

# **TOWN OF LANCASTER, MASSACHUSETTS**

## **BOARD OF SELECTMEN**



## **RULES AND REGULATIONS**

### **FOR THE**

## **SALE OF ALCOHOLIC BEVERAGES**

**Adopted October 6, 2003**

**RULES AND REGULATIONS  
FOR THE  
SALE OF ALCOHOLIC BEVERAGES**

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## **PREAMBLE**

**The following policy statement sets forth the Board of Selectmen's goals and objectives for the issuance and regulation of licenses for the sale of alcoholic beverages.**

**"It is the goal of the Board of Selectmen, as the liquor licensing authority, to provide for a reasonable number of quality establishments for the responsible sale and service of food and drink to the public and to regulate such establishments to insure they are operated responsibly and do not detract from the quality of life in neighborhoods or in the Town as a whole. The Board believes the licensing for the sale of alcoholic beverages is a serious matter, and accordingly, considers location of the proposed licensed establishment and the potential impact on the neighborhood, particularly when in proximity to a school, religious institution, or hospital. In addition, the potential traffic and noise impact created by licensing an establishment for the sale of alcoholic beverages is also a consideration.**

**The Board recognizes the public's need for a variety of quality establishments for dining and socializing and believes that the alcoholic beverages licenses afforded the Town should fulfill the public need for such license and that its issuance ought to be in the common good.**

**New applications or transfers shall be scrutinized closely to insure that the principals and managers are of sound character and are qualified. They must show the Board that they will operate a closely supervised, quality restaurant with the service of alcohol representing only a minor portion of the business. Minor portion is defined as not exceeding 25% of the total volume of business. Past performance of owner and management in the operation of a restaurant or food service establishment is also considered.**

**Hours of operation shall be regulated so as to protect the quality of life in neighborhoods and discourage excessive drinking. Server training and other conditions shall be imposed to insure the responsible service of alcoholic beverages. Only that entertainment normally associated with dining atmosphere or for private functions shall be approved.**

**Any licensed premises may be subject to regular inspections by the police. Violators may be subject to possible suspension or revocation of their license. Discipline for violations may also include reducing hours or other suitable restrictive conditions."**

**The rules and regulations contained herein have been promulgated to achieve the above stated goals and objectives.**

**LANCASTER BOARD OF SELECTMEN  
LIQUOR LICENSE REGULATIONS**

**ADOPTED ON OCTOBER 6, 2003**

**INTRODUCTION**

In issuing regulations, the Board of Selectmen, as the liquor licensing authority of the Town of Lancaster, is setting forth the expectations of the citizens of Lancaster as to the conduct of the Town's liquor license holders. A significant objective of the regulations is the prevention of violations. In familiarizing themselves with these regulations, license holders will realize that much is expected of them. The Board of Selectmen believes that violations will be prevented because these regulations will require liquor license holders to operate in accordance with a clearly defined, higher standard.

**I. Identification of the Town of Lancaster Licensing Authority**

1. The Licensing Authority for the Town of Lancaster shall consist of the Board of Selectmen. This authority is granted to the Board of Selectmen by G.L. c.138.

**II. Scope of and Statutory Basis for Promulgation of Rules**

1. The statutory basis for the promulgation of these rules is set forth within the applicable sections of G.L. c.138. Each reference to a statute shall include any amendment thereto. These regulations are adopted, and may be amended from time to time, by the Lancaster Board of Selectmen. All alcoholic beverages and common victuallers licenses issued by the Board shall be governed by these regulations.
2. These rules are supplementary to any statutory requirements and to the rules of the Alcoholic Beverages Control Commission.
3. Pursuant to the provisions of Chapter 103 of the Acts of 2001, accepted by the voters of the Town of Lancaster at the Town Election held May 13, 2002, the Board of Selectmen is authorized to grant licenses for the sale of wines and malt beverages to be drunk on the premises in restaurants having not less than 50 and not more than 125 seats. Not more than 2 such licenses shall be in effect at any one time.
4. Pursuant to the provisions of Chapter 103 of the Acts of 2001, the Board of Selectmen is also authorized to grant licenses for the sale of all alcoholic beverages to be drunk on the premises in restaurants having not less than 100 and not more than 500 seats. Not more than 4 such licenses shall be in effect at any one time.

