

TOWN OF HOLLISTON RULES AND REGULATIONS GOVERNING ALCOHOLIC BEVERAGES

By virtue of the authority contained in Chapter 138 of the Massachusetts General Laws, as amended, and section 9 of Article III of the Town of Holliston's By-laws, the Board of Selectmen of the Town of Holliston, serving as the Town's Liquor Licensing Authority (hereinafter, the "Board" or "licensing authority") hereby promulgates these Rules and Regulations Governing Alcoholic Beverages. The regulations shall supersede all previous regulations or policies issued by the Town of Holliston.

Any license or permit issued for the sale in any manner of any alcoholic beverages shall be issued on the condition that there will be strict compliance with these Rules and Regulations of the Board as described herein. The failure to comply with these rules and regulations and Town By-laws and codes shall be sufficient cause or grounds for refusing to grant the license, or for suspending, canceling, or revoking a license or permit already granted.

I. Alcoholic Beverages

No person shall drink or consume any alcoholic beverage, as defined in Massachusetts General Laws Chapter 138, Section 1, as amended, while in, on or upon any public way, public park, playground, recreation or conservation area, or private way or area to which the public has a right of access, as invitees or licensees, without the consent of the authority responsible for the maintenance and protection thereof, if public, or the owner or person in control thereof, if private. All alcoholic beverages used in violation of this policy shall be seized as evidence of the offense and safely held until final adjudication of the complaint against the person or persons charged, at which time the evidence seized shall be returned to the person or persons entitled to lawful possession.

II. General Provisions Regarding the Administration of Licensed Premises

1. The applicant for any type of liquor license must meet the requirements of Massachusetts General Laws, Chapter 138, and any other applicable Town or State law.
2. All employees serving alcohol to the public are required to have successfully completed an alcoholic beverage server training program which has been approved by the Massachusetts Alcoholic Beverages Control Commission (ABCC). This shall include managers, assistant managers, and persons responsible for viewing identification cards to determine age of patron for service of alcohol. All employees engaged in serving alcoholic beverages and/or viewing of identification cards shall be certified within thirty days of employment. Managers and assistant

managers shall be certified prior to assuming the duties of manager or assistant manager. All alcohol servers are strongly encouraged to attend periodic retraining programs at least once every two years to reinforce the certification training. Records of retraining must be submitted to the Holliston Police Department annually, in December, and will be kept on file. The retraining programs underscore the importance of proper server training on the dangers associated with alcohol abuse on a licensed premise.

3. Town of Holliston Alcohol Server identification cards shall be required for all certified servers that are employed in the direct sale and service of alcoholic beverages. The list of all certified servers shall include, but not be limited to, manager, assistant manager, and persons responsible for viewing identification cards to determine age of patron for service of alcohol. All servers shall be registered with the police department within thirty (30) days after employment. The manager and assistant manager shall be registered prior to assuming the duties as manager or assistant manager. The Town of Holliston Alcohol Server identification cards shall be carried on the server's person or otherwise be available for inspection. In addition, the licensee shall keep on file at the premises photocopies of the server identification cards of all those employees to whom server identification cards have been issued.

The initial cost of a badge will be \$5 and any duplicate badges will be \$10.

4. Wrist-bands, stickers or any other kind of markings or marking devices are prohibited as a method of identifying persons to be served alcoholic beverages.
5. "Happy Hours" are prohibited.
6. Cover charges are not permitted except in compliance with Massachusetts General Laws Chapter 140, section 183D and 204 CMR 2.16.
7. The licensing of liquor establishments and vendors, and what constitutes the public convenience in Holliston, will be subject to the informed discretion of the Board of Selectmen.
8. The licensed premises shall be subject, at all times, to inspection by members of the Selectmen, the Town Administrator, Board of Health or their representatives, Inspector of Buildings, Police, Fire, or any other department or official of the Town of Holliston so directed by the Board of Selectmen.

