



Adopted: May 26, 1987
Amended: May 10, 1993
Amended: May 15, 2006
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TOWN OF CONCORD SELECT BOARD ALCOHOLIC BEVERAGES REGULATIONS

I. Purpose

The Select Board (“the “Board”) is authorized by M.G.L. c. 138, §§ 1, et seq., to issue and to regulate Alcoholic Beverage Licenses (“License”). These regulations are the guiding principles by which the Board will review and decide matters concerning filing, issuance, renewal, modification, and enforcement of Licenses for all premises subject to a License (“Licensed Premises”).

In granting, issuing, renewing, modifying, or enforcing Licenses, the Board may, at its discretion, attach to Licenses conditions or restrictions that it determines to be in the public interest. These conditions or restrictions include, but are not limited to, hours of operation, seating capacity, or floor areas for sales or service. All License holders must comply with all applicable State and local laws, including but not limited to M.G.L. c 138 and c. 140, the State Building Code, the State Sanitary Code, the Alcoholic Beverage Control Commission (ABCC) Regulations, the Concord Town Bylaws, and any other applicable rules or regulations of the Town of Concord.

Failure to comply with federal, state, or local laws, regulations, rules, or conditions may result in the suspension, revocation, or denial of a renewal of a License. Certain violations may also result in civil or criminal liability.

II. Grant of Licenses Limited

Only establishments providing food service are eligible to receive alcoholic beverages licenses. “Food service” is defined as the service of any food, including appetizers, desserts and snacks.

III. Applications for Licenses.

All applications for new Licenses shall adhere to the provisions of M.G.L. c. 138, § 15A. Application packages must comply with the following.

- A. Applications for New or Transferred Licenses. All applicants for a new or transferred License must submit:
- i. The applicant’s Alcoholic Beverages Control Commission (“ABCC”) application package;
 - ii. A floor plan of the building on which is clearly marked and designated the location of proposed service bars and the dining rooms, function rooms, restrooms, or other rooms;
 - iii. If the applicant is a corporation, the application shall also:

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- a. Include the full names and home addresses of the president, treasurer, clerk and secretary, directors and manager or other principal representative of the corporation;
 - b. Be signed by a corporate officer duly authorized by a vote of the corporation's board of directors or other similar board, with a copy of such vote certified by the clerk or secretary of the corporation, together with a copy of the certificate of its organization, submitted with the application;
 - c. Include a copy of the vote appointing the corporation's manager or other principal representative shall also be submitted with the application.
- iv. The \$200 application fee;
 - v. Current certificate of alcohol awareness training for premises manager; and
 - vi. Any additional information specific to the applicant, as requested by the Board.

B. Application for Renewal. All applicants for a renewed License must submit:

- i. The applicant's ABCC Renewal Application Form;
- ii. Whether the ownership of the Licensed Premises has changed since the last action taken on the License;
- iii. If the applicant is a corporation, the application for renewal shall also:
 - a. Include the full names and home addresses of the president, treasurer, clerk and secretary, directors and manager or other principal representative of the corporation;
 - b. Be signed by a corporate officer duly authorized by a vote of the corporation's board of directors or other similar board, with a copy of such vote certified by the clerk or secretary of the corporation, together with a copy of the certificate of its organization, submitted with the application;
 - c. Include a copy of the vote appointing the corporation's manager or other principal representative shall also be submitted with the application
- iv. Proof of insurance;
- v. Current certificate of alcohol awareness training for premises manager;
- vi. A list of any violations these Regulations within the last three (3) years;
- vii. The \$100 application fee;
- viii. Thirty days prior to the submission deadline for annual liquor license renewals, the Police Department will submit a written report to the Licensing Agent documenting any and all violations that occurred in the calendar year; and
- ix. Any additional information specific to the applicant, as requested by the Board.

IV. General Provisions for Holders of Alcoholic Beverages Licenses

- A. Hours of Service. Unless the Board conditions a License on a further reduction or extension of hours, the hours for service alcoholic beverages shall be as follows:

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- i. Monday – Saturday (inclusive): 11:00 a.m. to 11:00 p.m.
- ii. Holiday hours will be determined by the Board. Clubs may serve alcoholic beverages past 12:00 midnight on New Year's Eve until 1:00 a.m. on January 1, subject to a written request to and the prior approval in writing from the Town Manager, at the Town Manager's discretion.

B. Supervision – Presence. At all times during the service of alcoholic beverages on the Licensed Premises, the individual with management authority or control over the Licensed Premises must be willing and able to exert the control necessary to maintain the Licensed Premises in a safe, sanitary, and orderly manner. Such individual shall not consume alcoholic beverages on the Licensed Premises outside of the Licensed Premises' hours of operation for that day.

C. Clubs. Under M.G.L. c. 138 §12, a License may be issued to a "Club," which means a nonprofit corporation or association, for sales of alcoholic beverages to Club members only and to the guests of the members. All other rules and regulations regarding sales and serving are in effect.