### **III. License Application Procedural Summary**

#### **1. Filing of Applications**

All license applications must be “complete” to be processed by the Board. An application shall be considered “complete”, and therefore, accepted for processing, when it has been filed in accordance with the Town’s procedural instructions and all forms required have been fully completed and executed. Application filing fees must be paid prior to processing of the application by the Board. Annual license fees shall be payable immediately upon approval of the license by the Board. All filing fees shall be paid by certified check or money order. Filing fees are not refundable once the Board has accepted an application. License fees shall not be prorated and are not refundable.

#### **2. License Fee Schedule**

The annual fee for licenses issued in accordance with these regulations shall be as follows:

- Restaurant Licenses - Sale of wine and malt beverages - \$2,000.
- Restaurant License – Sale of all alcoholic beverages - \$2,500.

The ***Application Filing Fee*** shall be FIFTEEN PERCENT (15%) of the Annual License Fee, as follows:

- Restaurant Licenses - Sale of wine and malt beverages - \$300.
- Restaurant License – Sale of all alcoholic beverages - \$375.

#### **3. License Reapplications**

Once denied, an application may not be resubmitted for twelve (12) months unless a Board member, who previously voted against the license application, moves to allow the resubmission and such motion prevails.

#### **4. Compliance With All Laws and Regulations**

Licensees shall maintain their premises and operations in compliance with all applicable State and local building and sanitary codes, laws and regulations. All taxes and charges owed the Town must be paid on a current basis. Failure to comply with any of these laws and regulations shall be deemed an illegality or disorder and may result in disciplinary action.

#### **5. Definitions**

1. Whenever the word “**Agent**” is used it shall refer to a member of the Police Department or any other authorized licensing agent.

2. Whenever the word "**Licensee**" is used herein it shall mean an individual licensee and each member of a partnership licensee and each officer, director, manager, and stockholder of a corporate licensee and any agent of a licensee including those employees who work in the public areas of the premises.
3. Whenever the word "**License**" is used herein it shall mean a revocable privilege granted by a licensing authority.
4. Whenever the words "**Licensing Authority**" or "**Authority**" are used herein it shall mean those groups having legal authority to grant licenses and/or regulate the operation of the licensed premises. The specific licensing authority for the Town of Lancaster shall be the Board of Selectmen.
5. Whenever the word "**Patron**" is used herein it shall mean a customer who is legally on the licensed premises.
6. Whenever the word "**Premises**" is used herein it shall mean all land and buildings associated with the operation of the license.
7. Whenever the word "**Rules and Regulations**" is used herein it shall mean a compilation of regulations, ordinances and laws set up by a licensing authority to regulate the manner in which businesses under its authority shall operate.

## **SECTION ONE. APPLICATION PROCESS – GENERAL REQUIREMENTS**

### **1.00 Proof of Citizenship**

- a. Every applicant for a license, either individually or as a member of a partnership, association, or business shall furnish proof of his citizenship by production of a certificate of birth, naturalization or as a registered voter.

### **1.01 Application by an Individual**

- a. Every application for a license made by an individual shall be signed by the applicant therefore, who shall give his or her full name and home address.

### **1.02 Application by a Partnership**

- a. Every application for a license made by a partnership shall state the full names and home addresses of all the members of the partnership and shall be signed by a majority thereof.

### **1.03 Application by an Association**

- a. Every application for a license made by an association shall be signed by a majority of the members of the governing body thereof, who shall state their full names and home addresses.

#### **1.04 Certificate of Real Name of Person Conducting Business**

- a. Every applicant for a license required by the provisions of Section 5, Chapter 110 of the General Laws to file a certificate stating the real name if a person conducting a business, shall file with his application a certified copy thereof.

#### **1.05 Application by a Corporation**

- a. Every applicant for a license made by a corporation shall state the full names and home addresses of the president, treasurer, clerk and secretary, and directors. An officer duly authorized by a vote of its board of directors or other similar board shall sign it. A copy of such vote certified by the clerk or secretary of the corporation, together with a copy of the certificate of its organization, shall accompany the application.

#### **1.06 Qualifications and Appointment of Manager**

- a. Every applicant for a license made by a partnership, association, business or corporation, pursuant to subsections 1.02, 1.03, 1.04 and 1.05 above, shall include the name, home address and telephone number, and all previous relevant experience, if any, of a duly qualified manager or other principal representative who is a citizen of the United States and who is of character satisfactory to the Board of Selectmen. A copy of the vote appointing its manager or other principal representative, and vesting in him by a properly authorized and executed written delegation as full authority and control of the proposed licensed premises 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, shall also accompany the application.