Separately, the Town of Holliston's Police Department shall have the authority to investigate violations of this policy and of any state law on or

about the licensed premises on behalf of the licensing authority, and to conduct other such enforcement as the Chief of Police or his designee deems appropriate for the purposes of ensuring compliance with state law and all aspects of this policy.

9. The Town shall conduct an annual Alcohol Seminar. Notice of said seminar will be provided to each Licensee no less than ten (10) days prior to the date of the annual Alcohol Seminar, and shall be posted at Town Hall at least (10) days prior to the date of the seminar. While attendance at the seminar is not mandatory, each licensee is urged to attend. Failure to attend the seminar shall not constitute a defense to any alleged violation of this policy. Each licensee is required to have knowledge of this policy, and such knowledge will be imputed to a licensee regardless of attendance at the seminar.

III. Hours of Operation

The “Permitted Official Opening and Closing Hours” are those which are designated on the licensee’s liquor license. However, the licensee must establish the “Hours of Operation” and these hours shall be displayed on the front entrance of the establishment. The last call shall be at least thirty (30) minutes before the “Official Closing Hour.” No alcoholic beverages may be served after the “Official Closing Hour.” All tables and bars must be cleared of all glasses, bottles and containers of alcoholic beverages at the “Official Closing Hour”, and all customers must be off the premises by that time. Owners and employees must be off the premises no later than thirty (30) minutes after the “Official Closing Hour,” provided, however, that such owners and employees may be on the premises at any time for the purpose of cleaning, making emergency repairs, providing security for such premises, or preparing food for the next day’s business or opening or closing the business in an orderly manner, in which cases the employee will contact the Holliston Police Department and inform the desk officer of issues causing them to be there and the time they will leave. No employee or owner shall consume alcohol on the premises nor serve any alcoholic beverages before the “Official Opening Hour” or after the “Official Closing Hour.” Provided, further, that any such licensee or its manager shall not be prohibited from being upon such premises at any time; provided further, that the employees, contractors and subcontractors shall not be prohibited from being on the premises at any time for the purpose of cleaning, making renovations, making emergency repairs to or providing security for such premises or preparing food for the day’s business or opening or closing in an orderly manner.

Patrons are not permitted to bring alcoholic beverages on the premises for their own consumption. Non-alcoholic Common Victualer licensees are not permitted to keep alcoholic beverages on the premises except for a reasonable small quantity that is used in preparation of certain specialty foods.

A violation of any of the aforementioned restrictions regarding the hours of operation shall constitute a violation of this policy and shall subject the licensee to possible discipline and/or penalties in accordance with the procedure set forth herein.

IV. Change of Manager

1. An application for change of manager must be filed with the Board of Selectmen at least two (2) weeks before the proposed effective date of the change, unless the approved manager has terminated his or her employment without prior notice to the licensee. In that case, by the close of the next business day following the termination of employment, the licensee must notify the Board of the name of the person who will discharge the duties of manager, pending selection and approval of a new manager. If the employment of the approved manager is terminated by the licensee, or if the approved manager is replaced, transferred, or for other reason due to action by the licensee is no longer serving as manager, the licensee must file an application for change of manager at least two weeks before the action is taken by the licensee and must obtain approval of the application before changing the manager. If circumstances other than those stated above require a licensee to make a change in manager without timely filing of 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 noncompliance, no penalty will be imposed. If the circumstances are not found to be sufficient, the Board may impose a penalty that may be up to one day of suspension for each day of unjustified non-compliance. When submitting an application for change of manager or assistant manager, the manager or assistant manager shall be certified as an alcohol server and registered with the Holliston Police Department prior to submitting the application.

2. Upon receipt of an application for an original license, or in the case of a new manager or assistant manager, upon being advised of the new manager or assistant manager's identity, the Holliston Police Department will conduct a background check of any proposed licensee, manager or assistant manager, such check to include a review of any existing criminal record. The licensing authority may reject any application where the licensee's, manager's or assistant manager's criminal record or reputation indicates theft, unlawful drug use or distribution, alcohol related offenses, association with known felons or individuals involved in organized crime, a propensity for violence, or other behavior, that, in the opinion of the licensing authority, might put the public at risk.

