

Town of Chelmsford

Liquor & Common Victualler License Regulations



Chelmsford Select Board Licensing Authority

LIQUOR LICENSE REGULATIONS

INTRODUCTION

In issuing regulations, the Select Board, as the local licensing authority of the Town of Chelmsford, is setting forth the expectations of the residents of Chelmsford 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 Select Board believes that violations will be prevented because these regulations will require liquor license holders to operate in accordance with a clearly defined standard.

SECTION 1: GENERAL LICENSING RULES FOR LICENSEES

1.01 LICENSING AUTHORITY:

These regulations are adopted, and may be amended from time to time, by the Chelmsford Licensing Authority, pursuant to the provisions of Massachusetts General Laws, Chapter 138 and Chapter 140. Any and all alcoholic beverages and common victualler licenses issued by the Licensing Authority shall be governed by these regulations, Massachusetts General Laws, Chapter 138 and Chapter 140, and the rules and regulations of the Alcoholic Beverages Control Commission (ABCC) of the Commonwealth of Massachusetts, as the same may be amended from time to time. Wherever a statute or ABCC regulation provides a stricter standard than contained in these regulations, the stricter standard shall apply.

1.02 FILING OF APPLICATIONS:

All license applications must be complete, in order to be processed by the Licensing Authority. The office of the Licensing Authority has a complete instruction packet regarding the filing of applications which lists information that will be required as well as the various forms. In many instances a legal notice, paid for by the applicant, will be required and immediate abutters notified of the date of the public hearing. Complete information regarding legal notice and notification to abutters is available at the office of the Licensing Authority. While the office of the Licensing Authority will assist any individual with the filing of an application, it is not the responsibility of the office staff to fill out and complete the application and forms required by the Town and the Commonwealth of Massachusetts. It is the responsibility of the applicant to be fully versed in all relevant laws, rules, and regulations pertaining to the sale of food and/or alcohol. Ignorance of the law may not be used as a defense of procedural mistakes or illegal behavior.

1.03 FILING FEES:

Filing fees must be paid when the application is filed at the office of the Licensing Authority. Fees will vary depending upon the type of application submitted. Town filing fees, if paid for by check, must be payable to the "Town of Chelmsford". Filing fees required by the Alcoholic Beverages Control Commission must be paid directly to the state in the manner prescribed by the ABCC. Filing fees are not returnable once an

application has been accepted by the office of the Licensing Authority. No approved licenses will be issued on any checks returned by the bank or if any outstanding monies of whatever kind are due to the town.

1.04 ANNUAL LICENSE FEES:

Annual license fees must be paid prior to the issuance of any new or existing license. License fees are not refundable. License fees for newly issued liquor licenses shall be prorated by quarter-year increments.

1.05 COMPLIANCE WITH ALL LAWS AND REGULATIONS:

All licensees shall maintain their premises and operations in full compliance with all applicable state and local building codes, all health and sanitary codes, Town bylaws and Zoning bylaws and regulations. All taxes and charges owed to the Town of Chelmsford must be paid on a current basis. Failure to comply with any of these laws and regulations shall be sufficient cause for revocation, suspension or modification of the license.

1.06 CESSATION OF OPERATIONS:

Any licensee intending to close a place of business for more than 30 days, 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.

1.07 BANKRUPTCY AND COURT PROCEEDINGS:

The licensee shall immediately notify, in writing, the Licensing Authority of any proceedings brought by or against the licensee under the laws or in any court or any proceedings before any state and/or federal agencies which may affect the status of the license.

1.08 MANAGER'S RESPONSIBILITIES:

The Manager shall at all times maintain order and decorum in the premises and in the immediately surrounding area of their premises and shall cooperate in all ways with town officials in ensuring safe and orderly facilities. There shall be no disorder, indecency, prostitution, lewdness or illegal gambling on the licensed premises. The manager shall ensure that no indecent, obscene, or immoral activity take place on the premises. The manager will ensure that noise does not become disturbing to abutters and/or neighbors.

1.09 DISCRIMINATION PROHIBITED:

No licensee shall make any distinction, discrimination or restriction relative to the admission or treatment of any person.

1.10 SUSPENSION, REVOCATION, OR MODIFICATION OF LICENSE:

All licenses are subject to suspension, revocation or modification for breach of any condition, regulations or laws of the Town or Commonwealth. The Licensing Authority reserves the right to add, modify or amend any license conditions after notice and/or hearing, if required, to the licensee.

1.11 DISPLAY OF LICENSES AND PERMITS:

All licenses and permits issued by the Town shall be displayed on the licensed premises in a conspicuous place to which the public has access and may read.