- i. Alcoholic beverages may be sold to club members and guests introduced by members, but to no others.
- ii. No manager, employee, owner, board member, Club member or guests of Club members shall consume alcoholic beverages in or upon the Licensed Premises before the opening hour or after the closing hour stated on the License.
- iii. A current list of members, associate members and guests shall at all times be available to the Board or to the Town Manager, or to both.

C. Managers. Each establishment to which a License granted is prohibited from operating without a Manager of Record on the premises during all hours of alcoholic beverage service.

- i. The Manager of Record must be approved by the Board prior to that person assuming the duties of Manager of Record or Alternate Manager of Record. The Manager of Record must be engaged in the actual management of the Licensed Premises as their main occupation and must be present on the Licensed Premises for not less than thirty (30) hours per week during the hours when Alcoholic Beverages are sold. In the event that the Manager of Record is not present, an individual previously approved by the Board as Alternate Manager of Record, must be present on the Licensed Premises during hours when Alcoholic Beverages are sold or served.
- ii. No corporation, organized under the laws of the commonwealth or any other state or foreign country, shall be issued a license to sell in any manner any alcoholic beverages unless such corporation shall have first appointed, by vote of its Board of

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Directors or other similar board, as manager or other principal representative, a citizen of the United States, and shall have vested in him by properly authorized and executed written delegation full authority and control of the premises described in the license of such corporation and of the conduct of all business therein relative to alcoholic beverages nor unless such manager or representative is, with respect to his character, satisfactory to the licensing authorities.

- iii. The Alternate Manager of Record, a person qualified, authorized and satisfactory to the Board and whose authority to act in place of the Manager of Record shall first have been certified to the Board, must be present on the licensed premises and available to the licensing authorities and inspectors during all hours when alcoholic beverages are sold and the Manager of Record is not present.
- iv. In the event of the removal, resignation or other departure of any Manager of Record or Alternate Manager of Record, notification must be made to the Board immediately. No person shall be authorized to serve as a replacement Manager of Record or Alternative Manager of Record unless appointed by the Board in accordance herewith.
- v. The full name, residential address, business and telephone numbers of said Manager of Record and Alternate Manager of Record must be on file in the Select Board's Office and will be forwarded to the Police Department. Failure to have such information on file and current or the failure of the Manager of Record or Alternate Manager of Record to be on the premises while alcoholic beverages are offered for sale shall alone be cause for revocation or suspension of such license.
- vi. The Manager of Record and all Alternate Managers of the facility must provide the Board with proof of current alcohol sales or service training (TIPS or equivalent training) upon the date of their appointment and at each annual renewal. All other employees who serve or sell alcohol must complete similar training within 45 days of hire and maintain their certification during their employment by the licensed establishment. In unusual circumstances, licensees may petition the Board in writing for an extension of time, not to exceed 30 calendar days, in order to comply with this section. Such an extension of time will only be granted if the Board is convinced that a good faith effort has been made to comply.

D. Manager's Duties. The Manager of Record shall ensure compliance with the following:

- i. Anyone selling or serving alcoholic beverages must be at least 18 years of age.
- ii. All Licensed establishments are required to have an alcohol serving policy on file with the Select Board's Office and the Concord Police Department. All employees who serve or sell alcoholic beverages must be familiar with the policy and responsible for its implementation.
- iii. All Licensed establishments are required to have an alcohol serving policy on file with the Select Board's Office and the Concord Police Department. All employees

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- who serve or sell alcoholic beverages must be familiar with the policy and responsible for its implementation.
- iv. No manager, employee, owner, board member or club member shall consume alcoholic beverages in or upon the Licensed Premises before the opening hour or after the closing hour stated on the License
 - v. Closing Hour
 - a. All bottles and glasses containing alcoholic beverages must be removed from tables and bars within 15 minutes after legal closing.
 - b. Premises must be cleared of all patrons and all employees other than managerial and cleaning employees not later than 30 minutes after legal closing time.
 - c. All outside signs or lights of the Licensed Premises must be extinguished.
 - vi. Upon discovery of any unlawful, dangerous, disruptive, indecent, or immoral behavior, incident, trespass, accident, or other occurrence, the Manager of Record or Alternate Manager of Record must immediately call the Concord Police Department. After any occurrence for which a police report is made or for which the Concord Police Department takes any statements, the Manager of Record shall, within forty-eight hours, provide a written report to the Board. The report shall include:
 - a. Parties involved, by names;
 - b. Time of occurrence and date;
 - c. Action taken or to be taken by Manager of Record and time and date upon which action was taken;
 - d. Description of the circumstances – including damages and whether there were any apparent injuries; and
 - e. Employees present at the time of the incident.
 - vii. The Manager of Record, Alternate Manager of Record, and all servers of alcoholic beverages shall make an effort to prevent a member or guest from operating a motor vehicle if said member or guest appears to be "under the influence" of alcohol.