3. A violation of any of the aforementioned restrictions regarding a change of manager shall constitute a violation of this policy and shall subject the licensee to possible discipline and/or penalties in accordance with the procedure set forth herein.

V. Responsibilities of Manager

1. The Board of Selectmen regards the manager of licensed premise as the principal representative of the licensee and as having full authority and control of the licensed premise and of the conduct of all business therein

relative to alcoholic beverages, all as provided in General Laws Chapter 138, section 26. In addition, an assistant manager or other suitable managerial employee capable of fulfilling the duties of manager must be listed on the license by the licensee. This will allow for continuity of the manager position, should either the manager or assistant manager positions become vacant during the course of the year, while the licensee files an application for Change of Manager with the Board.

2. Without limiting the scope of the previous subsection, the Board will hold the manager responsible for the following:
 - a. Careful selection of qualified employees of the licensed business, including servers, clerks and persons who are engaged with the public in any capacity;
 - b. Training of employees in all matters relating to the sale or service of alcoholic beverages;
 - c. Assuring that employees serving alcohol to the public have successfully completed an alcoholic beverage training program for serving alcohol responsibly, possess a valid Town of Holliston Alcohol Server identification card referred to in Section II, Paragraph 3 of this policy, and provide for continual training of employees engaged in serving and selling alcoholic beverages;
 - d. Ensuring that no criminal activity, including the sale and distribution of narcotic drugs, takes place on the licensed premises, including within any parking area on the licensed premises;
 - e. Promptly reporting to the Police Department all instances of attempted purchases or procurement of service of alcoholic beverages by minors, including attempts to gain access to premises upon which alcoholic beverages are served and from which minors are excluded, and appropriate action taken by the licensee in response thereto. Such appropriate action shall include (1) reporting to the Registry of Motor Vehicles instances involving possession or use of a false, forged or counterfeit license to operate motor vehicles or identification card issued by the Registry of Motor Vehicles; (2) confiscation of liquor identification cards or motor vehicle operator's license presented by the minor; and (3) if a purchase was made or service was procured, the name of the licensee's employee participating therein;
 - f. Enforcement of the liquor laws and this policy with respect to the operation of the licensed business;

- g. Ensuring that the licensed premises, including the exterior, are kept clean, neat and sanitary at all times;
 - h. The Board strongly encourages that the manager and/or assistant manager attend the recommended Annual Town of Holliston Alcohol Policy seminar. The Board notes that as set forth in Section II(9) failure to attend the seminar shall not constitute a defense to an alleged violation of the Alcohol Policy and that knowledge of the Alcohol Policy as discussed at the seminar, shall be imputed to a licensee regardless of their attendance status.
3. Except as provided herein, the manager must be a full time employee or a corporate officer of the licensee, must be engaged exclusively in the management of the licensed business, and must be a qualified seller or server of alcoholic beverages registered with the Holliston Police Department. The manager must be on the licensed premises at least forty (40) hours per week in the course of business, consistent with the permitted hours of operation. When the manager is not upon the premises, the person actually in charge of the business must be a qualified seller or server of alcoholic beverages registered with the Holliston Police Department and 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 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. The provisions of the first sentence of this subsection 3 shall not apply to any licensee holding a license issued under Massachusetts General Laws Chapter 138, section 12 to a veterans organization or to a licensee holding a license issued to a club under Massachusetts General Laws Chapter 138, section 17.
4. The manager will continue to be responsible for the operation of the business whether or not on the premises.
5. Failure of the manager to comply with this policy or to properly discharge the duties of manager may result in removal as manager or suspension or revocation of the license as may be appropriate to the circumstances. Non-attendance at the Town sponsored alcohol seminar shall not be a defense to a violation of the policy, and knowledge of this policy is imputed to the licensee regardless of attendance status.

VI. Modifications to Licensed Premises

Once a liquor license is issued, no substantial physical changes to the licensed premises shall be made without the prior approval of the licensing authority. For the purpose of this regulation, a substantial physical change is a change sufficient to require a building permit.

