

RULES AND REGULATIONS FOR LICENSING OF ALCOHOLIC BEVERAGE SALES IN THE TOWN OF MEDWAY

I. PURPOSE

In Medway the Select Board (Board) is authorized to regulate the on-premise and off-premise sale of alcohol and issue one-day liquor licenses. The purpose of this policy is to assist the Select Board, the public, current and prospective liquor licensees to accomplish the goal of responsible alcohol consumption and avoidance of underage use. This is primarily a preventative policy. License holders and their employees are in the best position to prevent violations of alcoholic beverages laws, regulations, and policies from occurring on licensed premises. Some of the following considerations outlined for prospective applicants are subjective and will be interpreted and given weight according to the judgment of the Select Board and public demand. Prospective applicants are advised that meeting any or all of the considerations will not guarantee approval of a license. This policy is not intended to and does not create or supersede any rights already controlled by any relevant laws or regulations. Any violation of the provisions of this Policy may lead to penalties being imposed by the Select Board as licensing authority, pursuant to Massachusetts General Laws (M.G.L.) and this Policy.

II. DEFINITIONS

- "AGENT" as used herein means a member of the Police Department or any authorized licensing authority of the town of Medway.
- "ALCOHOLIC BEVERAGES" as used herein, shall mean any type of alcoholic beverages, including wines and malt beverages.
- "LICENSEE" or "LICENSEES" as used herein means an individual licensee, each member of a partnership or limited liability company licensee, each officer, director, member, 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.
- "LICENSE" as used herein means a revocable privilege granted by the Select Board. When used in these regulations, the term collectively refers to licenses issued under G.L. c.138 §§ 12, 14, 15, and 19C.
- "PATRON" as used herein means a customer who is legally on the licensed premises.
- "PREMISES" as used herein means the establishment at which the licensed business is operated, including all land and buildings associated with the operation of the licensed business.
- "RETAIL FOOD ESTABLISHMENT" The term "retail food establishment" as used herein shall align with the definition of "establishment" set forth in Chapter 327 of the Acts of 2008, which governs eligibility for certain alcoholic beverage licenses.
- "RULES AND REGULATIONS" as used herein mean these Rules and Regulations and compilation of regulations, ordinances and laws set up by a licensing authority to regulate the manner in which businesses under its authority shall operate.

III. EXISTING POLICIES

Pursuant to this policy, On-Premises and Off-Premises Liquor License Holders must abide by Massachusetts General Law c. 138, §§12 and 15 respectively, Massachusetts Alcoholic Beverages Control Commission (ABCC) regulations, the following rules and regulations enacted in Medway, Massachusetts, and all other applicable laws concerning the licensed business. This Regulation repeals and replaces the Medway Board of Selectmen Alcohol Policy adopted on December 13, 2012. Nothing omitted from this Regulation shall be deemed a waiver of requirements of any other applicable law.

In the event any particular clause or section of this Regulation should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions remain in full force and effect. Toward that end, the provisions of this Regulation are declared to be severable.

IV. GENERAL RULES AND REGULATIONS

Subject to further limitations fixed, modified, or amended by the Select Board acting as the duly constituted licensing board of the town of Medway with respect to alcoholic beverage licensing, the General Laws of Massachusetts, and the Regulations of the Alcoholic Beverages Control Commission (ABCC), the following rules and regulations will be in full force and effect for all licenses issued under the parameters of G.L. c.138, §§ 12, 14, 15, and 19C.

Any license issued by the Select Board under the above authority shall be processed in accordance with the procedures listed herein and shall be subject to the rules and regulations contained herein. The Select Board may adopt further rules and regulations, and all such changes shall apply to existing license holders from the date of the adoption. The Select Board may attach such conditions and restrictions to each license as it deems to be in the public interest.

V. TYPES OF LICENSES

A. ONE-DAY SPECIAL LIQUOR LICENSE:

- One-Day Special Licenses (G.L. c. 138, §14) may be issued by the Town Manager to the responsible manager of any indoor or outdoor activity or enterprise that does not already have another type of liquor license for the proposed premises.
- A one day license to serve all alcoholic beverages may be granted only to the responsible manager of a nonprofit organization. To qualify for an all alcoholic beverages license, the applicant must provide proof of the organization's non-profit status.
- A license to serve wine and malt beverages only may be granted to the responsible manager of any indoor or outdoor activity or enterprise.
- Regulations governing Special One Day Licenses are set forth in Section One (pp. 6-9).

