

**Town of Chatham**  
**Local Alcoholic Beverages Licensing Regulations**

**I. Policy**

The Board of Selectmen (Board) is the Local Licensing Authority (LLA) for the Town for all purposes under M.G.L. c. 138 and Section 3-2(b) of the Chatham Home Rule Charter (“Charter”) and has sole authority for the issuance and regulation of all alcoholic beverage licenses within the Town. By virtue of this authority, the Board hereby establishes these rules and regulations governing alcoholic beverage licenses. The Board takes very seriously the responsibility of granting liquor licenses and expects all applicants to adhere to this Policy's requirements. All licenses issued for the sale of alcoholic beverages, shall be issued on the condition of full compliance with the terms hereof. Failure to so comply shall constitute sufficient cause for refusing to grant or renew the license, or for suspending, cancelling, or revoking a license previously granted. This Policy shall supersede all previous policies issued by the Town of Chatham relative to Alcoholic Beverage Licenses. The Board may exercise its authority to amend these Regulations from time to time subject to a public hearing advertised in a local newspaper and with postal and/or email notification to Licensees.

**II. Purpose**

It is the goal of the Board, as the LLA, 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. These Regulations exist solely for the assistance of the Board, the general public, Licensees and prospective liquor license applicants, to enable them to work together to accomplish this goal. It also provides Licensees with the penalty structure to be followed if liquor license violations occur. It should be emphasized that the purpose of these Regulations are primarily preventative, not punitive. It is the Town's position that license holders and their employees are ultimately responsible for preventing alcohol abuse on the licensed premises.

**III. Definitions**

“Agent,” as used herein, with respect to the Board/LLA, shall include the Town Manager, any member of the Police Department, or any other authorized licensing authority of the Town of Chatham.

“Alcoholic Beverages,” as used herein, shall mean any liquid intended for human consumption containing one percent or more of alcohol by volume, including wines, malt beverages and spirits.

“Board,” as used herein, shall mean the Chatham Board of Selectmen.

“License,” as used herein, shall mean a revocable privilege granted by the LLA. When used in these regulations, the term collectively refers to licenses issued under MGL Ch. 138.

“Licensee,” as used herein, shall mean any person, club, partnership, corporation, or other entity licensed under the provisions of MGL Ch. 138 to sell alcoholic beverages to be served and drunk on or off the licensed premises and for the purpose of these Regulations shall include without limitation employees and agents of the Licensee.

“Local Licensing Authority (LLA),” as used herein, shall mean the Chatham Board of Selectmen.

“Premise,” as used herein, shall mean the establishment at which the licensed business is operated, including all land and buildings, or any portion thereof, associated with the operation of the licensed business.

#### **IV. General Provisions**

The issuance of liquor licenses and the sale of all alcoholic, wine, and malt beverages in the Town of Chatham is governed by the Town's Local Alcoholic Beverage Licensing Regulations, the provisions of 204 CMR §2.00, et seq. of the Code of Massachusetts Regulations (the “Code”) as promulgated by the Alcoholic Beverage Control Commission (ABCC), and Chapter 138 of the Massachusetts General Laws. No license can be issued, surrendered, transferred, sold, or amended without the specific prior approval of the LLA, subject to the provisions of the applicable law of the Commonwealth.

No license shall be issued until payment in full of all applicable fees is received by the Town, including fees for publication of the hearing notice. Payments shall be made by cash, bank or personal/business check. Fees may vary depending upon the type of application submitted, but shall be in accordance with the Liquor License Fee Schedule adopted by the LLA. Said fee schedule may be amended from time to time. License fees are non-refundable. License fees shall be prorated for new license applications.

The license and any permits required for premises operations must be posted in a conspicuous location within the licensed premises, clearly visible and accessible for inspection by regulators, enforcement officers and the general public.