VII. Distribution of Policy

This policy, in its most updated form, shall be mailed to all licensees with their annual renewal application and shall be included with each application for a new license or for a change of the licensed manager. The Alcohol Policy shall also be handed to the licensee at the time the licensee picks up his/her annual license. The licensee may not pick up his/her annual license until the licensee has signed a receipt stating that a copy of this policy has been received.

VIII. Annual Licensing Fees

All Alcohol Restaurant, Club	\$4,500
All Alcohol Package	\$2,000
Veteran's Organization	\$500
Wine & Malt Restaurant, Club	\$1,250
Wine & Malt Package	\$1,500
Special One Day Alcohol	\$25 per day

IX. Miscellaneous Operating Provisions

1. Entrance doors to the licensed premises must remain closed, but not locked, during all times that the licensed premises are open for business.
2. The licensee shall ensure that the Holliston Police Department, the Holliston Fire Department, and authorized agents of the licensing authority, shall have immediate access to the licensed premises at all times and under all circumstances.
3. No alcoholic beverages shall be sold or served to anyone under the age of 21 years. As proof of age, the licensee shall only accept a valid Massachusetts driver's license; a valid Massachusetts Liquor Identification Card; a valid Passport issued by the U.S. or by the government, recognized by the United State government, of a foreign country; or a valid U.S. issued Military ID card.
4. The licensee shall ensure that business in the licensed premises, and areas under the licensee's control that abut the licensed premises, is conducted in a responsible manner so that no activity shall detract from the quality of life in the Town generally, or in the neighborhood in which the licensed premises are located. This shall include, but not be limited to, ensuring that there shall be no disorder, unlawful use or sale of drugs, indecency,

prostitution, assaults, lewdness or illegal gambling on or about the premises.

5. No alcoholic beverages shall be sold or delivered to an intoxicated person.
6. No licensee may display any advertisement or sign on the outside façade upon which appears any brand name of an alcoholic beverage product. Signs on the inside of the premises are subject to approval by the licensing authority at its discretion.
7. No patron may remove any alcoholic beverage from the licensed premises, unless the patron is taking off the premises of a restaurant or hotel a resealed bottle of partially consumed wine as regulated by General Laws Chapter 138, section 12 and the Rules and Regulations of the Alcoholic Beverages Control Commission.
8. No alcoholic beverages shall be served in any container, the capacity of which is in excess of 16 fluid ounces.
9. No licensee shall provide or allow entertainment unless an entertainment license has been obtained from the Board of Selectmen.
10. No licensee shall make any distinction, discrimination or restriction on account of race, color, creed, sex, disability, national origin, genetics, sexual orientation or ancestry relative to the admission or treatment of any person.

X. One-Day or Special Licenses or Permits

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:

- Civic or municipal organizations
- Commercial establishments
- Fraternal organizations
- Non-profit organizations
- Non-profit unincorporated associations
- Individuals holding social events
- Unincorporated groups or organizations not engaged in the sale of alcoholic beverages for profit.
- Service clubs
- Veteran's organizations

The process of applying for a one-day liquor license and the conditions that will attach to such license are fully outlined in Section XI of these Rules and Regulations Governing Alcoholic Beverages.

XI. Criteria for Approval for One-Day or Special Licenses or Permits

A. The following matters will be taken into account in approving one-day or special licenses or permits:

1. **Admission Age.** The Board will not deny a one-day or special license or permit for a function at which individuals to whom alcoholic beverages may not be supplied are present, but will require that sufficient trained servers are present to assure compliance with the laws governing the sale or furnishing of alcoholic beverages to such persons.

2. **Frequency.** The Board considers that one-day or special licenses or permits are to be issued primarily to applicants sponsoring functions that are not held more than once annually. Except for applicants that are in the business of catering or accommodating individual functions, one-day licenses are not intended as an alternative to an annual license.

