licensed Premises Diagram Change

Hi Taylor,

I do not have any objections.

Thanks,

Eric

From: Taylor Lee <taylorl@City.Ketchikan.Ak.Us>
Sent: Monday, August 1, 2022 2:18 PM
To: jonathanl@kgbak.us; charlannet@kgbak.us; Gretchen O'Sullivan <gretcheno@City.Ketchikan.Ak.Us>; Corey Bingham <coreyb@City.Ketchikan.Ak.Us>; Eric Mattson <EricM@City.Ketchikan.Ak.Us>; Jeff Walls <jeffreyw@City.Ketchikan.Ak.Us>
Cc: Kim Stanker <KimS@City.Ketchikan.Ak.Us>
Subject: Liquor License - Licensed Premises Diagram Change

Hi all,

Attached is a notification from the Alcohol & Marijuana Control Office for a **liquor license premises diagram change** for liquor license:

Brewery –

Package Store –

Club –

Restaurant/Eating Place –

Beverage Dispensary – Tourism – 108 Tap House & Burger Bar

Please respond by Wednesday, August 24, 2022 in order to put it on the agenda for City Council consideration at the September 1, 2022 meeting.

Thank you,

Taylor

Taylor Lee

From: Claire Kelly <clairek@kgbak.us>
Sent: Tuesday, August 16, 2022 2:11 PM
To: Taylor Lee; Kim Stanker
Cc: Charlanne Thomas
Subject: RE: Liquor License - Licensed Premises Diagram Change

CAUTION: External Email

This email originated from a source outside the City of Ketchikan. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Taylor,

Yes, they are current.

Thank you,

Claire A. Kelly
Collections Supervisor
Ketchikan Gateway Borough
1900 First Ave Ste 118
Ketchikan, AK 99901
907-228-6609 (Phone)
907-228-6698 (Fax)

From: Charlanne Thomas <charlannet@kgbak.us>
Sent: Tuesday, August 16, 2022 1:59 PM
To: Claire Kelly <clairek@kgbak.us>
Subject: FW: Liquor License - Licensed Premises Diagram Change

From: Taylor Lee <taylorl@City.Ketchikan.Ak.Us>
Sent: Tuesday, August 16, 2022 1:46 PM
To: Charlanne Thomas <charlannet@kgbak.us>
Cc: Kim Stanker <KimS@City.Ketchikan.Ak.Us>
Subject: FW: Liquor License - Licensed Premises Diagram Change

Good afternoon,

I am following up on this liquor license, are they current with their taxes?

Thank you,

Taylor

From: Taylor Lee
Sent: Monday, August 1, 2022 2:18 PM