

**TOWN OF CONCORD
BOARD OF SELECTMEN
ALCOHOLIC BEVERAGES RULES & REGULATIONS**

As the duly constituted Local Licensing Authority, the Board of Selectmen is authorized by Statute to issue and to regulate Alcoholic Beverage Licenses. These regulations are the guiding principles by which the Selectmen will review and decide matters concerning filing, issuance, renewal, modification, and compliance with licensing matters.

The Selectmen may adopt further rules and regulations and all such changes shall apply to existing License holders from the date of the adoption. The Selectmen may attach such conditions and restrictions to each such license as it deems to be in the public interest. (i.e., hours, seating capacity, floor areas for sales or service) All Alcoholic Beverage Licenses are conditioned on compliance with all applicable State and local laws, including but not limited to MGL Chapters 138 and 140, the State Building Code, the Alcoholic Beverage Control Commission Regulations and Concord's bylaws and regulations.

FAILURE TO FOLLOW THESE REGULATIONS MAY RESULT IN THE LOSS OF YOUR LICENSE.

A. PERTAINING TO THE HOLDERS OF ALCOHOLIC BEVERAGES LICENSES

1. Duties of Management

- The Manager of Record must be approved by the Selectmen prior to that person assuming the duties of Manager of Record or Alternate Manager of Record. The Manager of Record must be engaged in the actual management of the Licensed Premises as his or her main occupation and must be present on the Licensed Premises for not less than thirty (30) hours per week during the hours when Alcoholic Beverages are sold. In the event that the Manager of Record is not present, an individual previously approved by the Selectmen as Alternate Manager of Record, **must** be present on the Licensed Premises during hours when Alcoholic Beverages are sold or served.
- Alternate Manager of Record. The Alternate Manager of Record, a person qualified, authorized and satisfactory to the Selectmen and whose authority to act in place of the Manager of Record shall first have been certified to the Selectmen, must be present on the licensed premises and available to the licensing authorities and inspectors during all hours when alcoholic beverages are sold and the Manager of Record is not present.
- Change of Manager of Record. In the event of the removal, resignation or other departure of any Manager of Record or Alternate Manager of Record, notification must be made to the Selectmen immediately. No person shall be authorized to serve as a replacement Manager of Record or Alternative Manager of Record unless appointed by the Selectmen in accordance herewith.
- Current Identification Information. The full name, residential address, business and home telephone numbers of said Manager of Record and Alternate Manager of Record must be on file in the Selectmen's Office and will be forwarded to the Police Department. Failure to have such information on file and current or the failure of the Manager of Record or Alternate Manager of Record to be on the premises while alcoholic beverages are offered for sale shall alone be cause for revocation or suspension of such license.
- Alcohol Sales or Serving Training. The Manager of Record and all Alternate Managers of the facility must provide the Selectmen with proof of current alcohol sales or service training (TIPS or equivalent training) upon the date of his or her appointment

and at each annual renewal. All other employees who serve or sell alcohol must complete similar training within 45 days of hire and maintain their certification during their employment by the licensed establishment. In unusual circumstances, licensees may petition the Board of Selectmen in writing for an extension of time, not to exceed 30 calendar days, in order to comply with this section. Such an extension of time will only be granted if the Board is convinced that a good faith effort has been made to comply.

- Legal age to sell or serve. Anyone selling or serving alcoholic beverages must be at least 18 years of age.
- Serving Policy. All Licensed establishments are required to have an alcohol serving policy on file with the Selectmen and the Concord Police Department. All employees who serve or sell alcoholic beverages must be familiar with the policy and responsible for its implementation.

2. Supervision –Presence

Neither the Licensed Premises nor the sale or serving of Alcoholic Beverages may be under the management or control of any person, who, in the judgment and discretion of the Selectmen, is unable or unwilling to exert the control necessary to maintain the Licensed Premises in a safe, sanitary and orderly manner.

No manager, employee, owner, board member or club member shall consume alcoholic beverages in or upon the Licensed Premises before the opening hour or after the closing hour stated on the License.

3. Duties at “Closing Hour”

It is the responsibility of the Manager of Record or Alternate Manager of Record in charge of the Licensed Premises to insure that they comply with the following “Closing Hour” requirements applicable to all establishments.

(a) All bottles and glasses containing alcoholic beverages must be removed from tables and bars within 15 minutes after legal closing.

(b) Premises must be cleared of all patrons and all employees other than managerial and cleaning employees not later than 30 minutes after legal closing time.

(c) All outside signs or lights of the Licensed Premises must be extinguished.

4. Duty to Summon Police

Upon the occurrence of a disturbance, Concord Police must be called to the Licensed Premises by the Manager of Record or Alternate Manager of Record in charge of the Licensed Premises.