B. Acceptance of Conditions. Acceptance of a one-day or special license or permit license under this policy will be deemed to be an acceptance of the following conditions of the license and an agreement with the Town of Holliston to be bound thereby:

1. **Certification of Servers.** All persons engaged in furnishing alcoholic beverages at a licensed or permitted function, whether by sale or without charge are required to be certified servers. All servers must be certified as having completed an approved alcoholic beverage training program and have evidence of such valid certification in their possession. Commercial caterers and accommodators must be registered with the Holliston Police Department.

2. **Number of Service Providers.** The number of bartenders and servers shall be recommended to the Board of Selectmen by the officer of the Holliston Police Department designated to review applications for one-day or special licenses and permits shall be determined by the Board of Selectmen as appropriate for the number of persons estimated to be in attendance and the nature of the event. For functions at which attendance is by invitation only, the number of persons included in the invitations shall be used.

3. **Hours of Service of Alcoholic Beverages.** The hours of sale and service for all one-day or special licenses and permits shall be no later than 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.

4. **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 or permit will be exercised.

5. **Police Detail.** The number of officers, if any, and the hours during which a police detail will be required within the licensed or permitted 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.

C. **Additional Provisions.** The following additional provisions shall apply to one-day and special licenses and permits:

1. **Departmental Approvals.** The office of the Board of Health and the Building Inspection Department must approve the premises, including, where applicable, food service equipment. For any function to which the general public will be admitted, the Building Inspection Department must approve the premises as meeting handicap accessibility requirements.

2. **Neighborhood Impact.** The applicant or such other person designated by name, address and local telephone number on the application will be responsible for the orderly conduct of the function for which the license or permit is issued. Consumption of alcoholic beverages outside of the structure within which the function is to be held will not be permitted. Music, noise, or other function related activities must not create an undue imposition upon any adjacent residences. Police detail officers will be instructed to respond appropriately to complaints. Such response may include an order to terminate the event or otherwise limit the offending activity.

3. **Submission of Applications.** Applications must be complete with all necessary endorsements when submitted to the Selectmen's Office and shall be submitted sufficiently in advance of the day upon which the function is to begin so that it can be reviewed and approved.

When submitted, each application must be endorsed with the approval of the office of the Board of Health, the Building Inspection Department (including issues of handicap accessibility if required) and the Police Department (as to police detail required and number of bar tenders and servers recommended). The office of the Board of Selectmen must receive such requests for Board approval not later than noon on the Monday of the calendar week before the day on which the licensed function is to begin.

4. **License Application Fee.** Fees for one-day licenses are \$25 for each day. The fee may be waived at the discretion of the Board of Selectmen.

XII. Penalty Structure for Violations of the By-law and these Rules and Regulations

A. Purpose

The purpose of this penalty procedure is to improve the ability of the Board of Selectmen to prevent alcohol abuse and violation of the liquor laws of the Commonwealth. This procedure will help to achieve reasonable uniformity in the imposition of penalties and to avoid confusion in the minds of the public, patrons and licensees due to a lack of understanding of the consequences of violating the liquor laws and the terms of liquor licenses. The uniformity of the procedure will enable an equitable treatment of violators and provide a mechanism by which licensees can improve their compliance with the alcohol policy in the future. It should be noted that a violation of the policy alone may give rise to the issuance of a fine to the extent permitted under law.

B. General Provisions

1. 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 and in the immediate surrounding area of the premises and shall cooperate with Town officials in ensuring safe and orderly facilities.
2. All violations of the liquor laws and the terms of liquor licenses are to be reported to the Board by the Police Department or by any licensee or manager that becomes aware of an offense involving the licensed premises within two weeks of said violation. Failure to report a violation involving the licensed premises constitutes a violation of the alcohol policy, and will subject the licensee to discipline and/or fines in accordance with the procedure set forth herein.
3. Penalties for offenses shall be in line with the Town's general goals of protecting public safety and welfare. Penalties will also be imposed with the goal of preventing future offenses.
4. 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.
5. 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 prevention of offenses and for compliance with the terms of licenses and the liquor laws of the Commonwealth.