The licensed premise shall at all times be subject to inspection by the LLA, the ABCC, the Chatham Police and/or Fire Department, Building Inspector, Board of Health or other duly authorized Town agent(s). The Licensee shall fully cooperate with such agents and shall not, in any way, hinder or delay access to the licensed premises or otherwise interfere with any agent in the conduct of any inspection or investigation. The Licensee must

maintain and promptly make available to the LLA and its authorized agents for inspection and copying, records of all transactions involving the sale or purchase of alcoholic beverages. If such records are maintained at a location other than the licensed premises, the Licensee shall provide written notice to the LLA specifying the location and any change thereof.

No Licensee shall dispense or sell alcoholic beverages to any person under twenty-one (21) years of age.

No Licensee shall make any distinction, discrimination, or restriction of service, access, or treatment on account of race, color, religious creed, national origin, sex, sexual orientation or ancestry.

No Licensee shall store or sell any alcoholic beverage at any location or in any part of the premises at a given location not specified in the description of premises stated on the license.

No Licensee may exceed the approved number of seats or total occupancy posted on the Certificate of Inspection issued by the Building Commissioner and prominently displayed on the premises. The seating capacity and occupancy will be set by the Department of Community Development in conjunction with other regulatory departments and the provisions of the State Building Code.

No physical alteration, the effect of which would be to constitute a change in the description of the licensed premise as shown on the license (ie resulting in any increase/decrease in size, changes in entrance/exit locations) shall be made without prior approval of the LLA.

The Licensee shall be responsible for acquiring all permits, licenses, and/or certifications necessary to the conduct of the business; the Licensee shall be responsible for prompt notification to the LLA of any projected change or amendment needed or contemplated for permits, licenses and/or certifications previously issued.

The Licensee shall be responsible for the enforcement of all Regulations of the LLA, all rules and regulations of the ABCC, and all Massachusetts General Laws pertaining to the operation of an establishment possessing an alcoholic beverage license.

The Licensee shall be responsible for any violations or infractions of the license, these Regulations, and alcohol related disorders or disturbances of any kind which take place on the licensed premise without limitation, including the actions of employees whether or not the Licensee is present.

Each Licensee shall appoint a Manager 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, as provided in M.G.L. c. 138, §26. To that end, the LLA will hold the Manager responsible for the following:

1. Selection, upon due diligence, of qualified employees of the licensed business, including bartenders, servers, host/hostesses, runners, and persons who are engaged with the public in any capacity.
2. Proper training of employees in all matters relating to the safe and responsible sale, service, and consumption of alcoholic beverages. In the case of a violation of these Regulations committed by an employee, the Manager's culpability for such violation shall be limited to instances where there has been a failure to properly train and/or supervise.
3. Ensuring that only forms of identification as described in M.G.L. c. 138, §34B shall be relied upon as proof of legal age.
4. Enforcement of the liquor laws and the Local Alcoholic Beverages Licensing Regulations of the Town of Chatham with respect to the operation of the licensed business, including hours of operation.
5. Prohibiting any illegal or unlawful act from occurring on the licensed premises.
6. 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 on the licensed premises regularly in the course of business, consistent with the permitted hours of operation. When the Manager is not upon the premises, the person temporarily responsible for the business must be designated by the approved Manager to have charge of the business in the Manager's absence. When the Manager is not upon the premises, a protocol for contacting the Manager promptly must be arranged so that the Manager can be reached at all times by the person designated to be temporarily in charge of the business. The Manager shall maintain full responsibility for the operation of the business whether or not he/she is on the premises.
7. The Manager shall, at all times, maintain order and decorum on the premises and in the immediate surrounding area of the premises, and shall cooperate with Town officials in ensuring safe and orderly facilities.

Failure of the Manager to comply with these Regulations or any other applicable laws or regulations or to properly discharge the duties of Manager may result in removal as Manager or suspension or revocation of the license, as may be deemed appropriate to the circumstances by the LLA.