B. ANNUAL ALCOHOL LICENSES FOR BOTH ON-PREMISES AND OFF-PREMISES CONSUMPTION:

- Annual Licenses for On-Premises Consumption (G.L. c. 138, §12), and Off-Premises Consumption (G.L. c. 138, §15) may be issued by the Select Board to qualified applicants to sell all alcoholic beverages or wine and malt beverages only.
- Regulations governing off-premises alcohol licenses are outlined in Section Two (pp. 9-10); and regulations governing on-premises alcohol licenses are outlined in Section Three (pp. 10-11).
- In the town of Medway, the quotas for annual on-premises and off-premises alcohol licenses are provided in the document titled *Quota on Liquor License Holders*, as may be amended from time-to-time.

C. FARMER WINERY, BREWERY AND DISTILLERY LICENSES

- The Select Board may grant a license to any person that holds any combination of a farmer-winery license (G.L. c. 138, §19B), a farmer-brewery license (G.L. c. 138, §19C), or a farmer-distillery license (G.L. c. 138, §19E), to sell certain alcoholic beverages, for on-premises consumption (See, G.L. c. 138, §19H).
- The types of beverages sold shall be limited to those beverages produced at the Licensee's facility and/or that are produced elsewhere for the Licensee and sold under the Licensee's brand name.
- Alcoholic Beverages may be sold on the grounds of the farm operated as appurtenant and contiguous to, and in conjunction with, licensed premises; provided, however, that these premises are operated appurtenant and contiguous to each other.
- The applicant must hold a farmer-winery, farmer-brewery and/or farmer distillery license issued by the ABCC before applying for this type of license.

VI. FILING OF APPLICATIONS

All applications shall be on official forms provided by the ABCC, or the Select Board in the case of One-Day Special License. Forms are available at mass.gov/abcc and www.medwayma.gov. No application will be accepted unless all fields are completed and the applicable filing fee and advertising fee have been paid.

If an application is submitted by a corporation, LLC, partnership or other organization, the applicant shall designate a manager or other principal representative, a citizen of the United States, and shall have vested in this individual by properly authorized and executed written delegation as full authority and control of the premises, described in the license, and of the conduct of all business therein relative to alcoholic beverages as the licensee itself could in any way have and exercise if it were a natural person resident in the commonwealth.

The manager must complete an approved alcohol sales training program (such as TIPS) and be of a character satisfactory to the Board (G.L. c. 138, §26).

Upon receipt of a completed application, the applicant will be notified of the date for newspaper publication and a public hearing by the Select Board. The Town shall then cause a notice of the public hearing to be published at the expense of the applicant. Such notice shall be published in a newspaper of general circulation in the Town. The notice shall set forth the name of the applicant in full, the kind of license applied for, a description of the location and area where the license is intended to be exercised, designating, if practicable, the street and number.

The Applicant shall be solely responsible for providing any abutter notices required by G.L. c. 138, §15A.

VII. APPLICATION REQUIREMENTS:

Every applicant for an annual license shall comply with the requirements found in G.L. c. 138, §15A, Massachusetts Regulation 204 CMR 2.01, "Licenses and Permits", and these Regulations.

The Select Board will consider all completed applications for annual licenses at a duly noticed public hearing in accordance with Chapter 138 of the Massachusetts General Laws.

In deciding whether to issue a license, the Board shall consider: "the public need and in such a manner as to protect the common good and, to that end, to provide, in the opinion of the licensing authorities, an adequate number of places at which the public may obtain, in the manner and for the kind of use indicated, the different sorts of beverages for the sale of which provision is made." G.L. c. 138, § 23.

In making this determination, the Board may take into account a wide range of factors such as the number of existing establishments at which members of the public can obtain the types of beverages to be sold by the applicant, the views of members of the community, traffic, noise, size, the sort of operation that carries the license, and the reputation of the applicant.

For information regarding one-day liquor licenses, see pages 6-9 of this policy.

VIII. SECTIONS

This policy is organized into the following sections, each addressing the rules and regulations applicable to a specific category of alcoholic beverage license issued by the town of Medway:

- A. SECTION ONE- One-Day Special Licenses (See pages 1-3, 6-9)
- B. SECTION TWO- Annual Off-Premises Licenses (See pages 1-6, 9-10 and 11-17)
- C. SECTION THREE- Annual On-Premises Licenses (See pages 1-6, 11-17) (for purposes of these Regulations, Farmer licenses shall be considered Annual On-Premises Licenses and shall be subject to the same requirements.