#### **1.07 List of Other Alcoholic Beverage Licenses**

- a. Applicants for a license must list all other alcoholic beverage licenses held in any capacity, individually or as part of corporate or other entity, either currently or in the past. Applicants must also list any previous denials of an application for a license.

#### **1.08 Submission of Financial Records and Statements**

- a. The Board of Selectmen may require an applicant for a license to supply complete financial records and statements relating to the proposed licensed business.

#### **1.09 Description of Food Served and Manner of Service**

- a. The Board of Selectmen may request for review and consideration, the proposed menus, description of food to be served and the manner in which such food shall be served, when considering applications for a license.



### **1.10 Preparation of Application Forms**

- a. All applications for licenses shall be made upon blanks furnished by the Board of Selectmen, shall be fully answered in detail and shall be typewritten or legibly written in ink. Applications written in pencil, in whole or in part, will not be accepted.

### **1.11 Penalties for False Statements on Applications**

- a. All applications shall be made under the penalties of perjury and any false statement contained in any application, including but not limited to, the true names of those with a beneficial interest in the application for a license, shall be a cause or ground for refusing to grant the license or for suspending, canceling or revoking a license already granted.

### **1.12 Filing of Forms in Triplicate**

- a. Every application, which in any way has to do with a license for the sale of alcoholic beverages, other than an application for the straight renewal of such license, shall be filed with the Board of Selectmen in triplicate.

## **SECTION TWO: GENERAL LICENSING RULES FOR LICENSEES**

### **2.00 Applicability of Rules and Regulations**

- a. This section shall apply to all Town licensees, unless specifically provided otherwise.

### **2.01 Availability of Rules and Regulations**

- a. All licensees of the Licensing Authority for the Town of Lancaster shall ensure that a copy of the Rules and Regulations of the Authority is kept on the premises at all times and is available for inspection upon request by a member of the public or an agent of the Authority. These Rules and Regulations are to be kept in the office of the Manager or at the main cash register.
- b. The licensee is responsible for ensuring that all employees who work in the public areas of the premises read the Rules and Regulations of the Licensing Authority and comply with all rules and laws.

### **2.02 Posting and Signs**

- a. Licenses issued by the Authority shall be posted in a conspicuous place easily seen by the public where they can read without difficulty and without the assistance of employees at the premises.
- b. All other licenses, permits, and certificates affecting the licensed premises shall be posted conspicuously; provided, however, that no such document shall be

posted in such a way as to cover over any part of the license issued by the Authority.

- c. No dress code or preferred customer program or cover charge or other admissions policy shall be put into effect at the premises except upon proper posting pursuant to section 2.03 ("Admissions"), below.

## **2.03 Admissions to the Premises**

- a. No licensee shall permit any rule, policy, or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, sex, age, religious creed, physical or mental disability, national origin, ancestry, sexual orientation, marital status, ex-offender status, prior psychiatric treatment, or military status relative to the admission or treatment of persons from the general public or employees at the licensed premises; provided, however, that premises licensed pursuant to section 12 of the General Laws, Chapter 138, may make rules regulating the admission of minors to the premises when such rules are not inconsistent with other rules and regulations stated herein; provided further that private club licensees shall not discriminate, as aforesaid, with regard to guests at the licensed premises or with regard to who may be invited to the premises as a guest.
- b. No licensee shall institute dress requirements of any kind except according to the following rules:
  - (1) A sign shall be posted at the entrance stating dress requirements or dress restrictions with specificity that may also include restrictions as to footwear. (Examples: "Jackets required," "Ties and jackets required," "Shirts with collars required, no sneakers").
  - (2) No signs shall be posted which state that, "Proper dress required" or which otherwise announce a dress policy without stating specifically, item by item, what dress is required or what dress is prohibited.
- c. No licensee shall institute privileged entrance requirements of any kind except according to the following rules:
  - 1. A licensee may issue special passes.
  - 2. The special passes shall state the calendar year on the face of the pass.
  - 3. The special pass shall not entitle the pass holder to free drinks or to a discount on drinks.
  - 4. The licensee shall keep a list of the names and addresses of all pass holders and must have such list available if requested by the Authority.