"Licensed Hours" are those which are designated on the Licensee's alcohol license. Licensed establishments may operate outside of licensed hours where permitted but may not serve/sell alcohol outside of licensed hours. A violation of any of the following restrictions shall constitute a violation of these Regulations, and shall subject the Licensee to possible discipline and/or penalties.

1. Last call shall be at least thirty (30) minutes before the end of licensed hours.
2. All tables and bars must be cleared of all glasses, bottles, and containers of alcoholic beverages within (30) minutes after the end of licensed hours.
3. Owners and employees must be off the premises no later than sixty (60) minutes after a licensed establishment closes to the public, provided that owners and their employees and contractors may be on the premises at any time for the purpose of cleaning, making emergency repairs, providing security for such premises, preparing food for the next day's business, or opening or closing the business in an orderly manner. It is the intent of these Regulations that licensees be afforded some flexibility in allotting their clearing and cash-out functions within this sixty (60) minute period, provided that the provisions of paragraph 2 immediately preceding are complied with.
4. No alcohol can be served or consumed by anyone on the premise outside of licensed hours. Employees and patrons are strictly prohibited from bringing alcoholic beverages from outside the premise onto a licensed premise for the purpose of consumption.

## **V. Types of Licenses**

The Town of Chatham issues several types of alcoholic beverage licenses. All licenses shall comply with M.G.L. c. 138, and the Code (204 CMR), as those laws and regulations relate to the specific type of licenses, including, but not limited to, those listed below.

### **A. On Premise**

*Restaurant All Alcohol:* Issued to qualified applicants to sell all alcoholic beverages in a restaurant and/or function room under the applicable regulations of Massachusetts General Laws, the ABCC, the Town of Chatham, and any and all conditions set forth in the specific license.

*Restaurant Wine and Malt:* Issued to qualified applicants to sell only wine and malt beverages in a restaurant and/or function room under the applicable regulations of Massachusetts General Laws, the ABCC, the Town of Chatham, and any and all conditions set forth in the specific license.

*Innholder All Alcohol:* Issued to qualified applicants to sell all alcoholic beverages in a hotel/inn under the applicable regulations of Massachusetts General Laws, the ABCC, the Town of Chatham, and any and all conditions set forth in the specific license.

*Innholder Wine and Malt:* Issued to qualified applicants to sell only wine and malt beverages in a hotel/inn under the applicable regulations of Massachusetts General Laws, the ABCC, the Town of Chatham, and any and all conditions set forth in the specific license.

*Club and Veterans Organization All Alcohol:* Issued to qualified applicant Clubs existing under Chapter 180 of Massachusetts General Laws and Veterans' Organizations duly chartered or authorized by the Laws of the United States or the Commonwealth of Massachusetts to sell all alcoholic beverages under the applicable regulations of Massachusetts General Laws, the ABCC, the Town of Chatham, and any and all conditions set forth in the specific license.

*One-day Special Event:* Issued to qualified applicants with-non-profit status to sell all alcoholic beverages; or to sell wine and malt beverages only; or to qualified applicants with for profit status to sell wine and malt beverages only under the applicable regulations of Massachusetts General Laws, the ABCC, the Town of Chatham, and any and all conditions set forth in the specific license.

*Tavern* licenses are not allowed within the Town of Chatham. A Licensee which sells alcoholic beverages to be consumed on premises must have a kitchen and offer food for purchase by patrons. Unless otherwise approved by the LLA, no alcoholic beverages shall be offered for sale at times when food service is not available other than two hours prior to the initiation or re-initiation of food service or three hours after the cessation of food service; all within the allowable hours of operation as specified on an individual license.

In addition to those set forth in Section **IV. General Provisions**, the following regulations apply specifically to On Premise licenses.

No alcoholic beverage may be served or consumed in any area outside the licensed premise such as, without limitation, a patio, roof garden, or sidewalk unless such area is approved by the LLA and is contained in the description of said licensed premise.

In accordance with 204 CMR 2.05 (2), no licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible therefor, whether present or not.