5. Duty to File Report

In all instances where the police are called to the Licensed Premises regardless of the extent, severity or nature of any incident involving people in or upon the Licensed Premises, the Manager of Record or Alternate Manager of Record must submit to the Selectmen within twenty-four (24) hours of such occurrence, a complete and accurate written report of the incident. Said report will advise the Selectmen of all pertinent facts including, but not limited to:

(a) Parties involved, by names;

(b) Time of occurrence and date;

(c) Action taken by Manager and time and date upon which action was taken;

(d) Description of the circumstances – including damages and whether there were any apparent injuries; and

(e) Name of Manager or other person in charge of the Licensed Premises as well as any other employees present at the time of the incident

6. Violations

Violations may include, but not be limited to, sale or delivery to an underage person, sale or delivery to intoxicated persons, sales or serving before or after hours stated on the License, use of narcotics on the Licensed premises, gambling/gaming, and failure to meet any of the terms of the regulations of the Selectmen.

- The following course of action will be taken upon violations occurring within three years: 1st offense –written warning placed in the Licensing file and required training for personnel involved; 2nd offense –hearing before the Selectmen to determine action up to and including suspension and revocation of license. Extenuating circumstances may necessitate more serious consequences on any violations.
- The Selectmen will review alleged violations of rules and regulations to determine whether a Hearing is necessary. It is anticipated that in most cases, a Hearing will be held to determine what, if any, action should be taken.
- All violations and complaints received about Licensed establishments shall be in writing and placed in the file of the Licensee.
- At the time of License renewal and/or changes to the License, Licensee shall provide full information to the Selectmen concerning any violations of and complaints concerning alcoholic beverage rules and regulations in the last three years. The Selectmen may use such information as a basis for action on the License Renewal or change.
- Upon notice of violations or complaints from the Selectmen or otherwise, the License holder shall provide to the Selectmen evidence of steps taken to address the violation or of mitigating circumstances. Information provided to the Selectmen shall be placed in the Licensee's file and may be considered as a basis for action on a License Renewal or change.
- Any oral or written misrepresentation of fact made by an applicant, prospective license transferee, Manager of Record or Alternate Manager of Record in any application, report, or similar communication to the Selectmen is a violation and may result in the modification, suspension, revocation or cancellation of the License.
- The License holder has the right to appeal any decision of the Selectmen within five days of the decision to the Alcoholic Beverage Control Commission.

6A Response to District Attorney Notification

The Selectmen and each Licensed Premises shall adhere to the following process in the event that the Board of Selectmen receive notice from the District Attorney of a conviction in District Court for operating a motor vehicle under the influence of intoxicating liquor in which the convicted party alleges to have been served an alcoholic beverage at a Licensed Premises:

1st reported instance – The Selectmen shall provide the Manager of Record of the Licensed Premises with a cautionary letter advising of the report. Further, upon the determination of the Selectmen and based upon the results of further police investigation, the Manager of Record of the Licensed Premises, the Town Manager, the Police Chief and a member of the Selectmen may meet in private to confirm the adequacy of the Licensed Premises policy and procedures in serving patrons.

2nd and subsequent reported instances within twelve consecutive months – The Manager of Record of the Licensed Premises shall be called before a full Meeting of the Selectmen for a review of the Licensed Premises procedures and to consider an appropri-

ate response of the Selectmen based upon the information that is subsequently gathered.

7. Penalties

Failure to comply with any of the Regulations or any changes, additions or modifications thereto imposed by the Selectmen, the Alcoholic Beverages Control Commission, or any law of the Commonwealth, may result in the modification, suspension, revocation or cancellation of the license.

B. GENERAL PROVISIONS

1. Right to Inspect

The Concord Police, the Selectmen, or their duly authorized agents have the right to inspect any Licensed Premises at any time.

2. Prohibition Against "Brown Bagging"

Brown bagging (i.e., consumption of alcoholic beverages brought into a business establishment by a customer or other person) is prohibited in the Town of Concord.

No commercial establishment in the Town of Concord shall serve or permit the consumption of an alcoholic beverage upon its premises without an Alcoholic Beverage License.

No patron shall be permitted to bring into or onto the premises of a commercial establishment any alcoholic beverage for consumption on the premises.

3. Prohibition of Service or Consumption of Alcoholic Beverages Outside of Room or Areas Designated by Licensee

No licensee may permit the serving or consumption of an alcoholic beverage outside of the area of the Licensed Premises designated in the license. In particular, but without limitation, alcoholic beverages may not be served or consumed on a patio, sidewalk, outdoor garden or similar area adjoining the Licensed Premises unless such area has been specifically provided for in the License.

4. Club License

Under MGL C. 138 §12 A "club" license may be issued to a nonprofit corporation or association for sales of alcoholic beverages to members only and, subject to regulations by Selectmen, to the guests of the members. All other rules and regulations regarding sales and serving are in effect.

Alcoholic beverages may be sold to club members and guests introduced by members, but to no others.

No manager, employee, owner, board member, club member or guests of club members shall consume alcoholic beverages in or upon the Licensed Premises before the opening hour or after the closing hour stated on the License.

5. Severability

With respect to the constitutionality of the Regulations or where a conflict may exist with any other law or regulation, each and every provision of these Regulations is declared to be separable and independently enforceable.

Adopted May 26, 1987

Amended May 10, 1993

Amended May 15, 2006

Amended: October 6, 2008

Amended January 5, 2009