5. The licensee is responsible for ensuring that persons are picked to be pass holders on a rational basis and not on any basis that is discriminatory in violation of law or these regulations.
- d. No licensee shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of charge; provided, however, that no such licensee shall require a person under thirteen years of age to pay a minimum charge or cover charge. Such cover charge shall not be collected in advance of gaining entrance to the licensed premises, and can only be charged upon a written or printed receipt, permanently recorded and numbered serially, presented to each individual customer or group of customers. The licensee shall keep records of such receipts for a period not less than two years. Cover charge shall mean all admission fees or admission charges. Such charges must also be posted on the outside of the licensed premises. Nothing in this regulation shall be construed to prohibit advance ticket sales.
- e. No minimum charge for the purpose of alcoholic beverages or minimum alcoholic beverage drinking requirement shall be imposed upon any customer of a G.L. c.138, § 12 licensee.
- f. A licensee who charges a minimum charge for the purchase of food and/or non-alcoholic beverages shall include a specific statement in a posting stating that there is no minimum charge for alcoholic beverages. Such minimum charge for food and/or non-alcoholic beverages shall not be collected in advance of gaining entrance to the premises. No licensee shall impose a minimum charge for food and/or non-alcoholic beverages upon any customer who incurs charges for alcoholic beverages equal to or greater than the posted minimum charge for food and/or non-alcoholic beverages.
- g. Licensees shall refuse entrance to the premises to a person who appears to be intoxicated or unruly; and shall evict such a patron, except that in such a case the licensee should call the police and should offer assistance to an intoxicated person when possible.
- h. Licensees shall not permit entrance to the premises by more persons than the maximum occupancy limit established by the Building Department.
- i. Licensees who permit persons to wait in line for a table or a seat or for entrance to the premises shall obey the following rules:
  - (1) Persons who wait inside the premises shall be kept in an orderly line and must not be permitted to block fire aisles or exits. The number of such persons waiting inside the premises shall not exceed the number of persons allowed as standees as determined by the Building Inspector.

- (2) Persons who are permitted to wait in line outside the premises shall be supervised by an employee of the licensed premises. Such employee shall stand outside with the line during all times when the line exceeds ten persons and shall announce no further admissions to the premises if persons in the line are being loud or disorderly or if the line is blocking the sidewalk or is of a size that could reasonably be expected to cause noise or other problems for residents of the area or for passersby. To the extent that lines in front of a licensed premises become the subject of public complaints the licensee shall have been deemed to be inviting a public nuisance and shall be subject to disciplinary proceedings for same. It is recommended that licensees in residential areas discourage lines of more than ten persons.
- j. Licensees shall not lock the front door of the premises until the last patron has exited from the premises.
- k. Licensees shall not allow any patron or any guest or any employee who is not working that shift to enter the premises after the closing hour posted on the license or prior to the opening hour posted on the license.

#### **2.04 Hours of Operation**

- a. The hours of operation shall be restricted to those set by the Licensing Authority and stated on the face of the license, however, in no event shall alcohol be served before 11:00 a.m. and after 11:00 p.m. on any secular day. No alcoholic beverages may be served on Sunday before 12:00 p.m. and later than 11:00 p.m. No patrons shall be on the premises before the official opening hours or fifteen minutes after the official closing hours. Customers must be up and on the way out once the closing hour of the licensed premises has been reached.
- b. The rules for employees on premises after closing hours are as follows: employees must be off the premises no later than sixty (60 minutes after the "Official Closing Hour," provided however, that such employees or other hired personnel may be on the premises at any time for the purpose of cleaning, making emergency repairs, providing security for the premises, or preparing food for the next day's business or opening or closing the business on an orderly manner.
- c. Licensees shall ensure that their patrons leave the premises in an orderly manner. Licensees who have a clientele that regularly fails to leave the area in a quiet and orderly manner must hire security personnel to police the leave-taking of the patrons at closing time.

#### **2.05 Physical Premises**

- a. The licensed premises shall conform to the floor plan approved by the Authority with regard to the structures and the walls at the premises, as well as with regard to all tables, chairs, booths, bars, counters, bar stools, dance floors or areas, railing partitions, and other barriers at the premises. Any changes in the floor

plan or any renovations of any kind shall not be made without notification to the Authority and the approval of the Authority. This includes substantial changes in the arrangement of moveable furniture.