- 1.12 HOURS OF OPERATION - (SEE HOURS OF OPERATION UPON YOUR LICENSE):
The hours of operation shall be restricted to those set by the Licensing Authority. No patrons shall be on the premises before the official opening hours nor fifteen (15) minutes after the official closing hours. Customers must leave the licensed premises before fifteen (15) minutes after the official closing hour.
- 1.13 ACCESS TO PREMISES BY POLICE AND AGENTS:
The licensee is responsible to ensure that procedures are in place, be it by posting a person or otherwise, to allow police, the Licensing Authority and/or authorized agents of the Licensing Authority, immediate entrance into the licensed premises at anytime employees or agents of the licensee or others are on the premises. Any delay in providing such access may be cause for action against the licensee.
- 1.14 INSPECTION OF PREMISES:
The licensed premises shall be subject to inspection by the members of the Licensing Authority and duly authorized agents of the Licensing Authority. Any hindrance or delay of such inspection caused by an owner or an employee of the licensee may be cause for action against the licensee.
- 1.15 POSTING OF SUSPENSION NOTICE:
Whenever the Licensing Authority suspends the license or licenses of any licensee, the licensing Authority shall provide the licensee with a sign containing the words, "Closed by Order of the Licensing Authority of the Town of Chelmsford", which sign shall be attached on the inside but visible from the outside of the licensed premises in a conspicuous place(s) during the entire period of such suspension.
- 1.16 REFUSE REMOVAL:
All refuse shall be stored in a dumpster or in such other manner as approved by the Chelmsford Board of Health, and shall be maintained in accordance with the regulations and conditions of the Chelmsford Board of Health. Any rules and regulations of state agencies and Mass. General Law which conflict with Chelmsford Board of Health regulations shall supersede this section.
- 1.17 CLEAR VIEW OF PREMISES' INTERIOR:
No advertising matter, screen, curtain or other obstruction which in the opinion of the Licensing Authority, or agent of the Licensing Authority, prevents a clear view of the interior of the premises shall be maintained in or on any window or door thereof after the Licensing Authority has ordered the removal of such obstruction.
- 1.18 INTERIOR/EXTERIOR LIGHTING:
The interior of the premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted signs, stating "Exit" as required by the Building Department of the Town or by the Fire Prevention Officer of the Town. The off-street

parking area shall have exterior lighting of adequate and sufficient lighting capacity and in conformance with any applicable bylaws of the Town, to ensure the safety of patrons and employees.

1.19 CHANGES TO PREMISES OR OPERATION:

Any internal or external alterations to the physical description and appearance of the licensed premises, including, but not limited to, renovation work, and the nature of and/or general operation of the licensed premises, must receive approval from the Licensing Authority.

No physical changes to the interior or exterior of the licensed premises shall be made without the prior approval of the Licensing Authority. Any changes to the original plans must be approved by the Licensing Authority prior to any work commencing. Changes must be approved by the Licensing Authority and any other Board or Commission having jurisdiction. All plans and documents submitted shall be in form as specified in instructions provided by the Select Board office.

Approval of plans and the issuing of necessary permits by the appropriate departments such as the Health Department, Fire Prevention Office, Building Department or special permit use approved by the Town of Chelmsford, does not constitute approval by the Licensing Authority. Separate approval must be received from the Licensing Authority before any work is started. The only exception to this will be work of an emergency nature. Any work reasonably classified as "emergency work" must be documented and submitted to the licensing authority within five (5) business days of the commencing of the work.

1.20 POLICE COMPLAINTS:

Any police complaints and/or reports presently on file, shall continue in force until dispositive action upon them is taken.

1.21 AESTHETICS:

The licensed premises and property shall be cleaned daily of all trash, litter or debris to ensure a safe clean location.

SECTION 2: GENERAL LICENSING RULES FOR ALCOHOL LICENSEES

2.01 CORPORATE AND TRADE NAMES:

No licensee shall assume obligations for a licensed premises under any corporate or trade name other than that under which he or she is licensed. Any change in corporate name or any change in trade name (DBA) shall require the prior approval of the Licensing Authority. (MGL c.138, s. 15A)

2.02 CORPORATE TRANSACTIONS AND CHANGE OF MANAGERS:

The licensee shall not change managers, change corporate officers/directors/LLC managers, change corporate structure, 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 Licensing Authority. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Licensing Authority, except under Massachusetts General Laws, Chapter 138, section 15A, which states, *“Provisions of this section shall not apply to stockholders of a corporation whose stock is listed for sale to the general public with the Securities and Exchange Commission and who hold less than ten percent of the outstanding stock entitled to vote at the annual meeting of the said corporation.”*

2.03 FORECLOSURE ON LOANS:

The assignment of stock in incorporated licensed premises for the purpose of safeguarding the assignee on loans, or like matters, does not authorize such assignee to conduct the business of the licensee; and therefore, licensees must notify the Licensing Authority immediately when the assignee forecloses under such assignment of stock.

