



# Select Board

Town of Stoughton, Massachusetts

# Alcoholic Beverage Licensing Regulations

## **I. Purpose**

It is the goal of the Select Board, as the local liquor licensing authority, to provide for a reasonable number and variety of well-run establishments for the sale and service of food and drink as will meet the public need and serve the common good. Further, it is the goal of the Board to regulate such establishments to ensure they are operated responsibly and do not detract from the quality of life in neighborhoods or in the Town as a whole.

The Board expects and requires that principals and managers are of sound character and are qualified according to legal requirements and local regulations. Common victuallers and innholders must show the Board that they will operate a closely-supervised, well-managed restaurant, with the service of alcohol as a secondary service that supports the primary function of food service.

Hours of operation shall be regulated so as to protect the quality of life in neighborhoods and to discourage excessive drinking. Server training and other conditions shall be imposed to insure the responsible service of alcoholic beverages. Entertainment appropriate to a dining atmosphere or a special event may be approved. Strong and consistent enforcement of all liquor laws and regulations shall be maintained. Regular inspections by the police shall be conducted. Violators shall be subject to possible suspension or revocation of their license. Discipline for violations may also include reducing hours or imposing other restrictive conditions. The rules and regulations that follow have been enacted to achieve the above-stated goals.

## **II. Authority**

These Regulations are promulgated under the authority granted to the Select Board of the Town of Stoughton, acting as the Local Licensing Authority ("LLA"), by Massachusetts General Laws ("M.G.L") c. 138 and all amendments thereto. Such Regulations shall supplement any statutory requirements and the rules and regulations of the Alcoholic Beverage Control Commission ("ABCC").

## **III. Definitions**

Alcoholic Beverage: any liquid intended for human consumption as a beverage and containing one-half (1/2) of one percent (1%) or more of alcohol by volume at sixty-degrees Fahrenheit (60° F). For the purpose of this Regulation the following are included Alcoholic Beverages:

- a. Malt Beverages: All Alcoholic Beverages manufactured or produced by the process of brewing or fermentation of malt, with or without cereal grains or fermented sugars or hops, and containing not more than twelve percent (12%) of alcohol by weight at sixty-degrees Fahrenheit (60° F).
- b. Wines: All fermented alcohol beverages made from fruit, flowers, herbs or vegetables and containing not more than twenty-four percent (24%) of alcohol by volume at sixty-degrees Fahrenheit (60° F), except cider containing not more than three percent

(3%), or containing more than six percent (6%) of alcohol by weight at sixty-degrees Fahrenheit (60° F).

Dormant License: a license held by a “Licensee” that ceases to conduct the licensed business – colloquially referred to as a “pocket license.”

Employee: a person who has been hired by the Licensee and/or Manager of a licensed Premise to work under an express or implied contract for hire, under which the Licensee and/or Manager has the right to control the details of the work performed.

Full-service Dining: offering and providing “entrée” or “main-course” sized meals to patrons for consumption while seated at a table as part of the daily menu.

License: a revocable privilege granted by the Licensing Authority.

A. Section 12 (On-Premises) Licenses under G.L. c. 138:

1. Club License: issued to a non-profit corporation or association for sales of Alcoholic Beverages to members and guests of the members and subject to these Regulations.
2. Cordials and Liqueurs Permit: The Licensing Authority may grant a Cordials and Liqueurs Permit to any common victualler who holds a wine and malt beverages license (that is, only a holder of a Restaurant or Hotel type license and in certain instances a Tavern license).
3. Farmer-Brewer Pouring Permits/Farmer Winery Pouring Permits: These two types of specialized “pouring permits” may be granted by the ABCC. A Farmer-Brewer Pouring Permit may be granted to the holder of a Farmer-Brewer license (issued by the ABCC). A Farmer Wine Pouring Permit may be granted to a holder of a Farmer-Winery license (issued by the ABCC). Both pouring permits allow only produce made by the farmers to be poured and sold.
4. General On-Premise License: authorizes the sale of Alcoholic Beverages without food.
5. Hotel License: issued to an establishment that is licensed as an innholder and has the equipment and has the capacity for serving food. A hotel Licensee that sells food must first be issued a Common Victualler license under the provisions on M.G.L. chapter 140. In addition, a hotel Licensee that rents rooms to the public must also be issued an Innholder's license under provisions of M.G.L. chapter 140.
6. Restaurant License: authorizes the sale of Alcoholic Beverages by an establishment licensed as a common victualler that has the equipment and

capacity for serving food. A Restaurant Licensee that sells food must first be issued a Common Victualler license under the provisions on M.G.L. chapter 140.