- b. All premises covered by the license shall be kept in a clean and sanitary condition.
- c. No outside area shall be used as a gathering place for patrons unless approved by the Authority.
- d. The premises shall be lighted in all public areas in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents of the Authority to make observations at the premises without the need to identify himself or herself or the need to seek assistance.
- e. The capacity set for the premises by the Building Commissioner shall be the maximum potential capacity for the premises.
- f. Licensees shall not invite the members of the general public to private areas of the premises that are approved by the Authority for storage or for an office or for a kitchen or for a music or video projection room or for any similar non-public use. Only owners and employees of the licensed premises or persons involved in a commercial relationship with the establishment (e.g. vendors and contractors) shall be in these areas.
- g. No advertising matter, screen, curtain or other obstruction, which in the opinion of the License Authority, Liquor Officer or its Agents, prevents a clear view of the interior of the premises, shall be maintained in or on any window or door thereof after the Authority has ordered the removal of such obstruction.
- h. No premises shall be licensed that contain any advertisement or sign upon which appears the brand name of any product sold in the establishment including wine or beer, except that signs or advertisements inside of the premises that cannot be seen from the exterior of the premises are permitted.
- i. In licensed premises, all food and drink service shall conform to the following:
  - Food shall be served on china, pottery or other solid dinnerware and shall use metal silverware. No plastic or paper dinnerware or silverware is permitted.
  - Alcohol must be served in glass or pottery containers only. No paper, plastic or other containers will be used for service. Pitchers or carafes of beer or wine with a capacity of 750 ml or less will be permitted.
- j. The interior of the premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted signs, “**Exit**” as same may be mandated by the Building Commissioner of the Town of Lancaster or by the Fire Department of the Town of Lancaster.

## **2.06 Business Arrangements of Licensees**

- a. No person or entity will be granted a new or renewed license unless the applicant for such license or for renewal of such license can demonstrate proof of a legal right to the licensed premises for the term of the license. Such proof shall include ownership papers or a tenancy document or a management contract; provided, however, that all parties to such ownership or leasehold interest or management contract shall be known to the Authority and the terms of such agreements or contracts shall be made known to the Authority.
- b. No licensee shall hire any employee or contract for goods or services in any name other than that of the licensee, nor shall the licensee pay for any such employment, goods, or services by any means other than its own cash or bank accounts in its own name. Cash transactions shall be recorded in a manner suitable for review by the Authority. Such records shall be kept for a period of three years.
- c. No licensee shall permit any person to have a direct or indirect financial or beneficial interest in the licensed business or to receive any revenue from the business or to manage the premises other than the persons properly approved of by the Authority or the salaried employees of such persons.
- d. No licensee shall permit any person to work at the licensed premises or to hold themselves out as a person in a position of authority at the premises except for those persons who are owners and officers or who are salaried employees for whom payroll records are available. No licensee shall pay an employee any percentage of the profits of the business or pay an employee in any manner other than by salary or hourly rate except upon approval of the Authority.
- e. No licensee shall pay a landlord or creditor of any kind a percentage of the profits of the business except upon complete disclosure to the Authority and the receipt of the Authority's approval.
- f. No licensee shall lease out any part of the premises or any part of the business without the approval of the Authority. No licensee shall lease out the food or beverage service without the approval of the Authority.
- g. No licensee shall enter into an agreement with an independent contractor to provide beverages or food or entertainment or management at the premises without the approval of the Authority.
- h. No licensee shall pledge the stock in the licensed business or the license itself without the approval of the Authority pursuant to G.L. c.138 §15A. No licensee shall pledge a license without obtaining the approval of the Authority pursuant to G.L. c.138, §15A.

- i. No licensee shall take a loan secured by any equipment at the premises or secured by any direct or indirect interest in the licensed business without the approval of the Authority. This includes kitchen equipment, video or audio equipment, lighting equipment, furniture, or any other type of equipment.
- j. No licensee shall contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed.
- k. Managers in licensed premises shall not be changed until the Authority and the Alcoholic Beverages Control Commission have approved such change.
- l. Any licensee intending to close its place of business shall notify the Authority in writing before such closing and state the reason for such closing.
- m. Assignment of the stock of corporate licensees for purposes of collateralizing loans or notes, etc., gives no right to the assignee to conduct the business of the licensee. Licensees shall immediately notify the Authority when the assignee forecloses under such assignment of stock or when other proceedings are brought which affect the economic and financial rights and abilities of the licensee.
- n. Licensees shall not enter into any agreement or understanding that sets a minimum requirement for gross sales of food and beverages at the premises.
- o. Licensees shall not use any trade name, assumed name, or abbreviated name in connection with the licensed business unless the same appears on the license certificate issued by the Authority or unless written permission is first obtained from the Authority. The use of any unauthorized name on the books, records, stationery, or interior or exterior of the licensed premises or for advertising purposes or telephone listing is prohibited unless permission is first obtained from the Authority.
- p. Licensees are responsible for maintaining a legal right to access to and control of the premises that is covered by the license. Failure to have a legal right to the named licensed premises shall result in the revocation or non-renewal of the license.
- q. Licensees shall furnish, by March 1<sup>st</sup> of each year, an annual financial status report from a certified public accountant indicating the gross sales for food and gross sales for alcoholic beverages for the preceding calendar year.