Additional provisions applicable to both annual on and off-premises licenses are outlined below.

IX. LIQUOR LICENSE CONDITIONS

- A. Only owners of establishments with a permanent, non-mobile location in Medway are eligible to apply for an annual liquor license at the specified location.
- B. If a liquor license is to be transferred to a new owner or new location, no transfer will be issued unless and until all outstanding penalties incurred by the previous license holder are satisfied in full.
- C. Issuance of an annual liquor license shall be conditioned on an applicant's consent to unannounced, periodic inspections of the applicant's establishment to ensure compliance.
- D. Licensees understand it shall be the obligation and responsibility of the licensee to be apprised of local regulations, conditions, ordinances, laws, and acts, and the licensee's lack of knowledge shall not be sufficient grounds for preventing the Select Board from acting on a violation of conditions, regulations, acts and/or laws.
- E. Annual liquor licenses shall expire on December 31 of each calendar year. Annual licenses will automatically be renewed for the following year, provided that a completed application, including payment of the applicable fee, is received in the month of November, and provided further that said license is of the same type as the expiring license and covers the same licensed premises. Applications that do not meet this criteria will be treated as applications for new licenses (G.L. c. 138, §16A).
- F. An annual liquor license will not be renewed if the licensee has failed to pay all fines issued and the time period to appeal the fines has expired, and/or the licensee has not satisfied any outstanding license suspensions.

X. CHANGE OF MANAGER (ON-PREMISE AND OFF-PREMISE LICENSEES ONLY)

- A. An application for a change of manager must be filed with the Select Board at least two (2) weeks before the proposed effective date of the change. The licensee must obtain the Select Board's approval of the application before changing the manager. The new manager shall meet the requirements of Section VI of this Regulation).
- B. If a licensee is without a manager by reason of termination, resignation or prolonged absence (collectively referred-to as termination) of the designated manager, upon less than two weeks' advance notice, by the close of the next business day following the termination of employment, the licensee must notify the Board in writing of the name of the person who will discharge the duties of manager pending selection and approval of a new manager.
- C. As soon as possible, but no later than thirty (30) days after the termination of the manager, the Licensee shall submit an application for change in manager.
- D. If circumstances other than those stated above require a licensee to make a change in manager without timely filing the required application, the licensee shall file the application at the earliest practicable time and must include a detailed statement of the circumstances. If the Board finds that the circumstances justify the non-compliance, it may consider the circumstances to be a mitigating factor in any disciplinary proceeding for operating without a manager.

XI. RESPONSIBILITIES OF MANAGER (ON-PREMISE AND OFF-PREMISE LICENSEES ONLY)

- A. The Select Board regards the manager of the licensed premises as the principal representative of the licensee and as having full authority and control of the licensed premises and of the conduct of all business therein relative to alcoholic beverages, per General Laws c. 138, § 26.
- B. Except as provided herein, the manager must be a full-time employee or a corporate officer of the licensee and must be engaged exclusively in the management of the licensed business. The manager must be a qualified seller or server of alcoholic beverages, and they must be on the

licensed premises regularly in the course of business, consistent with the permitted hours of operation. When the manager is not on the premises, the person actually in charge of the business must be a qualified seller or server of alcoholic beverages and designated by the approved manager to take charge of the business in the manager's absence. When the manager is not on the premises, a method of contacting the manager promptly must be arranged so that the manager can be reached at all times by the person designated to be actually in charge of the premises, and/or the Town of Medway Police Department. The provisions of the first sentence of this subsection B shall not apply to any license issued to a veterans' organization under Mass. Gen. Laws c. 138, Section 12 or to a licensee holding a license issued to a club under Mass. Gen. Laws c.138, Section 17.

- C. Failure of the manager to comply with this policy or to properly discharge the duties of the manager may result in revocation of the Board's approval as manager or suspension or revocation of the license may be appropriate to the circumstances.

XII. SALES PRACTICES

A. CONSUMPTION OF ALCOHOL BY EMPLOYEES OR AFTER HOURS.

No person, including employees, shall consume an alcoholic drink on the licensed premises while on duty or during hours not licensed for sale to the public.