2.04 MANAGER:

No corporation shall be approved for a license unless the corporation, by affirmative vote of a majority of its Board of Directors and duly affirmed by the Clerk of the Corporation, has appointed a Manager who is a United States citizen and who has been vested with full authority and control of the premises and the business to be licensed. The Manager shall have total responsibility for the proper operation of the licensed premises, whether present or not. No appointment of a Manager shall be effective unless and until approved by the Licensing Authority.

2.05 EMPLOYEE CONSUMPTION PROHIBITED:

No Manager or employee except employees hired for the purpose of testing or rating beers, ales, or wines shall consume any alcoholic beverages while on duty or after the official closing hour. The manager shall forward the names of excepted employees to the Licensing Authority.

2.06 SERVICE PROHIBITED TO CERTAIN INDIVIDUALS:

No alcoholic beverages shall be sold or delivered to anyone under twenty-one (21) years of age, under the influence of drugs, or to an intoxicated person. No employee and/or entertainer shall solicit, induce or request a patron to purchase any alcoholic or non-alcoholic beverage for him or her or any other person.

2.07 EMPLOYEE LIST TO BE MAINTAINED

A current list of all employees and their description of duties shall be available on the licensed premises at all times for review by authorized agents of the Licensing Authority.

2.08 SERVICE LIMITED TO CERTAIN LOCATIONS:

No licensee shall keep for sale, store, or sell, or permit consumption of alcoholic beverages in any part of the premises not specified on the license, such as a patio, sidewalk or parking lot.

2.09 TRAINING - FOR MANAGERS AND EMPLOYEES:

The manager, and all staff who sell alcoholic beverages, shall have successfully completed an alcoholic beverage server training program such as Training for Intervention Procedures by Servers (TIPS) for restaurants and lounges, or Beverage Alcohol Training (BAT) for package stores. TIPS certification must be completed every three years. Managers must provide the Town with a current valid certificate. All other employees of the licensed establishment such as cashiers and waitresses who sell alcoholic beverages shall complete TIPS certification within 30 days of employment.

2.10 VERIFICATION OF TRAINING:

A copy of the TIPS certificate for each employee, and signed acknowledgement indicating that the employee understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the licensed 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. Lack of supporting documentation may be cause for action against the licensee.

SECTION 3: LICENSING RULES FOR SERVING ALCOHOL

3.01 APPLICABILITY

This section shall apply to all establishments serving alcoholic beverages.

3.02 FOOD SERVICE

Licenses issued under Massachusetts General Laws, Chapter 138, section 12, which are restaurant licenses, may be issued only to those who have been granted a common victualler license under Massachusetts General Laws, Chapter 140. This section also applies to holders of innholder licenses. Common victuallers must 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 Massachusetts General Laws, Chapter 140, Sections 5 and 6.

3.03 SERVICE LIMITED TO APPROVED AREAS

The service and consumption of alcoholic beverages shall be limited to those areas of the premises approved by the Licensing Authority. No alcoholic beverages shall be served or consumed in any areas of the premises that are not within the original approved description of the premises. New areas must have plans submitted to the Licensing Authority for approval.

3.04 SERVICE LIMITED TO FOOD SERVICE AREAS OR APPROVED LOUNGE

The licensing authority may require food service to 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. Within approved waiting areas, and by approval of the Licensing Authority, individuals who are waiting to be seated for dining, may be served not more than two standard sized drinks.

3.05 CONSUMPTION ON THE PREMISES

All alcoholic beverages shall be served in open containers. A patron may retain and take off the premises only so much as may remain of a bottled wine purchase by the patron in conjunction with a meal and not totally consumed by the patron during such meal; provided further that the bottle shall be resealed in accordance with Alcoholic Beverages Control Commission regulations. No patron or customer shall be allowed to bring alcoholic or wine or malt beverages on the premises for the purpose of consumption on the premises, except as described in Section 4.

3.06 SERVING CONTAINERS

No alcoholic beverages, with the exception of wine and specialty drinks, shall be served in any container or glass, the capacity of which is in excess of twenty-four (24) fluid ounces. Sale or service of malt beverages, beer or ale in pitchers is allowed only to groupings of two or more patrons.