In accordance with 204 CMR 2.18, restaurants, inns, clubs, and war veterans' organizations are permitted to "recork" unfinished bottles of wine for patrons. The

partially consumed bottle of wine must have been purchased in conjunction with the ordering of a meal and must be packaged in accordance with 204 CMR 2.18. Only one bottle of partially consumed wine may be packaged per patron.

With the exception of Club and Veterans Organization Licenses, all Annual On Premise Licensees shall have their establishments open to the public at least five (5) days each week from the last Saturday in May to October 15 of each year and at least three (3) days each week during all other times of the year unless a Licensee seeks specific relief from the LLA. Licensees shall notify the LLA, in writing, in advance of any closure of or cessation of licensed activities on any licensed premises, or any portion thereof, which does not comply with the public access time periods set forth in the preceding sentence. Failure of a Licensee to so notify the LLA of any such closure or cessation of activity without good cause, such as emergency or other unforeseen circumstances, may be deemed a violation of these Regulations.

Notwithstanding any limitations on applicability otherwise described in the State Board of Fire Prevention regulations, 527 CMR 10.13 (2) (d) (1), (2) and (3)(c), any Licensee that has a bar on the licensed premise and an occupancy load of 100 or more persons shall designate one or more persons as a Crowd Manager, at least one of whom shall be present during the operational hours of the establishment. The designated Crowd Manager(s) shall be trained in accordance with 527 CMR 10.13(2)(d)(5) and perform the duties and have the qualifications and responsibilities described in 527 CMR 10.13(2)(d) and (e), including but not limited to, maintaining clear paths of egress, assuring that the facility does not exceed its occupant load limit, initiating a fire alarm if necessary, directing occupants to exits, and assuring general fire and life safety awareness of employees and occupants, including assuring that exit announcements are made in accordance with law. To the extent the requirements of 527 CMR 10 may exceed this regulation; the provisions of 527 CMR shall pertain.

**i. Annual/Seasonal Licenses**

The number of Annual On Premise licenses allocated to the Town of Chatham by the ABCC is based on the year round population of the Town. The number of Seasonal On Premise licenses issued is at the discretion of the LLA.

When properly granted or renewed, annual licenses shall be effective from January 1 through December 31 of the same year.

When properly granted or renewed, seasonal licenses shall be valid from April 1 through November 30. Any seasonal license issued after April 1 shall expire on November 30.

Seasonal licenses may be extended to January 15 of the following year with the express permission of the LLA.

Requests for an extension of a seasonal license to January 15 of the following year must be received in writing by the LLA before November 30.

**ii. Entertainment**

No form of entertainment including recorded and live music, amplified or acoustic, with or without dancing, shall be allowed on the licensed premises until such time as the Licensee has applied for and obtained a weekday and/or Sunday Entertainment License from the Board. This applies to the use of entertainment/music inside and/or outside.

**iii. Automatic Amusements/Billiards**

No coin-operated automatic amusement machines shall be allowed on the licensed premises until such time as the Licensee has applied for and obtained an Automatic Amusements License from the Board. This applies to the use of billiard and/or pool tables.

**B. Off Premise**

*Package Store All Alcohol:* Issued to qualified applicants to sell all alcoholic beverages in packages not to be consumed on the premises under the applicable regulations of Massachusetts General Laws, the ABCC, the Town of Chatham, and any and all conditions set forth in the specific license.

*Package Store Wine and Malt:* Issued to qualified applicants to sell wine and malt beverages in packages not to be consumed on the premises under the applicable regulations of Massachusetts General Laws, the ABCC, the Town of Chatham, and any and all conditions set forth in the specific license.

In addition to those set forth in Section **IV. General Provisions**, the following regulations apply specifically to Off Premise licenses.

"Official Opening and Closing Hours" are those which are designated on the Licensee's alcohol license. Sales are prohibited outside of those hours.

Sale of alcoholic beverages to a person of legal age when the intent of that customer to provide such beverage to any underage person is known, a so called "second party sale," is prohibited.