B. IDENTIFICATION

Verification of age is required for the sale or delivery of an alcoholic beverage to any person under the age of 27.

The only acceptable forms of identification are provided in MGL. Ch. 138, §34B.

All establishments shall have electronic license readers at the point of sale for the purpose of scanning and logging identifications checked and for identifying forms of identification that are not valid.

C. NO VENDING MACHINES FOR ALCOHOL

All vending machines containing alcohol products are prohibited. A vending machine is any automated or mechanical self-service device, which, upon insertion of money, tokens, or any other form of payment, dispenses or makes alcohol products, as defined herein.

D. FREE SAMPLING

No alcoholic beverages shall be given away or provided for free, except as permitted under Mass. Gen. L. Ch. 138 §15, which allows for limited wine and malt beverage tastings by §15 licenses, subject to approval by the Select Board.

SECTION ONE

RULES AND REGULATIONS APPLICABLE TO ONE DAY LICENSES

I. ORGANIZATIONS ELIGIBLE FOR ONE-DAY LIQUOR LICENSES

A. The following types of organizations and individuals are eligible for one-day alcoholic beverage licenses under this policy. Other organizations or individuals may submit applications for consideration:

1. Civic or municipal organizations
2. Commercial establishments (beer and wine only)
3. Fraternal organizations
4. Non-profit organizations
5. Non-profit unincorporated associations
6. Individuals holding social events
7. Unincorporated groups or organizations not engaged in the sale for profit of alcoholic beverages.
8. Service clubs
9. Veterans' organizations

B. Types of One-Day Licenses

1. A license to serve all alcoholic beverages may be granted only to the responsible manager of any nonprofit organization conducting any indoor or outdoor activity or enterprise. To qualify for an all alcoholic beverages license, the applicant must provide proof of the organization's non-profit status.
2. A license to serve wine and malt beverages only may be granted only to the responsible manager of any indoor or outdoor activity or enterprise.
3. The Select Board may issue to an applicant authorized to operate a farmer-winery under G.L. c. 138, s. 19B or in any other state, a special license for the sale of wine produced by or for the licensee in sealed containers for off-premise consumption at an indoor or outdoor agricultural event, in accordance with G.L. c. 138, s. 15F

II. APPROVING ONE-DAY LICENSES: The following matters will be taken into account in approving one-day licenses:

A license may be issued only to a natural person, although this natural person may be a person acting on behalf of a corporation, partnership, or other entity. The applicant must be over the age of 21 years and must demonstrate that they are certified by a nationally recognized responsible alcohol training program (i.e., TIPS or ServSafe Responsible Alcohol Service).

No license shall be granted to any person while his or her application for an annual and or a seasonal license under Section 12 is pending before the LLA or before the ABCC, or for an premises that hold an annual or seasonal license under Section 12.

The applicant must submit a completed application and pay the applicable fee; Incomplete applications will be rejected.

The application must be received by the Licensing Office at least 21 days prior to the scheduled event.

The applicant shall include a description of the event, the hours of alcohol service, a floor plan of the service area, and the number of expected attendees.

The applicant shall include the name and cell phone number of one or more managers who shall be available to respond to emergencies during the entire event.

If the applicant is not the legal owner of the site, proof of authorization to use the site must be included.

- A. **ADMISSION AGE:** The applicant shall provide a sufficient number of responsible servers that are at least 21 years of age to be present at a function so as to assure compliance with the sale or furnishing of alcoholic beverages to eligible attendees only.
- B. **FREQUENCY:** The Board considers one-day licenses to be primarily for the purpose of sponsoring a function that would be considered a special occasion. One-day licenses are not intended as an alternative to an annual license. No more than thirty (30) one-day licenses shall be granted to a single applicant in a calendar year.
- C. **ACCEPTANCE OF CONDITIONS:** Acceptance of a one-day license under this policy will be deemed to be an acceptance of the conditions of the license and an agreement with the Town of Medway to be bound thereby.