3.07 CHARGE FOR ALCOHOLIC BEVERAGES

No alcoholic beverages shall be sold for a fee 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. The price charged for alcoholic beverage shall not be discounted for any particular hour(s) of the day or day(s) of the week. No minimum charge shall be made for alcoholic beverages.

3.08 SERVICE OF ALCOHOLIC BEVERAGES LIMITED

No more than two alcoholic or wine or malt beverage drinks shall be served to a patron at one time for his or her own consumption. Bartenders may serve only those individuals seated or standing at the bar. All other individuals standing at a bar, due to the lack of available seats, must be served by a waitperson. In cases when no waitpersons are available, bar service will be allowed.

3.09 ENTERTAINMENT

No forms of entertainment, including but not limited to radio, television, recorded or live music, or dancing, shall be allowed without first obtaining an entertainment license. This to include use of amplified music, inside or outside.

3.10 ANNUAL FINANCIAL REPORTS – RESTAURANTS

All holders of restaurant licenses under Chapter 138, Section 12, shall upon request of the Licensing Authority furnish an annual report indicating the percentages of gross sales of food and gross sales of alcoholic beverages for the preceding calendar year.

3.11 CLOSING HOURS

It is the responsibility of the Manager of the licensed premises to ensure that the licensee complies with the following “closing hour” requirements:

- a. Premises must be cleared of all employees other than managerial and cleaning employees not later than sixty (60) minutes after legal closing time.
- b. All outside signs or lights for the licensed premises must be extinguished.
- c. All bottles and glasses containing alcoholic beverages must be removed from tables and bars by fifteen (15) minutes after legal closing.

- d. No employee or owner shall consume alcoholic beverages in or upon the licensed premises before opening or after closing hours.

SECTION 4: RULES FOR CARRY-IN ALCOHOL CONSUMPTION

4.01 APPLICABILITY

This section shall apply to all establishments allowing patrons to bring their own alcohol on premise for consumption, per Select Board policies.

4.02 SERVICE

The patron who bring their own alcohol must be 21 years of age or older, and serve it him/herself. Only those 21years of age or older may consume alcohol on-site. The owner or person in charge of the premises cannot pour any drinks, and cannot charge a fee to patrons for bringing/consuming their alcohol. Open containers cannot be brought into or removed from the premises. The TIPS-certified person on-site shall require a valid form of identification from any person bringing or consuming alcohol on the premises when the legal age of 21 is in question.

4.03 SERVICE LIMITED TO APPROVED AREAS

A TIPS-certified person must be present during the time that alcohol may be consumed. Alcohol can only be consumed in an area where that person is present. Attendance in an area where alcohol may be consumed cannot exceed 20 patrons.

4.04 ALCOHOL AMOUNT

Each patron may bring up to one 750ml bottle of wine or not more that 32 total ounces of beer into the premises. No other alcohol is premitted. The holder of the license cannot consume alcohol.

4.05 LIQUOR LIABILITY INSURANCE

Establishments allowing carry-in alcohol must have liquor liability insurance in the amounts required for licensees under M.G.L.ch. 138 §12.

SECTION 5: LICENSING RULES FOR SELLING ALCOHOL

5.01 APPLICABILITY

This section shall apply to all establishments selling alcoholic beverages for off-premise consumption.

5.02 HOURS OF SALES:

No sale or delivery of alcoholic beverages shall be made except during the legal hours of sale.

5.03 SALE AND DELIVERY - KEGS OF BEER (MALT BEVERAGES):

A written record shall be maintained listing the name and address of every person to whom a delivery of one or more keg(s) or any fraction of a keg of malt beverages is made outside of the premises. Such record shall include the amount of the beverages that were delivered, the date and time of delivery, and the signature of the person receiving the

delivery. Such records shall be maintained for a period of not less than three years and must be available for inspection by the Licensing Authority and its agents at all times.

5.04 **PRICES:**

All prices that can be seen by customers in the store whether on shelves, in circular form, or otherwise, must correspond with the current posted price list.

5.05 **SUPERVISION**

An employee must be present on the floor in the area of alcohol sales at all times that the establishment is open to the public.

SECTION 6: VIOLATIONS

6.01 Any violations of the Town of Chelmsford, the Licensing Authority, or the Commonwealth of Massachusetts regulations regarding the sale or service of alcoholic beverage may result in a warning, suspension, modification or revocation of the issued license. Any complaints and/or reports presently on file shall continue in full force until dispositive action upon them is taken by the Licensing Authority.

SECTION 7: SEVERABILITY

7.01. In respect to their constitutionality or legality as determined by courts of competent jurisdiction, all provisions of these regulations are hereby declared to be severable.