## **2.07 Alcoholic Beverages Sales and Laws**

- a. No alcoholic beverages shall be sold for less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage.

- b. All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.
- c. No licensee or employee or agent or a licensee shall:
  - 1. offer or deliver any free drinks to any person or group of persons;
  - 2. deliver more than two drinks to one person at one time;
  - 3. 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 general public;
  - 4. sell, offer to sell, or deliver to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the general public;
  - 5. sell, offer to sell or deliver drinks to any 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;
  - 6. sell, offer to sell or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time;
  - 7. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
  - 8. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes;
  - 9. advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
- b. Nothing contained in the preceding section shall be construed to prohibit licensees from offering free food or entertainment at any time; or to prohibit licensees from including a drink as part of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one persons; or to prohibit those licensed under Chapter 138, section 15, from offering free wine tastings; or to prohibit those licensed under Chapter 138, section 12, from offering room services to registered guests.
- c. Licensees shall not permit alcoholic beverages to be brought on the licensed premises by patrons or employees.



- d. Licensees shall be responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by another patron. Licensees who do not have the ability to keep track of the drinking activity of minors at the premises shall exclude minors from coming onto the premises in order to meet the burden of ensuring that there is no underage drinking at the premises. Licensees who choose to permit minors on the premises, whether pursuant to an "I.D. bracelet" program or otherwise, shall be accountable if minors are found to be drinking alcoholic beverages on the premises, whether or not the Authority's agents are able to prove that the licensee actually served the drink directly to the minor. Sufficient security personnel shall be employed to monitor the premises to ensure that patrons do not pass alcoholic beverages to minors.
- e. Any establishment licensed to sell alcoholic beverages to be drunk on the premises shall post a copy of the penalties for driving under the influence set forth in section 24 of General Laws Chapter 90. Establishments licensed to sell alcoholic beverages not to be drunk on the premises shall post a copy of the penalties for operating a motor vehicle while drinking from an open container. Said copies shall be posted conspicuously in said establishments. Said copies are available at the Alcoholic Beverages Control Commission.
- f. Licenses issued under M.G.L. Chapter 138, Section 12, otherwise known as restaurant pouring licenses, may be issued to only duly licensed common victuallers and innholders who have adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons, as required by Chapter 140 of the General Laws. Food service shall be available in all areas of the licensed premises where alcoholic beverages are served, this to include dining areas and lounge areas. This does not include any area approved as a waiting area by the Licensing Authority.

## **2.08 Environs of Licensed Premises**

- a. It shall be the obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee shall be accountable for all violations that are related to the licensed premises to determine whether or not the licensee acted properly in the given circumstances.
- b. No licensee may have upon the premises any automatic amusement machine unless it has been approved and separately licensed by the Town of Lancaster. Types of machines and location of machines upon the premises must be approved. The licensee must make application, not the distributor.
- c. No forms of entertainment, including but not limited to recorded or live music, or dancing, shall be allowed without first obtaining an entertainment license from the Board in accordance with the provisions of Chapter 140 of the General Laws.

- d. Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate in front of or at the licensed premises. Failure of the licensee to keep persons from congregating at the licensed premises may lead to disciplinary action against the licensee for allowing a public nuisance. Action to be taken by the licensee shall include: (1) maintaining the front door in a closed position; (2) asking loiterers to disperse; (3) promptly notifying the police if loiterers refuse to disperse; (4) hiring a security guard or stationing a security employee at the front door to disperse loiterers; (5) refusing to allow patrons to walk in and out of the premises at short intervals; (6) maintaining order in lines of patrons waiting outside to get in; (7) announcing that no further patrons will be allowed into the premises if lines become too long or disorderly or loud.
- e. Licensees shall take such steps as are necessary to ensure that patrons or employees do not leave the premises with alcoholic beverages. Such steps shall include having an employee stationed at the door to watch patrons as they leave. When patrons are observed leaving the premises with beer bottles, beer cans, or cups or glasses filled with liquids that smell like alcoholic beverages to the Authority's agents, it shall be presumed that the vessels contain alcoholic beverages.
- f. When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or adjacent to the licensed premises, or in any parking lot provided by the licensee for the use of its patrons, which in the judgment of the Authority adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the licensed premises are located, or results in the licensed premises becoming the focal point for police attention, the licensee may be held in violation of the license and subject to disciplinary proceedings.