On premise consumption of alcohol is prohibited except sample tastings as provided by MGL Ch. 138 Section 15. No alcoholic beverages shall be sold to be consumed on the

premises, except that Licensees may provide without charge on their premises sample wine or malt beverage tasting of products available for sale on their premises. Each “taste” shall be limited to one ounce of wine or two ounces of malt beverage, and, if licensed to sell all alcoholic beverages, ¼ ounce of other such cordial, liqueur or spirit.

The number of Annual Off Premise licenses allocated to the Town of Chatham by the ABCC is based on the year round population of the Town. Seasonal Off Premise licenses allocated to the Town were converted to Annual Off Premise licenses by State statute in 1985.

### **C. Special One Day Licenses (amended 9/24/2018)**

Unlike an annual and seasonal liquor license, a special one-day license granted under M.G.L. c. 138, §14 does not require the approval of the ABCC. One-day licenses for sale of all alcoholic beverages may be issued only to the manager/ representative for a non-profit organization and the applicant will be required to provide proof of the organization’s 501(c)(3) status. One-day liquor licenses for the sale of wine and malt beverages may be issued to the manager/representative for *any* for-profit or nonprofit enterprise. This special license authorizes its holder to sell alcoholic beverages at any indoor or outdoor activity, subject to certain restrictions. Pursuant to M.G.L c. 138, § 23 and 204 CMR 7.05, the holder of a one-day special license must purchase alcohol from authorized wholesalers only, with the exception of nonprofit charitable corporations organized pursuant to M.G.L. c. 180 and registered with the division of public charities in the department of the attorney general and licensed pursuant to M.G.L. c. 138, §14, which may accept free alcoholic beverages donated to the nonprofit charitable corporation by an individual, by a person licensed to manufacture alcoholic beverages or by a person licensed to sell alcoholic beverages at wholesale or retail pursuant to this chapter for the purpose of serving such donated alcoholic beverages at fundraising events for the benefit of the nonprofit charitable corporation. The holder of a one-day special license must comply with all alcohol storage requirements. As ABCC approval for one-day license is not necessary, the local licensing authority may impose additional regulations/ conditions with respect to these licenses, consistent with local interests. A police detail, a well-defined plan/diagram of the premises showing the proposed serving area sectioned off from the general public (so people will not be free to wander off the licensed premises with open containers), liquor liability insurance and a Certificate of Inspection may be required, in the discretion of the Selectmen, as a condition of such a license. The holder of a special one-day liquor license must abide with all regulations imposed by the ABCC relating to the sale of alcoholic beverages as if it was an annual or seasonal Licensee.

*Applicability:* An event which satisfies one, two, or three of the following criteria, which is being held at a location not covered by an annual or seasonal license, is required to obtain a special one-day license:

- Open to the public
- Advertised
- A fee is charged, either for the event or per drink

*Eligibility:* An applicant who has applied for or is in the process of obtaining an annual or seasonal alcoholic beverage license under M.G.L. c. 138, §12, may not be granted a one-day license under M.G.L. c. 138, §14. *Examples* of the types of organizations and individuals who are eligible for one-day alcoholic beverage licenses under these Regulations include civic or municipal organizations, non-profit organizations, commercial establishments, fraternal organizations, service clubs, veterans organizations, and individuals holding social events not held at a private residence. A real person must be named as the responsible party for the one-day license.

*Hours of Service of Alcoholic Beverages:* The hours of sale and service shall not deviate from those permitted for retail pouring licenses. The "last call" must occur not later than 30 minutes before the expiration of permitted service hours. The function need not end at the expiration of service hours, but no alcoholic beverages may be sold, served or consumed on the licensed premises, or in adjacent premises such as parking or recreational areas, after that expiration time.

*Number of Persons on Premises:* The number of persons on the licensed premises shall not exceed the occupancy limits allowed by law for the premises to which the license relates.