III. CONDITIONS TO BE CONTAINED IN ONE-DAY LICENSES: Applicants seeking a One-Day Alcohol License for an event in the town of Medway must comply with the applicable state and local regulations. A One-Day License allows the sale and/or service of alcoholic beverages at a specific event, location and date, and may only be issued to qualified individuals, nonprofit

organizations or businesses that do not hold an existing annual liquor license. Licenses shall be issued in accordance with Massachusetts General Law c. 138 and 204 Code of Massachusetts Regulations (CMR) § 7.00, which governs Special (One-Day) Licenses and are subject to the review and approval of the Medway Select Board. With the exception of Farmer-Winery licenses authorized by G.L. c. 138, s. 15F, which must be issued by the Select Board, the Town Manager may administratively review and approve one-day licenses.

- A. **CERTIFICATION OF SERVERS:** All persons engaged in furnishing alcoholic beverages at a licensed function, whether by sale or without charge are required to be certified servers. All servers must be certified as having completed an alcoholic beverage training program approved by the Town (such as TIPS or ServSafe) and have evidence of such valid certification in their possession. Waiver of this requirement may be granted by the Select Board based upon the following criteria:
 - 1. Size of gathering
 - 2. Type of event
 - 3. Age of anticipated attendees
 - 4. Alcoholic beverage server must be at least 21 years of age
 - 5. Server must be identified on the one-day alcohol license applications.
- B. **HOURS OF SERVICE OF ALCOHOLIC BEVERAGE:** The hours of sale and service for all one-day licenses shall conclude by 1:00 a.m. The “last call” for all such licenses shall be no later than 12:30 a.m. The function shall conclude at 1:00 a.m., at the same hour as the license. Entertainment licenses shall state that the function shall conclude at 1:00 a.m.
- C. **NUMBER OF PERSONS ON-PREMISES:** The number of persons may not exceed the occupancy limits allowed by law for the premises on which the license will be exercised.
- D. **POLICE DETAIL:** The number of officers, if any, and the hours during which a police detail will be required within the licensed premises and, if required, for orderly parking and traffic control will be recommended by the Police Department. Generally, those hours will include the entire duration of the function, including after-service hours. The factors to be considered include the location of the premises, availability of on-site parking, the number of persons estimated to be in attendance, and the time and duration of the function.

IV. ADDITIONAL PROVISIONS

- A. **DEPARTMENTAL APPROVALS:** The Board of Health and the Building Inspection Department must approve the licensed premises. For any function to which the general public will be admitted, the Building Inspection Department must approve the licensed premises as meeting handicap accessibility requirements.
- B. **NEIGHBORHOOD IMPACT:** The applicant or such other person designated by name, address, and local telephone number in the application will be responsible for the orderly conduct of the function for which the license is issued. Consumption of alcoholic beverages outside of the structure within which the licensed function is to be held will not be permitted. Music, noise, or other function-related activities must not create an undue imposition on any adjacent residences. Police detail officers will be instructed to respond appropriately to complaints. Such a response may include an order to terminate the event or otherwise limit the offending activity.
- C. **SUBMISSION OF APPLICATIONS:** Applications must be complete with all necessary endorsements when submitted to the Licensing Office and shall be submitted sufficiently in advance of the day upon which the licensed function is to begin so that it can be reviewed and approved or denied by the Select Board. A one-day liability policy or bond may be required.
- D. The applicant shall obtain and maintain in full force and effect during the duration of the event of this Agreement a Comprehensive General Liability policy on an occurrence basis endorsed to include broad form comprehensive general liability including coverage for service of alcoholic beverages with a combined single limit of liability of not less than

\$1,000,000, and \$2,000,000 in the aggregate. The policy shall name the Town, and its officers, agents, servants, officials, representatives, employees, and consultants as additionally insured parties.

No special licensee may sell any alcoholic beverage other than those purchased from a licensee under M.G.L. c. 138, §§ 18, 19, 19B, or 19C or from a holder of a special permit to sell issued under M.G.L. c. 138, § 22A. This requirement applies to applicants affiliated with a businesses holding annual licenses issued pursuant to M.G.L. s. 12 or 15 are prohibited from selling alcoholic beverages from their licensed business or on their licensed premises.

- E. The Police Chief may summarily suspend or revoke any license for the remainder of an event if it is determined that the event poses an imminent threat to public health, safety or welfare.
- F. The issuance of a Special One-Day License applies only to the service of alcohol at the event and the issuance of such a license shall not be deemed a waiver of the applicant's obligation to obtain any other licenses, permits or approvals required for the Event. Examples include but are not limited to: Entertainment License, Common Victualler License, Temporary Food Service Permit, and/or Transient Vendor License. The site of the event must be in compliance with the Town's Zoning bylaws. The applicant shall be solely responsible for identifying any other applicable licenses, permits or approvals required for the event.
- G. The license may be granted subject to any conditions the Town Manager deems necessary to protect public health, safety and welfare with respect to the activity or enterprise at which alcoholic beverages will be sold or delivered.
- H. The Select Board may waive any provisions of this Policy for good cause shown.