7. Seasonal Section 12 (on premise) License: issued effective from April 1 to January 15 or any portion thereof and to the number that the ABCC deems to be in the public interest. Franklin and Berkshire counties may issue winter seasonal licenses and estimate before October 15 the temporary increased resident population as of the following February 10. Such licenses are effective from December 1 to April 1.
  8. Tavern License: issued to an establishment where Alcoholic Beverages may be sold and must be served to and drunk by patrons in plain view of other patrons, all entrances to which shall open directly from a public way. A Tavern Licensee may sell Alcoholic Beverages with or without food. A Tavern Licensee **MAY NOT** sell Alcoholic Beverages on Sundays.
  9. War Veterans Club (see Club License): The LLA may grant a license, outside the quota system, subject to ABCC approval, to any corporation whose members are war veterans which owns, hires or leases a building, or space in a building, for the use and accommodation of a post of any war veterans' organization incorporated by the Congress of the United States, to sell to members of that post only, and, subject to local licensing authorities, to guests introduced by such members and to no others.
- B. Section 14 (Special) Licenses under G.L. c. 138.  
Such Special Licenses (commonly referred to as “One Day Licenses”) shall not be issued to any person(s); association, partnership or corporation already issued or in the process or being issued a license to sell Alcoholic Beverages as approved by the LLA. Special Licenses cannot cover any portion of currently licensed premises.
- C. Section 15 (Off Premises) Licenses under G.L. c. 138
1. Package Store License: In accordance with M.G.L. c. 138, § 15, “no person, firm, corporation, association, or other combination of persons directly, or indirectly, or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever, shall be granted...more than one such license in a town or two in a city.”
  2. Seasonal Section 15 (off-premises) License: These Licenses are based on a quota set by the estimate provided by the LLA before March 1 of the temporary increased resident population as of the following July 10. That estimate must be submitted to the ABCC prior to April 1. Off-Premises Seasonal Licenses are issued based on that estimate at the rate of one license for each 5,000 population (or fraction thereof) and can be issued effective from April 1 to November 30 and until January 15, or any portion thereof, as set by the LLA.

Licensee: an individual Licensee and each member of a partnership Licensee and each officer, director, manager, and stockholder of a corporate Licensee and any agent of a Licensee including those employees who work in the public areas of the premises.

Licensed Premises: all land and buildings associated with the operation of the license.

Licensing Officer: the individual appointed by the Board to perform inspections of licensed premises and to advise the LLA on licensing issues. The LLA shall appoint and name the Licensing Officer at the LLA's first meeting of the calendar year.

Local Licensing Authority or Authority: the Select Board of the Town of Stoughton which has the legal authority to grant licenses and/or regulate the operation of the Licensed Premises.

Manager: the person designated as a Manager of the Licensed Premises in any License granted pursuant to the provisions of Chapter 138 or Chapter 140 of the MGL.

Minor: any person less than twenty-one (21) years of age, or such other applicable age for minors as may be set by the Legislature of the Commonwealth of Massachusetts from time to time.

Patron: a customer who is legally on the Licensed Premises.

Rules and Regulations: the compellation of the MGL, these Regulations, and the rules and regulations of the ABCC established to regulate the manner in which an entity with a License shall operate and the manner in which an entity shall apply for said License.

#### **IV. Applicability**

These Regulations shall apply to all entities applying for or issued a License by the LLA under the provisions of G.L. c. 138 and all amendments thereto, unless specifically provided otherwise.

#### **V. Availability to Regulations**

- a. All Licensees shall ensure that a copy of these Regulations are kept on the premises at all times and is available for inspection upon request by a member of the public or an agent of the LLA. A copy of these Regulations must be kept in the office of the Manager and/or at the main cash register on the premises.
- b. The Licensee is responsible for ensuring that all employees who work in the public areas of the premises review and are familiar with these Regulations and are able to comply with them, as well all other applicable rules and laws pertaining to the sale of alcoholic beverages.

## **VI. Discretion of LLA in Issuing Licenses**

As noted above, a License is a privilege, not a right. The LLA has broad discretion in determining whether to issue a License and may deny an application because granting said application would not be in the public interest, even if the License could be lawfully granted. For example, the LLA may deny an application if it determines that granting said application would not be in the public interest because there is already an adequate number of establishments in the surrounding area where the public can obtain alcoholic beverages.

## **VII. Food Service Requirements**

- a. All establishments holding an M.G.L. c. 138 §12 On-Premises alcohol license shall, at a minimum, offer and provide full-service dining to its patrons at all times alcohol is being served.
- b. All establishments holding a §12 license shall also hold a Common Victualler license issued by the LLA.
- c. This section shall not apply to Licensees granted their first License before these regulations went into effect.

## **VIII. Applying for and Renewing Licenses**

- a. Applicants will follow the Alcohol Beverage Control Commission application form and checklist which can be found at [www.mass.gov/abcc](http://www.mass.gov/abcc).
- b. Applications for renewals of annual licenses under Sections 12 and 15 shall be made during the MONTH of NOVEMBER unless the applicant fails to meet the requirements of the Massachusetts General Laws and these regulations, in which case the application will be treated as a new application as outlined above.
- c. Action by the LLA for renewals of annual licenses shall begin during December of each calendar year.
- d. Applications for Renewals of seasonal licenses under Sections 12 and 15 shall be made automatically during the MONTH of MARCH unless the application fails to meet the requirements of the Massachusetts General Laws or these regulations. Action by the LLA on renewal of seasonal licenses shall begin after March 1, off the calendar year.

## **IX. Posting and Signs**

- a. Licenses shall be posted in a conspicuous place easily seen by the public where they can be read without difficulty and without the assistance of employees at the premises.
- b. All other licenses, permits, and certificates affecting the Licensed premises shall be posted conspicuously; provided, however, that no such document shall be posted in such a way as to cover over any part of the License issued by the LLA.
- c. No dress code or preferred customer program or cover charge or other admissions policy shall be put into effect at the premises except upon proper posting pursuant to Section 6.0 (Admission to the Premises).