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

7. The Police Department is authorized to negotiate with any person the terms upon which the Police Department will recommend to the Board that an offense be resolved. Any such negotiated recommended resolution must be in writing, signed by the manager or license holder charged with the offense and approved by the Police Chief. The recommendation must include a statement detailing the facts determined in the Police Department investigation. The recommended resolution is not binding upon the Town unless and until approved by the Board.

8. If the Police Department and the manager and/or license holder charged cannot agree on a recommended resolution, the Police Department will make any additional investigation it deems necessary for a complete presentation of the facts and will file a written report with the Board.

9. Notice is to be provided to a licensee of an alleged violation of the Town's alcohol policy. The notice provided to the licensee will contain the Police Department's recommendation to the Board of Selectmen concerning the punishment for the alleged violation. The notice will include the date of the event giving rise to the possible disciplinary action, a description of the event, and a clear identification of the statutes, regulations or By-laws that are alleged to have been violated as a result of the event. Said notice will also provide the licensee with the date upon which the Board will hold a hearing concerning the licensee's alleged violation and the proposed penalty. A notice containing the above-mentioned information shall be sent to the licensee via certified mail return receipt requested no less than ten (10) days prior to the date of the hearing before the Board.

10. 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 by deciding whether to approve a negotiated recommended resolution.

11. If the Board does not approve a negotiated recommended resolution, a new hearing will be scheduled. The person charged may

withdraw the consent to the recommendation and contest all relevant matters at the hearing including any matters which had been admitted in the statement of facts in the proposed recommended resolution.

12. The Police Department and the Board will maintain a public record of offenses and their disposition that will be indexed according to the licensee/manager, server and purchaser involved.

13. In the event that the Board decides to take disciplinary action against the licensee for a violation of the Town's Rules and Regulations, the Board will provide licensee with a detailed statement of the reasons why disciplinary action was taken against the licensee. The above-mentioned statement of reasons will be included with the notice of the Board's disciplinary action.

C. Determination of Penalties

Penalties will be determined according to the following procedure.

1. The base level offense(s) will be determined from those offenses described in Section D.
2. Adjustments according to the presence of factors that warrant an increase in the penalty ("aggravating factors") described in Section E or decrease ("mitigating factors") described in Section F will be considered.
3. Adjustments according to the number of violations involved in the particular offense will be considered.
4. Adjustments according to the offender's acceptance of responsibility described in Section F will be considered.
5. Increases according to the number and circumstances of prior violations and penalties previously imposed upon the offender described in Section G will be considered.
6. Increases based on any previous written warnings given by the Town to the licensee. Such increases will consider the date(s) of the written warning(s), the reasons therefore, and the similarity of the incident resulting in the warning to the incident at issue.
7. Adjustments according to the consequential misconduct described in Section H that is related to the base level violation will be considered

D. Base Level Offenses

1. Sale outside of permitted hours (General Laws Chapter 138, section 12). (All references are to sections of General Laws Chapter 138 unless otherwise noted.);
2. Purchase by person under age 21 (section 34A);
3. Employment by licensee of person under age 18 for direct handling or selling of alcohol;
4. Sale or delivery to a person under age 21 for own use or for use of another (section 34);
5. Sale to an intoxicated person (section 69);
6. Hindering or delaying investigation (section 63A);
7. Failure to post notice of penalty for driving under the influence and driving while drinking from open container of alcoholic beverage (section 34D);
8. Failure to comply with 204 CMR 4.03 of the ABCC regulations which states the following:
 - (a) No licensee or employee shall offer or deliver any free drinks to any person or group of persons;
 - (b) Deliver more than two drinks to one person at one time;
 - (c) Sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;
 - (d) Sell, offer to sell or deliver to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;
 - (e) Sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
 - (f) Sell, offer to sell or deliver malt beverages, wine or mixed drinks by the pitcher or in other community type containers such as a "scorpion bowl";
 - (g) Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
 - (h) Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