SECTION TWO

RULES AND REGULATIONS APPLICABLE TO OFF-PREMISES LIQUOR LICENSES (*For regulations governing on-premises liquor licenses, see Section Three*)

I. BUSINESS PRACTICES

A. IN-STORE CONSUMPTION

All alcoholic beverages sold must be in sealed containers and no alcoholic beverages sold may be opened or consumed on the licensed premises other than by operation of law as permitting wine and malt tasting pursuant to Mass. Gen. L. Ch. 138 §15.

B. HOURS OF OPERATION

The hours during which sales of alcohol beverages may be made under any license issued pursuant to G.L. c. 138 §15 shall be established by the Medway Select Board and approved by the ABCC, in accordance with applicable state regulations.

II. EMPLOYEE PRACTICES AND REQUIREMENTS

A. MINIMUM AGE FOR CLERKS

- 1. As of the effective date of this policy, employees at the licensed premises on which a license is exercised must be 21 years of age, except that such licensees may employ a person under the age of 21 who does not directly handle, sell, store, or prepare for display any alcoholic beverages. Any establishment may continue to employ clerks between the ages of 18 and 21 years of age, provided that the clerk was employed prior to the effective date of this policy and the licensee provides the Board with the name and age of the clerk and clerk's date of hire, signed by the licensee under the pains and penalties of perjury.

B. TRAINING FOR CLERKS

- 1. Acceptable training includes TIPS Off-Premise Alcohol certification, BAT (Beverage Alcohol Training) certification or a similar training approved by the Select Board (such as TIPS or ServSafe).

2. All employees engaged in serving alcohol-containing products and/or viewing identification cards shall be certified in the training listed above within thirty (30) days of employment.

III. Penalty information related to off-premise liquor licenses can be found on pages 11-15 of this policy.

SECTION THREE

RULES AND REGULATIONS APPLICABLE TO ON-PREMISES LIQUOR LICENSES

I. BUSINESS PRACTICES

- A. Wristbands or any other kind of markings are prohibited as a method of identifying persons to be served alcoholic beverages.
- B. “Happy Hours” are prohibited.
- C. Cover charges are not allowed, except in compliance with M.G.L. Ch. 140, §183D and 204 CMR 2.16.
- D. Licensees shall not permit alcoholic beverages to be brought onto the licensed premises by patrons or anyone other than a licensed distributor and shall not permit patrons to consume alcoholic beverages on the licensed premises that were not purchased on the licensed premises.
- E. All licensed premises shall display a notice outlining the penalties for operating a motor vehicle under the influence of alcohol in accordance with M.G.L. Ch. 90 §24.
- F. Food service should be provided in all areas where alcoholic beverages are served.
- G. The licensing of liquor establishments and what constitutes the public convenience will be subject to the informed discretion of the Select Board.

II. SERVER TRAINING:

No liquor licenses shall be issued or reissued to an establishment that does not verify that their Managers have successfully completed an acceptable or accredited alcohol beverage server training program (such as 21 Proof™, TIPS, ServSafe (formerly BarCode), or the equivalent training).

All employees of the establishments who serve alcoholic beverages and/or view identification cards must be server-licensed by one of the programs listed above and, as of the effective date of this policy, any employee serving alcoholic beverages and/or viewing identification cards must be 21 years of age. Any establishment may continue to employ servers and license checkers between the ages of 18 and 21 years of age, provided that the employee was employed prior to the effective date of this policy and the licensee provides the Board with the name and age of the employee and employee’s date of hire, signed by the licensee under the pains and penalties of perjury.

All employees who serve alcoholic beverages and/or who view identification cards shall attend an employee training program provided by the licensee’s manager, which will include proper procedures for verifying that patrons are at least 21 years of age and do not appear intoxicated. Copies of all such documents and certifications shall be available to the ABCC, or any authorized agent thereof, upon demand.

All alcoholic beverage servers and/or ID checkers shall attend periodic retraining-training programs at least bi-annually that reinforce the certification training. Records of retraining shall be submitted to the Select Board annually as part of the license renewal process.