## **2.09 Inspections and Investigations**

- a. The licensed premises shall be subject to inspection by the members of the Licensing Authority and its duly authorized agents. Any hindrance or delay of such inspection caused by an employee of the licensee shall be cause for disciplinary action against the license. It shall be the responsibility of the licensee to ensure that procedures are in place, be it posting a doorman or otherwise, to allow Police and authorized agents of the Authority, immediate entrance into the premises anytime employees are on the premises. Any delay in providing such access shall be cause for action against the license.
- b. Licensees shall maintain a current list of all of their employees and shall have it available at all times for inspection upon the request of an authorized agent of the Authority. Licensees who contract with entertainment entities to provide entertainers must maintain a current list of the names of such entertainers and said entertainers shall be held to the same rules as other employees at the premises.

- c. No device or electronic equipment shall be utilized by a licensed premise for the purpose of signaling employees that agents of the Licensing Authority are present.
- d. All complaints and reports shall continue in force until they have been reviewed and disposed of by the Licensing Authority.

## **2.10 Standards of Conduct on the Premises**

- a. It is forbidden to permit any employee or person in or on the licensed premises to promise, offer, suggest, or accept sexual acts or favors in exchange for money or for the purchase of any alcoholic beverages or other commodities.
- b. It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks or genitals of any other person.
- c. No alcoholic beverages shall be sold to anyone less than twenty-one (21) years of age. No service of alcoholic, wine/malt beverages shall be made to anyone less than twenty-one (21) years of age.
- d. No manager or employee shall consume any alcoholic beverages while on the licensed premises while on duty or after the official closing hour.

## **2.11 Illegal Activity on the Licensed Premises**

- a. Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts shall include:
  - (1) Frequent monitoring of restrooms and other nonpublic areas of the premises for signs of drug activity or other illegalities;
  - (2) Paying attention to activities on the premises of known drug users or drug dealers or prostitutes or others who are known to have been convicted of crimes which may be conducted at a licensed premises;
  - (3) Monitoring of activities of persons who talk about weapons or who appear to be hiding a weapon;
  - (4) Calling for police assistance as necessary to protect patrons against injury or to evict unruly patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information;
  - (5) Hiring security personnel to deal with chronic unlawful activity at the premises such as prostitution or gambling or larceny from patrons or assaults and batteries or other problems associated with the premises.

- b. There shall be no disorder, prostitution, illegal gambling, illegal drug use or sales or possession, or other illegal activity on the licensed premises or any premises connected therewith by an interior communication.

## **2.12 Injuries to Persons at the Premises**

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

## **2.13 Other Causes for Revocation, Suspension, and Modification**

- a. Any license issued pursuant to General Laws Chapter 138 may be subject to disciplinary action for any of the following causes:
  - 1. Violation by the licensee of any provision of the relevant General Laws of the Commonwealth, of the regulations of the Alcoholic Beverages Control Commission or of the regulations of the Licensing Authority;
  - 2. Fraud, misrepresentation, false material statement, concealment or suppression of facts by the licensee in connection with an application for a license or permit or for renewal thereof or in connection with an application for the removal of the licensed premises or the alteration of the premises or in connection with any other petition affecting the rights of the licensee or in any interview or hearing held by the Authority in connection with such petition, request, or application affecting the rights of the licensee;
  - 3. Failure to operate the premises covered by the license without prior approval of the Licensing Authority;
  - 4. Failure or refusal of the licensee to furnish or disclose any information required by any provision of the General Laws or by any rule or regulation of the Alcoholic Beverages Control Commission or any rule or regulation of the Licensing Authority;
  - 5. Licensees shall not give or offer any money or any article of value or pay for or reimburse or forgive the debt for services provided to any employee or agent of the Authority either as a gratuity or for any service;

6. Licensees may not fail to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Authority or upon which any application or petition relating to the premises was granted by the Authority. It shall be the duty of the licensee to ensure that all appropriate personnel at the licensed premises are familiar with the rules and regulations of the Authority and with any conditions on the license.
7. A license may be suspended or modified or revoked for the refusal by any licensee and, if a corporation, by a manager, officer, or director thereof to appear at an inquiry or hearing held by the Authority with respect to any application or matter bearing upon the conduct of the licensed business or bearing upon the character and fitness of such person to continue to hold a license.
8. Licensees shall properly serve suspension and modification orders.