The following criteria will be taken into account in approving one-day licenses:

*Admission Age:* The LLA will not deny a one-day license solely because individuals under the legal drinking age will be in attendance at a function, but will require that sufficient trained servers are present, and that other appropriate measure(s) are in place, to ensure compliance with the laws governing the sale or furnishing of alcoholic beverages to such persons.

*Frequency:* Under ABCC regulations, One – Day Special Alcohol permits may be issued to any person (representing themselves or an organization) permitting sales on an aggregate of up to 30 days in any calendar year. Each “One-Day” permit actually covers three days to allow for delivery/return of alcohol on the day preceding and following the event, thus each person or organization may be granted up to 10 One-Day Special Alcohol permits in a calendar year.

*Neighborhood Impact:* The applicant, or such other person designated by name, address, and telephone number in the application, will be responsible for the orderly conduct of the function/event for which the license is issued. Consumption of alcoholic beverage outside of any structure within which the license was intended to be exercised will not be permitted. Music, noise, or other function-related activities must not create

an undue imposition upon any adjacent residences. Police officers will be instructed to respond appropriately to any such complaints. Such response may result in an order to terminate the event or otherwise limit the offending activity.

*Police Detail:* The LLA, at its discretion, may require that the Licensee hire a police detail for the event/function at which the license will be exercised. The number of officers, if any, and the hours during which a police detail will be required shall be determined by the LLA in cooperation with the Police Department. The factors to be considered would include the location of the premises, availability of on-site parking, the number of persons estimated to be in attendance, potential traffic impacts and the time and duration of the event/function.

*Departmental Approvals:* The Board of Health, Fire Department, Police Department, Department of Public Works, and the Building Inspection Department may be asked to review the application and make their recommendation to the LLA.

*Violations:* The sale of alcoholic beverages without a Special One Day license is a violation of MGL Ch. 138 and may, therefore, subject a person/entity engaged in such activity to criminal and/or civil liability. MGL Ch. 138 §62 provides that a violation of any section of said Chapter shall be subject to a fine of \$50-\$500 or one month to one year imprisonment, or both. Section 14 does not set forth a specific violation penalty provision, and the courts have determined that a violation of a section of Ch. 138 that does not have a penalty provision render such a violation a criminal offense.

*Penalties:* In addition to any criminal or civil liability for the sale of alcoholic beverages without a license, the following fines may be imposed by the LLA after proper investigation of the alleged violation, notification and public hearing:

- First Offense - \$125.00
- Second Offense - \$250.00
- Third and Any Subsequent Offenses - \$500.00

#### **D. Farmer's Market**

A Farmer's Market license may be issued for the sale of alcoholic beverages manufactured by a Farmer-Series Licensee at approved agricultural events in Massachusetts such as the Chatham Farmer's Market.

Farmer's Market licenses are approved by the LLA on an annual basis. All applicants must submit a certification from the Department of Agricultural Resources that the Farmer's Market for which they are seeking a license is an "agricultural event."

These licenses are not subject to the quota or limit on the number of licenses that otherwise exist in Town.

These licenses cannot overlap any area or premise that is already covered by an existing license.

#### **E. “Brown Bag” or Carry In**

Patrons are not permitted to bring alcoholic beverages into any retail food service establishment for their own consumption.

### **VI. Application Procedure**

All license applications must be submitted in complete form on applications provided by the ABCC, in order to be processed for consideration by the LLA and the ABCC. In most instances, a legal notice, paid for by the applicant, and notification to direct abutters by the applicant will be required. While the Office of the Board of Selectmen will assist any individual with the filing of an application, it is not the responsibility of the office staff to prepare the application and other required forms; accordingly any deficiencies and/or omissions in an application shall be deemed the responsibility of the applicant.