V. Violations of Regulations or Concord Bylaws

- A. Violations. License holders will be in violation of these regulations for conduct including, but not limited to:
 - i. Sale or delivery to an underage person;
 - ii. Sale or delivery to intoxicated persons;
 - iii. Sales or serving before or after hours stated on the License;
 - iv. Use of narcotics on the Licensed premises;
 - v. Unlicensed gambling/gaming, and failure to meet any of the terms of the regulations of the Board; or
 - vi. Oral or written misrepresentation of fact made by an applicant, prospective license transferee, Manager of Record or Alternate Manager of Record in any application, report, or similar communication to the Board.

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B. Procedure after Violations.

- i. Upon an observed or written report, complaint, or allegation of a violation, the Board shall designate one individual to conduct a preliminary investigation. The preliminary investigation shall take no more than thirty (30) days, and the designated investigator shall have the right to inspect the premises as reasonably necessary given the violation being investigated.
- ii. At the end of the investigation, the Board's designee shall provide to the Board a report with all facts, evidence, and other documentation obtained during the investigation.
- iii. The Board shall hold a hearing concerning the violation at the next regular meeting of the Board, unless the next regular meeting of the Board does not allow for proper notice thereof as to the hearing, in which case the hearing will occur at the following regular meeting of the Board. The License holder shall attend the hearing, and the Board shall open the hearing by either:
 - a. Notifying the License holder that the Board has not found a violation, including the reasons for this conclusion, and that the matter shall be closed, with written notice provided within fourteen (14) days of the hearing; or
 - b. Notifying the License Holder that the Board's preliminary determination is of a violation, and provide the License holder or an opportunity to be heard as to the violation. The License Holder may present evidence and testimony.
- iv. At the conclusion of a hearing under Section 5(B)(iii)(b), the Board shall vote to determine whether a violation has been found. If a violation is found, the Board shall notify the License holder in writing within fourteen (14) days, and of what enforcement action will be taken. The notice of violation must also inform the License holder of their right to appeal the Board's decision with the ABCC within five (5) days of the notice of violation.
- v. Within thirty (30) days of notice of a violation, the License holder shall provide to the Board, in writing, steps taken or to be taken to address the violation. This information shall be placed in the License holder's file with the Board and may be considered as part of the Board's review of an application for renewal of a License.

C. Enforcement. The Board may issue the following penalties:

- i. First offense: Written warning issued to the License holder, with a copy in the License holder's file with the Board.
- ii. Second offense within 12 months: A separate hearing before the Board to determine enforcement actions including, but not limited to, suspension or revocation of the License. The Board reserves the right to impose more significant consequences, for which the Board shall provide additional justification if applicable.

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iii. Third and subsequent offenses: Civil fines in the amounts permitted by applicable law.

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

- i. First reported instance – The Board shall provide the Manager of Record of the Licensed Premises with a cautionary letter advising of the report. Further, upon the determination of the Board and based upon the results of further police investigation, the Manager of Record of the Licensed Premises, the Town Manager, the Police Chief and a member of the Board may meet in private to confirm the adequacy of the Licensed Premises policy and procedures in serving patrons.
- ii. Second and subsequent reported instances within twelve consecutive months – The Manager of Record of the Licensed Premises shall be called before a full meeting of the Board for a review of the Licensed Premises procedures and to consider an appropriate response of the Board based upon the information that is subsequently gathered.

VI. Miscellaneous Provisions

- A. Right to Inspect. The Concord Police, the Board, or the Board's duly authorized agents have the right to inspect any Licensed Premises at any time.
- B. Display of License. The alcoholic beverage license must be prominently displayed and available for public viewing inside the premises.
- C. Prohibition Against Brown Bagging. Brown bagging (i.e., consumption of alcoholic beverages brought into a business establishment by a customer or other person) is prohibited in the Town of Concord. No commercial establishment in the Town of Concord shall serve or permit the consumption of an alcoholic beverage upon its premises without an Alcoholic Beverage License. No patron shall be permitted to bring into or onto the premises of a commercial establishment any alcoholic beverage for consumption on the premises.
- D. Prohibition of Service or Consumption of Alcoholic Beverages Outside of Licensed Premises. No licensee may permit the serving or consumption of an alcoholic beverage outside of the Licensed Premises designated in the license. In particular, but without limitation, alcoholic beverages may not be served or consumed on a patio, sidewalk, outdoor garden or similar area adjoining the Licensed Premises unless such area has been specifically provided for in the License.

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- E. Amendments to License to Add Outdoor Alcoholic Beverage Table Service to the Licensed Premises. If a License holder wishes to amend the Licensed Premises designated in the license to include outdoor alcoholic table service, licensees should file an application for renewal with the Board. The Board shall then provide the ABCC notice of any amended License and can do so by submitting an updated Licensing Authority Certification form describing the newly approved Licensed Premises. The amendment does not require ABCC approval (as of April 30, 2024).
- F. Severability. With respect to the constitutionality of the Regulations or where a conflict may exist with any other law or regulation, each and every provision of these Regulations is declared to be separable and independently enforceable.