E. Aggravating Factors

1. Failure to request proper identification card.
2. Juvenile appearance of purchaser.
3. Use of altered identification.
4. Refusal to cooperate in investigation.
5. Multiple sales on same occasion.
6. Quantity of beverage sold.
7. Staff not suitably trained.
8. Unregistered server.
9. Server unable to provide Server ID card upon request.
10. Under age server.
11. Violations of other laws such as: prostitution, solicitation, drugs, illegal gambling, disorderly conduct, cigarette sales to minor.
12. Concealing violation.
13. Furnishing false information to investigator.
14. Exceeding lawful capacity of premises.
15. Intimidating or coercing witnesses or attempting to do so.
16. Offense occurring while under suspension of penalty.
17. Sale occurring while license suspended.
18. Failure to participate in the Town's Prevention of Alcohol Abuse Program, to which knowledge shall be imputed.
19. The occurrence of any personal injuries or fatalities related to the underlying violation.

F. Mitigating Factors

1. Reasonable reliance upon an identification card or operator's license for proof of identity or age. (General Laws Chapter 138, section 34B)

2. Acceptance of responsibility as shown by:

- Substantial and voluntary assistance offered in investigation.
- Public acknowledgment of responsibility.
- Agreement to participate in training program by licensee, manager and servers.
- Prompt notice of decision not to contest charge and agreement to proposed recommended resolution.
- Licensee agreement to participate in an effective program to detect and prevent future offenses.

3. Attendance at the Town's Annual Alcohol Policy Seminar.

G. Previous Violations

1. Same offense.
2. Different offense.
3. Recent prior offense.
4. Same manager.
5. Same server.
6. Severity of prior penalty.
7. Offense while under suspension of prior penalty.

H. Consequential Misconduct Related to an Underlying Violation

1. Operating under the influence.
2. Causing personal injury or death.
3. Causing property damage.
4. Disturbance of the peace.
5. Domestic violence.

I. Imposition of Penalties or Other Outcomes

While the Board will endeavor to impose penalties upon licensees in a manner consistent with these regulations, where exigent or special circumstances warrant, such as a violation of these regulations resulting in serious personal injury or death, the Board retains the authority in those circumstances to immediately order a full hearing, provide a licensee an opportunity to present evidence, and to revoke a license where the evidence so warrants a revocation.

The Board will impose penalties for offenses consistent with this policy. Offenders may expect one or more of the following consequences as appropriate in the judgment of the Board.

1. Suspension of license for a stated number of days and specified dates. Licensees are advised that the following chart only represents guidelines for use by the Chief of Police and the Board by the Selectmen when making their respective recommendation and decision regarding a response to a liquor license violation. The Board of Selectmen, in accordance with the mitigating and aggravating factors presented above, retain the complete authority to deviate from these penalty guidelines where the circumstances are appropriate.

First violation: 1-3 day suspension, regardless of amount deferred, if any;

Second violation: 4-6 day suspension, regardless of amount deferred, if any;

Third violation: 7-15 day suspension, regardless of amount deferred, if any;

Fourth violation: 16-30 day suspension, regardless of amount deferred, if any;

Fifth violation: Revocation of license for remaining period of current license and one year beyond.

2. Suspension of license for a stated number of days and specified dates with a portion of the suspension deferred 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. Revocation of liquor license or suspension of registration of server for a specified period of time after a due process hearing for cause, and thereby limiting or preventing the employment of a server by a licensee within the Town.

4. Mandatory participation in prevention programs by licensee/manager and server as appropriate.

5. Appropriate publicity of offense and disposition.

J. Reporting of Violations and Penalties Imposed

The Board shall receive annual reports from the Police Department and/or Licensing Administrator detailing violations of this policy from the date of the previous reporting period, and the penalties imposed by the Board for said violations. Reports shall be submitted to the Board no later than May 1. The Board will use these reports to analyze what factors are commonly associated with violations, such as over-serving, underage serving, failure of server training or registration, etc. This process is intended to allow the Board to periodically review this policy and recommend any areas of the policy that need to be amended and/or updated.

Effective Date: _____

2007.9.24 Proposed Rules and Regulations (600-18)