## **X. Admission to the Premises**

- a. No Licensee shall permit any rule, policy, or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, sexual orientation, or ancestry, physical or mental disability, relative to the admission or treatment of persons from the general public or employees at the Licensed Premises; provided, however, that Premises licensed pursuant to M.G.L. c.138, §12, may make rules regulating the admission of minors to the Premises when such rules are not inconsistent with other rules and regulations stated herein; provided further that private club licensees shall not discriminate, as aforesaid, with regard to guests at the Licensed Premises or with regard to who may be invited to the premises as a guest.
- b. No Licensee shall institute dress requirements of any kind except according to the following rules:
  1. A sign shall be posted at the entrance to the Premises stating dress requirements or dress restrictions with specificity which may also include restrictions as to footwear. (Examples: "Jackets required," "Ties and jackets required," "Shirts with collars required, no sneakers").
  2. No signs shall be posted which state that, "Proper dress required" or which otherwise announce a dress policy without stating specifically, item by item, what dress is required or what dress is prohibited.

- c. No Licensee shall institute privileged entrance requirements of any kind except according to the following rules:
1. A Licensee may issue special passes.
  2. The special passes shall state the calendar year on the face of the pass.
  3. The special pass shall not entitle the passholder to free drinks or to a discount on drinks.
  4. The Licensee shall keep a list of the names and addresses of all passholders and must have such list available if requested by the Licensing Authority.
  5. The Licensee is responsible for ensuring that persons are picked to be passholders on a rational basis and not on any basis that is discriminatory in violation of law or these regulations.
- d. No Licensee shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of charge; provided, however, that no such Licensee shall require a person under thirteen years of age to pay a minimum charge or cover charge. Such cover charge shall not be collected in advance of gaining entrance to the Licensed Premises, and can only be charged upon a written or printed receipt, permanently recorded and numbered seriatim, presented to each individual Patron or group of Patrons. Records of such receipts shall be kept by the Licensee for a period not less than two years. Cover charge shall mean all admission fees or admission charges. Such charges must also be posted on the outside of the Licensed Premises. Nothing in this regulation shall be construed to prohibit advance ticket sales.
- e. No minimum charge for the purpose of Alcoholic Beverages or minimum Alcoholic Beverage drinking requirement shall be imposed upon any Patron of a M.G.L. c.138, §12 Licensee.
- f. A Licensee who charges a minimum charge for the purchase of food and/or non-Alcoholic Beverages shall include a specific statement in a posting stating that there is no minimum charge for Alcoholic Beverages. Such minimum charge for food and/or non-Alcoholic Beverages shall not be collected in advance of gaining entrance to the Premises. No Licensee shall impose a minimum charge for food and/or non-Alcoholic Beverages upon any Patron who incurs charges for Alcoholic Beverages equal to or greater than the posted minimum charge for food and/or non-Alcoholic Beverages.



- g. Licensees shall refuse entrance to the Premises to a person who appears to be intoxicated or unruly; and shall evict such a Patron, except that in such a case the Licensee should call the police and should offer assistance to an intoxicated person when possible.
- h. Licensees shall not permit entrance to the Premises by more persons than the maximum occupancy limit established by the Building Commissioner.
- i. Licensees who permit persons to wait in line for a table or a seat or for entrance to the Premises shall obey the following rules:
  - 1. Persons who wait inside the Premises shall be kept in an orderly line and must not be permitted to block fire aisles or exits. The number of such persons waiting inside the Premises shall not exceed the number of persons allowed as standees.
  - 2. Persons who are permitted to wait in line outside the Premises shall be monitored by an employee of the Licensed Premises. Such employee shall announce no further admissions to the Premises if persons in the line are being loud or disorderly or if the line is blocking the sidewalk or is of a size that could reasonably be expected to cause noise or other problems for residents of the area or for passersby. To the extent that lines in front of a Licensed Premises become the subject of public complaints the Licensee shall have been deemed to be inviting a public nuisance and shall be subject to disciplinary proceedings for same. It is recommended that Licensees in residential areas discourage lines of more than ten persons.
- j. Licensees shall not lock the front door of the Premises until the last Patron has exited from the Premises.
- k. Licensees shall not allow any Patron or any guest or any employee who is not working that shift to enter the Premises after the closing hour posted on the License or prior to the opening hour posted on the License.

## **XI. Hours of Operation**

- a. The hours of operation shall be restricted to those set by the LLA and stated on the face of the License. No Patrons shall be on the Premises before the official opening hours or fifteen minutes after the official closing hours. This section does not apply to holders of an Innkeeper's License. Patrons must leave the Premises at the closing hour listed on the License. There shall be no additional drink consumption time.
- b. The rules for employees of On Premises License after closing hours are as follows: employees must be off the Premises no later than sixty (60) minutes

after the “Official Closing Hour,” provided however, that such employees or other hired personnel may be on the Premises at any time for the purpose of cleaning, making emergency repairs, providing security for the Premises, or preparing food for the next day’s business or opening or closing the business in an orderly manner.

- c. Licensees shall ensure that Patrons leave the Premises in an orderly manner. Licensees who have a clientele that regularly fails to leave the area in a quiet and orderly manner should hire security personnel to police the leave-taking of the Patrons at closing time.
- d. Upon the closing hour, all outside signs or lights of the Licensed Premises must be extinguished and all Alcoholic Beverages must be removed from tables, booths, bars or other surfaces, all glasses are to be emptied and all Alcoholic Beverage containers are to be secured
- e. Unless otherwise set forth on the License, hours of operation shall be as follows:

On- Premise License Holders:

Weekdays 8:00 AM – 1:00 AM; Sundays 10:00 AM – 1:00 AM.