*New License:* The applicant shall prepare and compile all documents required by General Law, the ABCC and the Town of Chatham, and submit them to the LLA. A public hearing will be scheduled and placed on an upcoming Selectmen meeting agenda, and notice will be published in a newspaper of local circulation at least 10 calendar days in advance of said hearing. Within three days of publication of the notice, the applicant shall send a copy of the notice, by certified mail, to all direct abutters. At the hearing, the LLA will consider input from the applicant and interested members of the public relative to the application. Should the LLA vote to approve the new license, the application will subsequently be forwarded to the ABCC for its consideration.

*Amendments to Existing Licenses:* Application must be made to the LLA prior to any of the below listed actions taking effect relative to an existing license and/or licensed premises. Upon receipt of application for any such change/transfer, and following any required public hearing, the LLA will vote on the matter and, if approved, the application will be forwarded to the ABCC for its approval. All required fees shall be paid in full prior to the issuance of any new or modified license.

- Transfer of License
- Change of Manager
- Alteration of Premises/Change of Location
- Change of Beneficial Interest

- Transfer or Issuance of Stock
- Pledge of Collateral
- Change of Legal Structure
- Change of Corporate Name
- Change of DBA
- Change of License Class (Seasonal to Annual)
- Change of License Category
- Change of License Type
- Change of Hours

*License Renewals:* The applicant shall be responsible for meeting all renewal requirements and deadlines established by General Law and the ABCC. In addition, the applicant shall provide to the LLA, annually, the address and phone number of the licensed premises; updated contact information for the Licensee and manager of record, to include personal address, phone and email, and the mailing address at which the Licensee wishes to receive correspondence related to the liquor license. The applicant shall submit a completed Liquor Liability Statement (Under Chapter 138, Section 15A), a completed Workers' Compensation Insurance Affidavit, and a Certificate of Insurance showing the policy number and expiration date. The applicant shall be responsible for ensuring the licensed premises has successfully passed all building/fire inspections, and that all taxes are paid to date.

## **VII. Cessation of Operation**

Any Licensee intending to close a licensed premises, whether on a temporary or permanent basis, must notify the LLA in writing at least 30 days prior to such closing, stating the reason for and length of said closing.

No Licensee may close for more than two (2) weeks annually without the express permission of the LLA. The LLA reserves the right to deny such requests. Except for emergencies, all requests for closings for more than two (2) weeks shall be submitted to the LLA before November 30 of each year for the following year. The LLA may approve requests based on the public need and individual Licensee's circumstances. Requests for temporary closings must be in writing and state the reason for and length of such closing including re-opening date. Failure to provide such notice and to obtain such permission may, in accordance with MGL Ch. 138 Sections 23 & 77, after hearing or reasonable opportunity therefor, result in cancellation of the license.

## **VIII. Enforcement**

The LLA and any enforcement designees (the Police Department, Building Inspector, Fire Department, Board of Health, or other duly authorized Town agents) may at any time make an investigation on its own initiative as to compliance with license requirements.

## **IX. Disciplinary Sanctions for Violations**

The purpose of imposing disciplinary sanctions is to improve the ability of the LLA to prevent alcohol abuse and violation of the liquor laws of the Commonwealth. This section will help to achieve reasonable uniformity in the imposition of penalties and to avoid confusion in the minds of the public, patrons and Licensees.

### **A. Violations**

All violations of the liquor laws and the terms of liquor licenses are to be reported to the LLA by the Town Manager, Police Department, or any Licensee or manager who becomes aware of an offense involving the licensed premises, as soon as reasonably possible or upon notice of request by the LLA.

Penalties for offenses will be imposed so as to promote the Town's objective of preventing future offenses and imposing appropriate penalties for offenses that have occurred.