III. EMPLOYEES

The licensee shall maintain a current list of all employees in an accessible place during operation hours and either the original or a copy of the training certificate for each employee. Said listing and certificates shall be made available for examination by the Select Board or their agents.

SAID LISTING SHALL INCLUDE

- (1)Employee's Name
- (2)Position
- (3)Date hired
- (4)Type of training and certificates
- (5)Date of training
- (6)Expiration date of certification

IV. RETAIL SALES

- A. No alcohol sold may be taken from premises, except as otherwise permitted by state law and/or regulations.
- B. All alcohol sold must be opened and consumed on the premises, except as otherwise permitted by state law and/or regulations.
- C. No alcohol sales at drive-through windows. Licenses will not be granted to establishments whose principal business activity is fast-food, take-out, or have any drive through aspect.
- D. All face-to-face purchases shall be made between seller and buyer.

V. HOURS OF OPERATION

- A. The hours during which sales of alcohol beverages may be made under any license issued in accordance with G.L. c. 138 §12 shall not exceed the following: Sunday through Wednesday – 11:00 a.m. to 11:00 p.m.; Thursday through Saturday – 11:00 a.m. to 12:00 a.m.
- B. Notwithstanding the foregoing, the hours of operation contained in any license in effect on the effective date of this Policy shall remain in place unless and until the Select Board votes to decrease the hours of operation in accordance with G.L. c. 138 §12.

ENFORCEMENT AND PENALTY STRUCTURE (FOR ON-PREMISE AND OFF-PREMISE LICENSES)

I. PURPOSE: The purpose of this section is to assist with the prevention of alcohol abuse and violation of the liquor laws of the Commonwealth. This procedure supports reasonable uniformity in the imposition of penalties resulting from liquor law violations and the terms of liquor licenses.

II. GENERAL STATEMENT OF POLICY

- A. No licensee shall permit any illegality to occur on the licensed premises. The manager shall at all times maintain order and decorum on the premises, including any outdoor areas that are under the licensee's control, such as parking lots, and shall cooperate with Town Officials in ensuring safe and orderly facilities.
- B. All violations of the liquor laws and the terms of liquor licenses are to be reported to the Board by the Police Department and/or by any licensee or manager who becomes aware of an offense involving the licensed premises within three business days of said violation.
- C. Penalties for offenses will be imposed so as to promote compliance with the Town's objective of preventing future offenses as well as appropriate penalties for offenses that have occurred.

- D. The nature and severity of the penalties will be decided according to the nature of the offense and the presence of mitigating or aggravating circumstances that are described in this policy.
- E. All offenses by licensees will result in the imposition of a penalty of some degree. This will impress upon licensees, managers, and servers their responsibility for ensuring compliance with this policy, for the prevention of offenses, and for compliance with the terms of licenses and the liquor laws of the Commonwealth.
- F. Penalties may consist of any one or more of the following as appropriate: Written warning; modification of license; suspension of license; revocation of license; criminal prosecution of offenders, including customers and patrons as deemed appropriate by the police chief; mandatory participation in alcohol abuse and offense prevention programs, revocation of registration of server for a specified period of time; appropriate publicity of the offense and disposition.
- G. The Police Department/ Town Manager's Office will provide a copy of the report to the manager and/or license holder if requested before the hearing on the offense.
- H. The penalty guidelines stated in this policy are intended to create a clear and definite expectation as to the penalty the Board will impose if a hearing is held on any offense. The Board will refer to these guidelines when deciding whether to approve a negotiated recommended resolution.

III. DETERMINATION OF PENALTIES: Penalties will be determined according to the following procedure:

- A. The base-level offense(s) will be determined from those offenses described in Section IV.
- B. Adjustments according to the presence of factors that warrant an increase in the penalty ("aggravating factors"), or decrease ("mitigating factors") will be considered.
- C. Adjustments according to the number of violations involved in the particular offense will be considered.
- D. Adjustments according to the offender's acceptance of the responsibility described in will be considered.
- E. Increases according to the number and circumstances of prior violations and penalties previously imposed upon the offender will be considered.