Off Premise License Holders:

Weekdays 8:00 AM – 11:00 PM; Sunday 10:00 AM 9:00 PM

## **XII. Physical Premises**

- a. The Licensed Premises shall conform to the floor plan approved by the LLA with regard to the structures and the walls at the Premises. Any changes to the floor plan or any renovations of any kind shall not be made without notification to and the approval of the LLA.
- b. All Premises covered by the License shall be kept in a clean and sanitary condition.
- c. No outside area shall be used as a gathering place for Patrons unless approved by the LLA.
- d. The Premises shall be lighted in all public areas in a manner sufficient for the safety of the Patrons and in a manner sufficient for the agents of the LLA to make observations at the Premises without the need to identify them or the need to seek assistance.

- e. The capacity set for the Premises by the Building Commissioner shall be the maximum potential capacity for the Premises.
- f. Licensees shall not invite the members of the public to private areas of the Premises, which are approved by the LLA for storage or for an office or for a kitchen or for a music or video projection room or for any similar non-public use. Only owners, employees, and vendors who service the Licensed Premises shall be in these areas.
- g. No advertising matter, screen, curtain or other obstruction which in the opinion of the LLA, the Liquor Officer, or their Agents, prevents a clear view of the interior of the Premises shall be maintained in or on any window or door thereof after the LLA has ordered the removal of such obstruction.
- h. The interior of the Premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted signs, "Exit" as same may be mandated by the Building Commissioner or by the Fire Department.
- i. The premises shall be available for inspection by the LLA or any of its designees, with or without notice, to ensure compliance with these Rules and Regulations, as well as all other laws and/or regulations pertaining to the sale of alcoholic beverages.

### **XIII. Business Arrangements of Licensees**

- a. No person or entity shall obtain or renew a License unless the applicant for such License or for renewal of such License can demonstrate proof of a legal right to the Licensed Premises for the term of the License. Such proof shall include ownership papers or a tenancy document or a management contract; provided, however, that all parties to such ownership or leasehold interest or management contract shall be known to the LLA and the terms of such agreements or contracts shall be made known to the LLA.
- b. No Licensee shall hire any employee or contract for goods or services in any name other than that of the Licensee, nor shall the Licensee pay for any such employment, goods, or services by any means other than its own cash or bank accounts in its own name. Cash transactions shall be recorded in a manner suitable for review by the LLA. Such records shall be kept for a period of three years.
- c. Any Licensee intending to close its place of business shall notify the LLA in writing before such closing and state the reason for such closing.
- d. Any change in ownership or management must be approved by the LLA.

#### **XIV. Alcoholic Beverages Sales and Laws**

- a. No Alcoholic Beverages shall be sold for less than the actual cost of the beverage to the Licensee. An admission charge shall not be credited towards the purchase price of any Alcoholic Beverage.
- b. All Licensees shall maintain a schedule of the prices charged for all drinks to be served and consumed on the Licensed Premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.
- c. No Licensee or employee or agent or a Licensee shall:
  1. Offer or deliver any free drinks to any Patron or group of Patrons;
  2. Deliver more than two drinks to one Patron at one time;
  3. sell, offer to sell or deliver to any Patron or group of Patrons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the general public;
  4. sell, offer to sell, or deliver to any Patron an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the general public;
  5. sell, offer to sell or deliver drinks to any Patron or group of Patrons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
  6. Sell, offer to sell or deliver malt beverages or mixed drinks by the pitcher except to two or more Patrons at any one time;
  7. Increase the volume of Alcoholic Beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
  8. Encourage or permit, on the Licensed Premises, any game or contest which involves drinking or the awarding of drinks as prizes;
  9. Advertise or promote in any way, whether within or without the Licensed Premises, any of the practices prohibited under this section.
- d. Nothing contained in the preceding section shall be construed to prohibit Licensees from offering free food or entertainment at any time; or to prohibit Licensees from including a drink as part of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than

one Patrons; or to prohibit those licensed under M.G.L. c.138, §15, from offering free wine tasting; or to prohibit those licensed under M.G.L. c.138, §12, from offering room services to registered guests.

- e. Licensees shall not permit Alcoholic Beverages to be brought on the Licensed Premises by Patrons or employees.
- f. Licensees shall be responsible for ensuring that minors are not served Alcoholic Beverages and are not drinking Alcoholic Beverages on the Licensed Premises, whether served to them by an employee or handed to them by another Patron. Licensees who do not have the ability to keep track of the drinking activity of minors at the Premises shall exclude minors from coming onto the Premises in order to meet the burden of ensuring that there is no underage drinking at the Premises. Licensees who choose to permit minors on the Premises, whether pursuant to an "I.D. bracelet" program or otherwise, shall be accountable if minors are found to be drinking Alcoholic Beverages on the Premises, whether or not the Licensing Authority's agents are able to prove that the Licensee actually served the drink directly to the minor. Sufficient security personnel shall be employed to monitor the Premises to ensure that Patrons do not pass Alcoholic Beverages to minors.
- g. Any establishment licensed to sell Alcoholic Beverages to be drunk on the Premises shall post a copy of the penalties for driving under the influence set forth in M.G.L. c.90, §24. Establishments licensed to sell Alcoholic Beverages not to be drunk on the Premises shall post a copy of the penalties for operating a motor vehicle while drinking from an open container. Said copies shall be posted conspicuously in said establishments. Said copies are available from the ABCC.
- h. Food service shall be available in all areas of the Licensed Premises where Alcoholic Beverages are served, this to include dining areas and lounge areas. This does not include any area approved as a waiting area by the LLA.
- i. A Restaurant License or a Hotel License allows the holder of a restaurant or hotel license to sell and serve liquor solely for consumption on the Premises of an establishment. All Licensees will comply with M.G.L. c.138, §12A. A restaurant Licensee must maintain complete restaurant services continually during the hours of selling and serving of liquor, until at least 9:00 p.m. daily, if any spirituous liquor is to be sold and served up to 1:00 a.m.