The nature and severity of the penalties will be decided according to the severity of the offense, and the presence of mitigating or aggravating circumstances as determined by the LLA. Examples of offenses are as follows:

- a) Sale outside of permitted hours
- b) Purchase by person under age 21
- c) Employment of person under age 18 for direct handling/selling of alcohol
- d) Sale or delivery to a person under age 21 for own use or for use by another
- e) Sale to an intoxicated person
- f) Hindering or delaying investigation
- g) Failure to post notice of penalty for driving under the influence and driving while drinking from open container of alcoholic beverage
- h) Failure to comply with Chapter 204 CMR
- i) Failure to obtain a Special One-Day license when required

In accordance with MGL Chapter 138, Section 64 and/or any other enabling authority, the LLA, after notice to the licensee and reasonable opportunity for him to be heard by them, may modify, suspend, revoke or cancel his license upon satisfactory proof that he has violated or permitted a violation of any condition thereof, or any law of the Commonwealth, or any provision of these Regulations.

Penalties may consist of any one or more of the following, as deemed appropriate: revocation of license; suspension of license; criminal prosecution, as deemed appropriate by the Police Department; and/or mandatory participation in alcohol abuse and offense prevention programs.

The Town Manager is authorized to negotiate with any Licensee, or his/her representative, the terms upon which resolution of any offense will be recommended to the LLA. Any such negotiated recommended resolution must be in writing, signed by the Manager or license holder charged with the offense, and approved by the Town Manager. The recommendation must include a statement detailing the facts determined in the report of the Police Department. A copy of said report will be provided to the Manager and/or Licensee upon request. The recommended resolution is not binding unless and until approved by the LLA.

The Town Manager and the LLA will maintain a public record of offenses and their disposition.

## **B. Determination of Penalties**

The following criteria will be taken into account in assessing penalties:

1. Whether the Licensee handled the situation in a manner which would tend to mitigate or aggravate the violation.
2. The severity of the offense, including aggravating or mitigating factors, is to be determined by the LLA.
3. The number and nature of previous violations at the licensed premises or by the Licensee shall be determined. Only violations that have occurred in the previous 5 years shall be counted.
4. The nature and extent of any threat to public safety and to the public good.
5. Any steps taken by the Licensee to remedy the violation and to prevent a reoccurrence.
6. Any other factors which the LLA shall find relevant and material.

## **C. Imposition of Penalties or Other Outcomes**

The LLA will impose penalties for offenses consistent with these Regulations. Offenders may expect one or more of the following consequences as deemed appropriate in the judgment of the LLA:

1. Suspension of license for a stated number of days and specified dates.

2. Suspension of license for a stated number of days and specified dates with a portion of the suspension held in abeyance upon condition that no further offenses occur within a specified period of time and that Licensee waives right to hearing upon such further offense.
3. Mandatory participation in prevention/training programs by Licensee/manager and server(s) as appropriate.
4. Revocation of license.

Licensees are advised that the following penalties only represent guidelines for use by the LLA when making their decision in response to a liquor license violation. The LLA, after considering any mitigating or aggravating factors, retains the authority to deviate from these penalty guidelines should it deem the established circumstances to warrant such deviation. While the LLA will endeavor to impose penalties upon Licensees in a manner consistent with these Regulations, where exigent or special circumstances warrant, such as a violation resulting in serious personal injury or death, the LLA retains the authority to immediately order a full hearing, provide a Licensee an opportunity to present evidence, and to revoke a license where the evidence warrants a revocation.

- *First violation:* 1-3 day suspension, regardless of the amount of penalty held in abeyance, if any;
- *Second violation:* 4-6 day suspension, regardless of amount of penalty suspended, if any;
- *Third violation:* 7-15 day suspension, regardless of amount of penalty suspended, if any;
- *Fourth violation:* 16-30 day suspension, regardless of amount of penalty suspended, if any;
- *Fifth violation:* 31 days to one-year suspension, or revocation, regardless of amount of penalty suspended, if any;
- *Sixth violation:* Revocation of license for remaining period of current license and one year beyond.

#### **D. Reporting of Violations and Penalties Imposed**

The LLA shall receive annual reports from the Police Department and/or Town Manager detailing violations of these Regulations from the end date of the previous reporting period, and any penalties imposed by the LLA for said violations. These reports will allow the LLA to periodically review these Regulations and recommend areas that need to be amended/revised.