#### **2.14 Sentencing Guidelines**

- a. Licensees in violation of the applicable laws of the Commonwealth, regulations of the Alcoholic Beverage Control Commission and/or these regulations may be subject to the following range of discipline:
  - i. First offense: warning to seven-day suspension.
  - ii. Second offense: warning to thirty-day suspension.
  - iii. Third offense: warning to revocation.
- b. Only offenses, which have occurred within the two years preceding the date of violation, shall be used in calculating the number of offenses for purposes of the sentencing guidelines.
- c. The sentencing guidelines are only a guide. The Licensing Authority may use its discretion in determining whether the facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by the guidelines.
- d. The sentencing guidelines shall not be construed so as to limit the Licensing Authority's authority to consider alternative dispositions, or further conditions on a license, or even alternate penalties (e.g. roll back of operating hours).

#### **2.15 Service of Suspension Orders**

- a. When the Authority suspends the license or licenses of any licensee, it shall provide the licensee with an order of suspension for public display that must contain the words, "No alcohol served per order of the Board of Selectmen for the

Town of Lancaster." The licensee shall publicly display such order in the following manner. If there is a door opening from the street into the licensed premises and a window facing the street upon which such door opens, such order shall be displayed in such window so that it may readily be seen from the street. If the licensed premises are otherwise located, such order shall be affixed to the door of the entrance to the premises and displayed in such a way that it may be readily seen from the street.

- b. Suspension orders of the Authority, as above, shall remain affixed throughout the entire period of suspension. The removal, covering, defacement, or obliteration of the order of suspension or the failure to maintain the order of suspension in the manner and place required prior to the expiration of the suspension period shall be deemed the act of the licensee and shall be cause for further suspension, modification or revocation of the license.
- c. Suspension periods shall not be used as a time to do renovations at the licensed premises without permission from the Authority.

#### **2.16 Permission to Close Premises Required**

- a. Any licensee intending to close a place of business, whether on a temporary or permanent basis, must notify the Licensing Authority in writing before such closing stating the reason and length of such closing and obtain approval. Failure to provide such notice may result in the suspension or revocation of the license. When a business is closed on a permanent basis (as determined by the Board), the licensee shall immediately surrender the license that shall then be considered available for re-issuance.
- b. The restriction in (a) shall not apply to a closing due to an act of God, natural disaster, illness or some other business problem for which request had been made to the Authority and approval granted.

#### **2.17 Bankruptcy and Court Proceedings**

- a. The licensee shall immediately notify, in writing, the Licensing Authority of any proceedings brought by or against the licensee under the bankruptcy laws or of any other court proceedings that may affect the status of the license.

#### **2.18 Management**

- a. Each corporate licensee must appoint a manager by a properly authorized and executed delegation.
- b. The responsibilities of every license holder and any manager shall be as follows:
  - (1) To obey all statutes of the Commonwealth, rules of the Alcoholic Beverages Control Commission, Rules and Regulations of the Licensing Authority;

- (2) To promptly notify the police of any disturbances or illegal activity on the licenses premises of which he becomes aware;
  - (3) As to corporate licensees, to sign the annual application for renewal of license, unless unavailable;
  - (4) To cooperate with authorized agents of the Licensing Authority, including but not necessarily limited to, any police officer, in their investigation or inspection of the licenses premises.
- c. Any such notice sent to the manager as named in the records of the Licensing Authority or the owner at the address of the licensed premises shall constitute valid legal notice to the licensee.
- d. The licensee shall not change managers, change corporate officers, sell or transfer corporate stock, pledge corporate stock or liquor license as security, or accept a loan or credit from another licensee, without first obtaining the approval of the Authority. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Authority.

## **2.19 Service Training**

- a. An employee-training program on the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated shall be provided by the licensee. A written description of such program, along with a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be provided to the Authority as part of the original or renewal application materials and maintained on the premises at all times.
- b. A signed certification of each employee who handles alcohol, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the premises at all times. Copies of all such documents and certifications shall be available to the licensing authority, or any authorized agent thereof, upon demand.
- c. Each new employee who handles alcohol shall obtain server training within thirty (30) days of commencing employment.
- d. Upon a finding by the Authority of a violation of the laws or regulations concerning service of alcohol to a minor or intoxicated person, the employees involved in the violation who continue to be employed by the licensee shall be retrained forthwith and receive a new server training certification.
- e. The training and certification referenced in Section 1.19 shall be pursuant to a training program approved by the Authority (e.g. TIPS or equivalent).