#### **XV. Bring your Own Bottle ("BYOB") Permit**

- a. The purpose of this section is to allow patrons to bring alcoholic beverages into an establishment holding a Common Victualler license for their personal consumption in a manner that complies with Chapter 138 of the General Laws, promotes the responsible use of alcohol by adults, and protects the health and safety of the inhabitants of the Town of Stoughton. Establishments holding a liquor

license under M.G.L. c. 138 §12 or §15 may not permit patrons to bring alcohol into the establishment to consume on the premises.

- c. A BYOB Permit allows for patrons to bring onto the premises of the holder, for consumption thereon as they consume a meal, previously unopened containers of wine and/or malt beverages, all other alcoholic beverages, such as liquors and cordials, are prohibited. BYOB Permits are a privilege, not a right, and are granted at the sole discretion of the LLA.
- d. To be considered for a BYOB Permit the applicant must meet the following requirements:
  - 1. The applicant must have a Common Victualler License that has been in good standing with the LLA for at least one year.
  - 2. The applicant must have tables or counters and seating available for its patrons.
  - 3. The applicant must not hold or be in the process of applying for an alcoholic beverages license under M.G.L. c. 138 §12 or §15.
- e. The application process for a BYOB Permit is as follows:
  - 1. The Applicant shall complete a Town of Stoughton BYOB Permit application form.
  - 2. A copy of the Application shall be forwarded to the Town of Stoughton Police Department for comment.
  - 3. The Applicant shall pay the following fees and costs: All costs of advertising and mailing for public hearing notice purposes; an initial license fee of \$\$\$; and a renewal license fee of \$\$\$.
  - 4. The LLA shall conduct a public hearing on the application after advertising the hearing in a local newspaper and notifying by certified mail the direct abutters at least 10 days prior to the public hearing, all the applicant's expense. Renewal of a BYOB Permit shall not require a public hearing.

A Permit issued hereunder shall be valid for one year or until December 31<sup>st</sup> of the year issued, whichever is the first to occur.

- f. Holders of a BYOB Permit must adhere to and/or enforce the following:
  - 1. Alcoholic beverages may only be consumed between the hours of 12:00pm and 11:00pm.

2. Patrons consuming alcohol must be seated at a table or counter and must order food.
3. Only malt beverages or wine may be consumed by patrons. All other alcoholic beverages, including hard liquor and cordials, are prohibited.
4. No alcoholic beverages may be purchased from or provided by the establishment.
5. The establishment may not charge patrons either directly or indirectly to consume alcoholic beverages on the premises. Any service fee, glass fee, table fee, corkage fee, or other fee or charge associated with alcohol consumption would be considered an indirect sale and is illegal without a §12 license.
6. The establishment or its employees may not handle or serve alcoholic beverages: This includes storing, refrigerating, or pouring alcoholic beverages. This would be considered a delivery of alcohol and is illegal without a §12 license. This does not preclude the establishment from disposing of alcoholic beverages left on the premises by the patron, or from providing glasses, bottle chillers, bottle openers, or the like free of charge.
7. Patrons may only carry in alcoholic beverages for the personal consumption of themselves and their party members.
8. Alcoholic beverages brought into the premises must be in previously unopened containers.
9. Wait staff serving and bus staff clearing tables of patrons with carry-in alcoholic beverages must be 18 years of age or older.
10. Patrons may not leave the premises with open containers of alcoholic beverages. Any open containers of alcoholic beverages left on the premises must be disposed of immediately by staff. Staff and management may not accept alcohol as a gift or gratuity from patrons. Patrons wishing to leave the premises with a partially consumed bottle must reseal (“recork”) the bottle before leaving the premises.
11. The establishment is responsible for training employees in the correct procedures with respect to this policy.
12. BYOB Permit holders must allow inspection by members of the Stoughton Police Department or other agents of the LLA any time they are open for business.