IV. BASE-LEVEL OFFENSES

- A. Sale outside of permitted hours (MGL Ch. 138 § 12). All references are to Sections of M.G.L. Ch.138, unless otherwise noted.
- B. Purchase by person under age 21 (§ 34A).
- C. Sale or delivery to a person under age 21 for own use or use of another (§ 34).
- D. Employment by licensee of person under age 18 for direct sale or handling of alcohol.
- E. Sale to an intoxicated person (§ 69).
- F. Hindering or delaying an investigation (§ 63 A).
- G. Failure to post notice of penalty (§ 34D).
- H. Any other violation of applicable law, regulation, or this Policy.

V. AGGRAVATING FACTORS

- A. Failure to request identification card, operator's license or passport.
- B. Juvenile appearance of purchaser.
- C. Use of altered identification.
- D. Refusal to cooperate in investigation.
- E. Multiple sales on the same occasion.

- F. Quantity of alcoholic beverage sold.
- G. Unregistered server.
- H. Underage Server.
- I. Server not properly trained.
- J. Violation of other laws such as: gambling, narcotics, cigarette sales to minors, solicitation, disorderly conduct, etc.
- K. Concealing violation or furnishing false information to investigators.
- L. Exceeding lawful capacity of premises.
- M. Offense occurring while under suspension of penalty.
- N. Sale occurring while license suspended.

VI. MITIGATING FACTORS

- A. Reasonable reliance upon identification card or operator's license for proof of identity or age (M.G.L. Ch. 138, § 34B).
- B. Acceptance of responsibility as demonstrated by:
 - 1. Substantial voluntary assistance offered in investigation.
 - 2. Public acknowledgement of responsibility.
 - 3. Agreement to participate in a training program.
 - 4. Prompt notice of decision not to contest charge and agreement to proposed recommended resolution.
 - 5. Licensee agreement to participate in an effective program to prevent future offenses

VII. PREVIOUS VIOLATIONS: The number and nature of previous offenses will be considered, including:

- A. Same offense
- B. Recent prior offense
- C. Same manager
- D. Same server
- E. Severity of prior penalty
- F. Offense while under suspension of prior penalty

VIII. CONSEQUENTIAL FACTORS RELATED TO AN OFFENSE: The Board, in determining the imposition of a penalty, will weigh the nature of consequential factors. Factors shall include:

- A. Operating under the influence
- B. Causing personal injury or death
- C. Causing property damage
- D. Disturbance of the peace
- E. Domestic violence

IMPOSITION OF PENALTIES OR OTHER OUTCOMES

- 1. PURPOSE:** The purpose of this section is to establish a standard by which the Select Board determines the penalties for violations of liquor service laws, including length of license suspension and the propriety of revocations. This shall apply to all premises licensed under G.L. c. 138 by the Board. These penalties are presumed to be appropriate for the offenses listed: however, the Select Board may deviate in an individual case where the board finds that there exists substantial reasons making it more appropriate to deviate, based on the standards set forth in Sections A-H.
- 2. PRESUMPTIVE PENALTIES FOR VIOLATIONS** As a general policy, the minimum penalties for violations will be presumed to be as follows (unless specified, numbers below indicate consecutive days' suspension). A violation will be considered a subsequent offense if it occurs within thirty-six (36) months of the prior offense.

Type of Violation	1st	2nd	3rd	4th
1. Commission of a felony related to the licensed activity	Revocation	N/A	N/A	N/A
2. Sale of alcoholic beverages while license is under suspension	Revocation	N/A	N/A	N/A
3. Sale/Purchase of alcoholic beverages to/by under-age person	1-3 day suspension	7 day suspension	30 day suspension	License revocation
4. Sale of alcoholic beverages to obviously intoxicated person	1-3 day suspension	7 day suspension	30 day suspension	License revocation
5. After-hours sale of alcoholic beverage	1-3 day suspension	7 day suspension	30 day suspension	License revocation
6. After-hours consumption of alcoholic beverages	Written warning	1-3 day suspension	7 day suspension	30 day suspension
7. Refusal to allow members of the Select Board or their agents admission to inspect premises	Written warning	1-3 day suspension	7 day suspension	30 day suspension
8. Illegal gambling on-premises	Written warning	1-3 day suspension	7 day suspension	30 day suspension
9. Failure to take reasonable steps to stop a person from leaving premises with alcoholic beverages	Written warning	1-3 day suspension	7 day suspension	30 day suspension
10. Any other violation	To be determined according to severity of violation	To be determined according to severity of violation	To be determined according to severity of violation	To be determined according to severity of violation