13. BYOB designees must post a notice detailing BYOB regulations provided by the Town of Amherst on their premises.
  14. The manager listed on the Common Victualler License must be trained and certified in alcohol service best practices from TIPS or a similar training program.
  15. The staff and management of BYOB holders shall not encourage or allow patrons to rapidly consume any alcoholic beverages to avoid disposing of the beverages.
  16. Alcoholic Beverages shall not be consumed by any person under the age of 21. The age of each patron consuming alcoholic beverages shall be verified by employees of the establishment promptly after those patrons enter the premises.
  17. For the purposes of this subsection, a group of patrons 21 years of age or older who are seated together at a table, or who are attendees of a private event, are considered a party.
  18. Persons under the age of 21 may be seated with older patrons who are consuming alcoholic beverages, but they are not members of the party for the purposes of this section.
  19. Patrons may carry in no more than one standard bottle of wine (750 mL) for every two members of the party. (or, if packaged in containers other than a standard bottle, no more than 375 mL of wine per party member.)
  20. Alternatively, patrons may carry in no more than 36 fl. oz. of malt beverages per party member.
  21. Parties may bring both wine and malt beverages, but the allowed quantity of alcohol granted to an individual patron cannot apply to both wine and malt beverages. (For example, a party of three could bring in a 750 mL bottle of wine and 36 fl.oz. of malt beverages, but not a 750 mL bottle of wine and 72 fl.oz. of malt beverages).
- g. BYOB Permit holders shall be monitored, with and without notice, by agents of the LLA and the Town of Stoughton Police Department. If a holder does not operate its establishment in a manner that is consistent with these regulations, the LLA may, after written notice to said holder and reasonable opportunity for a hearing, suspend or revoke the holder's BYOB Permit.



## **XVI. Environs of Licensed Premises**

- a. It shall be the obligation of Licensees to ensure that a high degree of supervision is exercised over the conduct of the Licensed Premises at all times. Each Licensee shall be accountable for all violations that are related to the Licensed Premises to determine whether or not the Licensee acted properly in the given circumstances.
- b. No Licensee may have upon the Premises any automatic amusement machine unless same has been approved and separately licensed by the Town. Types of machines and location of machines upon the Premises must be approved by the Town. The Licensee must make application, not the distributor.
- c. Licensees shall act reasonably and diligently to disperse loiterers or Patrons who attempt to congregate in front of or at the Licensed Premises. Failure of the Licensee to keep persons from congregating at the Licensed Premises may lead to disciplinary action against the Licensee for allowing a public nuisance. Action to be taken by the Licensee shall include: (1) maintaining the front door in a closed position; (2) asking loiterers to disperse; (3) promptly notifying the police if loiterers refuse to disperse; (4) hiring a security guard or stationing a security employee at the front door to disperse loiterers; (5) refusing to allow Patrons to walk in and out of the Premises at short intervals; (6) maintaining order in lines of Patrons waiting outside to get in; (7) announcing that no further Patrons will be allowed into the Premises if lines become too long or disorderly or loud.
- d. Licensees shall take such steps as are necessary to ensure that Patrons or employees do not leave the Premises with Alcoholic Beverages. Such steps shall include having an employee stationed at the door to watch Patrons as they leave. When Patrons are observed leaving the Premises with bottles, cans, cups, or glasses filled with liquids that smell like Alcoholic Beverages to the **LLA** agents, it shall be presumed that the vessels contain Alcoholic Beverages.
- e. The licensee shall not permit any disorder, disturbance, or illegality of any kind to take place on the licensed premises.
- f. When any noise, disturbance, misconduct, disorder, act or activity occurs in the Licensed Premises, or in the area in front of or adjacent to the Licensed Premises, or in any parking lot provided by the Licensee for the use of its Patrons, which in the judgment of the LLA adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the Licensed Premises are located, or results in the Licensed Premises becoming the focal point for police attention, the Licensee shall be held in violation of the License and subject to proceedings for suspension, revocation or modification of the License.
- g. The LLA adopts and incorporates herein by reference the ABCC's July 2, 2010 Crowd Management Advisory, which is attached hereto.

## **XVII. Inspections and Investigations**

- a. The Licensed Premises shall be subject to inspection, with or without notice, by the members of the LLA, the Licensing Officer, and their duly authorized agents. Any hindrance or delay of such inspection caused by an employee of the Licensee shall be cause for action against the License. It shall be the responsibility of the Licensee to ensure that procedures are in place, be it posting a doorman or otherwise, to allow Police and authorized agents of the LLA immediate entrance into the premises at any time employees are on the Premises. Any delay in providing such access shall be cause for action against the License.
- b. Licensees shall maintain a current list of all of their employees and shall have it available at all times for inspection upon the request of an authorized agent of the LLA. Licensees who contract with entertainment entities to provide entertainers must maintain a current list of the names of such entertainers and said entertainers shall be held to the same rules as other employees at the Premises.
- c. No device or electronic equipment shall be utilized at a Licensed Premises for the purpose of signaling employees that agents of the LLA are present.
- d. All complaints and reports shall continue in force until they have been reviewed and disposed of by the LLA.

## **XVIII. Standards of Conduct on the Premises**

- a. It is forbidden to permit any employee or person in or on the Licensed Premises to promise, offer, suggest, or accept sexual acts or favors in exchange for money or for the purchase of any Alcoholic Beverages or other commodities.
- b. It is forbidden to encourage or permit any person in or on the Licensed Premises to touch, caress, or fondle the breasts, buttocks, or genitals of any other person.
- c. No Alcoholic Beverages shall be sold to Minors. No service of alcoholic, wine/malt beverages shall be made to Minors.
- d. No Manager or employee shall consume any Alcoholic Beverages while on the Licensed Premises while on duty or after the official closing hour except for the purpose of sampling new products from vendors.

## **XIX. Illegal Activity on the Licensed Premises**

- a. Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the Licensed Premises. Such efforts shall include:
  1. Frequent monitoring of restrooms and other nonpublic areas of the Premises for signs of drug activity or other illegalities;

2. Paying attention to activities on the Premises of known drug users or drug dealers or prostitutes or others who are known to have been convicted of crimes which may be conducted at a Licensed Premises;
  3. Monitoring of activities of Patrons who talk about weapons or who appear to be hiding a weapon;
  4. Calling for police assistance as necessary to protect Patrons against injury or to evict unruly Patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information; and
  5. Hiring security personnel to deal with chronic unlawful activity at the Premises such as prostitution or gambling or larceny from Patrons or assaults and batteries or other problems associated with the Premises.
- b. There shall be no disorder, prostitution, illegal gambling, illegal drug use or sales or possession, or other illegal activity on the Licensed Premises or any Premises connected therewith by an interior communication.
  - c. In the event that the Licensee and/or employees have reason to believe that any illegal activity is taking place on the Premises, the Stoughton Police must be notified.

**XX. Injuries to Persons at the Premises**

- a. Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a Patron unless to protect other Patrons or themselves from being subjected to body blows from an unruly Patron. In all other circumstances employees and security personnel are to call the police to have Patrons removed from the Premises when such Patrons are being disruptive, and they are unable to convince the Patron to leave the Premises voluntarily.
- b. Licensees shall call the police and an ambulance and take all other reasonable steps to assist Patrons or persons who are injured in or on the Licensed Premises or whose injuries have occurred outside the Premises but have been brought to the attention of the Licensee.

**XXI. Duty to File Report**

In all instances where the Police are called to the Licensed Premises, regardless of the extent or severity of any incident involving people in or on the Premises, the Licensee or Manager must submit to the Police and the Clerk of the LLA within twenty-four (24) hours of such occurrence, a complete and accurate written report of the incident. Such report must be on a form provided by the LLA and will advise them of all pertinent facts including, but not limited to:

- a. Name of Premises;
- b. Address of Premises;
- c. Parties involved, by name;
- d. Date and time of the incident;
- e. Action taken by the Licensee or Manager;
- f. Description of the incident including damages and any injuries; and
- g. Name of Manager responsible for the Premises at the time of the incident along with any other employees present at the time of the incident.

## **XXII. Revocation, Suspension, and Modification**

Any License issued pursuant to M.G.L. c.138 may be modified, suspended, or revoked for any of the following causes:

- a. Violation by the Licensee of any provision of the relevant General Laws of the Commonwealth, of the rules and regulations of the ABCC or of these Regulations of the LLA.
- b. Fraud, misrepresentation, false material statement, concealment or suppression of facts by the Licensee in connection with an application for a License or permit or for renewal thereof or in connection with an application for the removal of the Licensed Premises or the alteration of the Premises or in connection with any other petition affecting the rights of the Licensee or in any interview or hearing held by the LLA in connection with such petition, request, or application affecting the rights of the Licensee;
- c. Failure to operate the Premises covered by the License without prior approval of the LLA;
- d. Failure or refusal of the Licensee to furnish or disclose any information required by any provision of the MGL or by any rule or regulation of the ABCC or these Regulations of the LLA;
- e. Licensees shall not give or offer any money or any article of value or pay for or reimburse or forgive the debt for services provided to any employee or agent of the LLA either as a gratuity or for any service;
- f. Licensees may not fail to comply with any condition, stipulation, or agreement upon which any License was issued or renewed by the Licensing Authority or upon which any application or petition relating to the Premises was granted by the LLA. It shall be the duty of the Licensee to ensure that all appropriate personnel at the Licensed Premises are familiar with these Regulations of the LLA and with any conditions on the License.
- g. A License may be suspended or modified or revoked for the refusal by any Licensee and, if a corporation, by a Manager, officer, or director thereof to appear

at an inquiry or hearing held by the LLA with respect to any application or matter bearing upon the conduct of the licensed business or bearing upon the character and fitness of such person to continue to hold a License.

- h. Licensees shall properly serve suspension and modification orders.
- i. A License may be suspended or modified or revoked for ceasing to conduct the licensed business, that is any License holder who closes or stops doing business (Dormant License). Licensees who suspend or cease operation must notify the LLA within ten (10) days with a schedule in writing for reopening to be approved by the LLA. The schedule submitted by the Licensee, must include a date certain for the reopening of the business.

### **XXIII. Disciplinary Guidelines**

Licensees in violation of the applicable laws of the Commonwealth, rules, and regulations of the ABCC and/or these Regulations may be subject to discipline. The nature and extent of the discipline shall be based on the severity of the violation, but may vary from a verbal or written warning to revocation of the license.

### **XXIV. Service of Suspension Orders**

- a. When the LLA suspends the License or Licenses of any Licensee, it shall provide the Licensee with an order of suspension for public display that must contain the words, “No alcohol served per order of the Stoughton Select Board.” Such order shall be publicly displayed by the Licensee in the following manner. If there is a door opening from the street into the Licensed Premises and a window facing the street upon which such door opens, such order shall be displayed in such window so that it may readily be seen from the street. If the Licensed Premises are otherwise located, such order shall be affixed to the door of the entrance to the Premises and displayed in such a way that it may be readily seen from the street.
- b. Suspension orders of the LLA, as above, shall remain affixed throughout the entire period of suspension. The removal, covering, defacement, or obliteration of the order of suspension or the failure to maintain the order of suspension in the manner and place required prior to the expiration of the suspension period shall be deemed the act of the Licensee and shall be cause for further suspension, modification, or revocation of the license.
- c. Suspension periods shall not be used as a time to do renovations at the Licensed Premises unless such renovations have previously been approved by the LLA.

## **XXV. Permission to Close Premises Required**

- a. Any Licensee intending to close a place of business, whether on a temporary or permanent basis, must notify the LLA in writing before such closing stating the reason and length of such closing and obtain approval. Failure to provide such notice may result in the suspension or revocation of the License.
- b. The restriction in Section 20.1 shall not apply to a closing due to an act of God, natural disaster, illness, or some other business problem for which request had been made to the LLA and approval granted.

## **XXVI. Bankruptcy and Court Proceeding**

The Licensee shall immediately notify, in writing, the LLA of any proceedings brought by or against the Licensee under the bankruptcy laws or of any other court proceedings, which may affect the status of the License.

## **XXVII. Management**

- a. Each corporate Licensee must appoint a Manager by a properly authorized and executed delegation.
- b. The Manager of the Licensed Premises must engage in the actual management of the Licensed Premises as his/her main occupation and must be present on the Licensed Premises for not less than 30 hours per week during the hours when Alcoholic beverages are sold or served.
- c. The responsibilities of every License holder and any Manager shall be as follows:
  1. To obey all statutes of the Commonwealth, rules and regulations of the ABCC, and these Regulations;
  2. To promptly notify the police of any disturbances or illegal activity on the licenses Premises of which he becomes aware;
  3. As to corporate Licensees, to sign the annual application for renewal of License, unless unavailable; and
  4. To cooperate with authorized agents of the LLA, including but not necessarily limited to, any police officer, in their investigation or inspection of the licenses Premises.
- d. Any such notice sent to the Manager as named in the records of the LLA or the owner at the address of the Licensed Premises shall constitute valid legal notice to the Licensee.

- e. The Licensee shall not transfer the license, change Managers, change corporate officers, sell, or transfer corporate stock, pledge corporate stock or liquor license as security, or accept a loan or credit from another Licensee, without first obtaining the approval of the LLA. No person may have a direct or indirect beneficial interest in a License without first obtaining the approval of the LLA.
- f. Neither the Licensed Premises nor the sale of Alcoholic Beverages may be under the temporary management or control of any person who, in the judgment and discretion of the LLA, is unable or unwilling to exert the control necessary to maintain the Licensed Premises in a safe, sanitary, and orderly manner.

## **XXVIII. Service Training**

- a. An employee training program on the proper procedures for verifying that Patrons are at least 21 years of age and not intoxicated shall be provided by the Licensee. A written description of such program, along with a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be provided to the LLA as part of the original or renewal application materials and maintained on the Premises at all times.
- b. A signed certification of each employee who handles alcohol, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the Premises at all times. Copies of all such documents and certifications shall be provided to the LLA at application or and annual renewal, and available on the Premises to the LLA or any authorized agent thereof, upon demand.
- c. Each new employee who handles alcohol shall obtain server training within sixty (60) days of commencing employment.

**23.4** Upon a finding by the LLA of a violation of the laws or regulations concerning service of alcohol to a minor or intoxicated person, the employees involved in the violation who continue to be employed by the Licensee shall be retrained forthwith and receive a new server training certification.

**23.5** The training and certification referenced in Section 23.0 shall be pursuant to a training program approved by the LLA (e.g. TIPS or equivalent).

## **XXIX. Complaints**

- a. The LLA shall investigate complaints received about any practices or acts that may violate any provision of these Regulations.

- b. If the LLA finds that an investigation is not required because the alleged act or practice is not in violation of these Regulations, the LLA shall notify the complainant of such finding and the reasons upon which it is based.
- c. If the LLA finds that an investigation is warranted, the LLA shall investigate and if the LLA finds that there has been a violation of these Regulations, then the LLA shall be authorized to take such action and institute such proceedings as are provided by law and these Regulations.
- d. The licensee shall cooperate with any investigation conducted by the LLA including, but not limited to, providing the LLA with any written or other materials that it requests, ensuring employees are available for interviews, and responding to any other requests for information from the LLA in a timely manner.

### **XXX. Fees**

- a. Application and License Fees shall be established by the LLA.
- b. License Fees are non-transferable to new owners.

### **XXXI. Waivers for Professional Establishments**

Notwithstanding any of the above requirements, the Board may in its sole uncontestable discretion, grant waivers (in full or in part) to any of the above local standards upon proper application and after a public hearing to a professional establishment, which is not a restaurant, nightclub, tavern, private club, music or entertainment venue, or similar business, provided that any such waiver does not conflict with State law and that the applicant demonstrates such waivers are in the public interest. All regulations not specifically waived shall remain applicable and any applicant/establishment requesting such waivers shall specify which specific waivers are sought and the reasons therefor. Any such applicant shall be required to adhere to and comply with these regulations, notwithstanding any such waivers applied for or granted, to the extent practicable. In granting any such waiver(s), the Board may impose reasonable conditions as it may determine are necessary and/or warranted in light of the nature of the waiver.

### **XXXII. Severability**

If any provision, clause, sentence or paragraph of these Regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions of these Regulations that can be given effect without the invalid provision, clause, sentence, or paragraph, and to this end the provisions are declared to be severable.