



# Town of Sudbury

## Select Board Office

## Alcohol Rules and Regulations

### Overview:

The following guidelines and regulations, developed by the Select Board, are designed to provide Liquor License holders in the Town of Sudbury with a clear understanding of the expectations of the Select Board as the Local Liquor Licensing Authority (LLA).

Licensees are required to adhere to the provisions of these regulations, as well as other Federal, State and local laws and regulations. If the Local Licensing Authority or its designated representative determines that there exists satisfactory proof of such a violation(s), the Local Licensing Authority, or its designated representative, may take, after appropriate public meeting or hearing, disciplinary action, which may include oral warning, written warning, suspension of license, modification of license, non-renewal of license and/or revocation, depending upon the seriousness of the offense(s) and the judgment of the Local Licensing Authority.

Any situation not expressly covered by these regulations shall be addressed in accordance with the latest publications, guidelines or advisories of the Alcoholic Beverages Control Commission, as deemed appropriate by the LLA and adjudicated on a case-by-case basis by the Local Licensing Authority.

All regulatory considerations shall serve as guidelines to the Select Board in their deliberations regarding liquor license matters in accordance with Chapter 138 of the General Laws of the Commonwealth of Massachusetts and the Regulations of the Town of Sudbury.

The Select Board, as Local Licensing Authority, reserves the right to follow or deviate from these general guidelines, when in the judgment of the Select Board, it is warranted in the interest of public safety.

### General Considerations:

The Local Licensing Authority has designated in matters of administrative filings, paperwork, and correspondence, the Selectmen's office as its representative.

The Local Licensing Authority also designates the Sudbury Police Department, Sudbury Fire Department, Building Inspector, Board of Health, and Town Manager to act as representatives regarding compliance of regulations.

Licensees should note that the LLA has directed that the Sudbury Police Department will, on regular occasion, and no less than once per year, conduct "*compliance checks*" of each establishment to ensure rules and regulations are adhered to. These include postings, licensure, and conduct of a licensee with regard to State and local regulations.

Violations of regulations will be reported to the LLA by the appropriate town bodies and pursued in accordance with these guidelines.

The LLA considers first and foremost the protection of Sudbury residents, and in particular Sudbury youths. Violations which relate directly to over-serving or serving of minors, whether reported through inspection or as a result of a criminal or safety complaint, may be considered with more gravity than those reported as administrative in nature.

## **Violations:**

- A. Upon written notice from the Chief of Police or other source that an infraction has allegedly occurred at a licensed establishment or other matters that the Chief of Police, or designated representatives of the LLA, deems should be brought to the attention of the Board, the Board will consider in open session whether or not a public hearing should be held.
- B. If it is determined that a public hearing will be held by vote of the LLA, the Select Board's office shall send via certified mail or direct an agent to deliver a written notice to the applicant outlining the proposed hearing date/time. The licensee is obligated to acknowledge the receipt of same and confirm they will appear at the scheduled hearing.
- C. Any hearing will normally occur within the following two (2) scheduled meetings of the LLA after the vote of the LLA to conduct such hearing, unless the LLA determines there are extenuating circumstances necessitating a deviation from normal protocol.
- D. At the hearing, the LLA will first hear evidence from the Police Chief (or his/her designee) and his/her agents and/or witnesses or from other complaining party, as may be appropriate. Then the licensee and/or the licensee's counsel will have an opportunity to present their response and evidence.

E. After all testimony has been given, the LLA reserves the right to question all witnesses and parties and, if necessary, take under advisement all facts and vote either to render their decision, or continue the hearing to a subsequent meeting of the LLA.

## **Disciplinary Remedies/General Approach:**

- A. In matter of a first offense, the LLA, or their designee, may issue a verbal warning or letter of reprimand to the owner, licensed manager or managing employee present. If the violation is deemed particularly egregious or a public safety issue, the LLA may consider whether a suspension, revocation or any other action, to include re-training, is warranted at that time, given the nature of the offense.
- B. In matter of a second offense in a period of sixty (60) months, the LLA may consider imposing a suspension of 1 to 3 days provided that during the period of suspension of this penalty, which shall be from the date of said vote until the end of the suspension period, the licensee shall not have engaged in any other conduct prohibited by Chapter 138 or the regulations promulgated herein. In considering the type of violation and the fact this is deemed a second offense, the LLA may consider revocation or any other action, to include re-training, given the nature of the offense.
- C. In matter of a third violation within sixty (60) calendar months, the LLA may consider the issuance of a suspension for a period of 3 to 14 days, the suspension or any part thereof which shall be from the date of said letter until the end of the suspension period, the licensee shall not have engaged in any other conduct prohibited by Chapter 138 or the regulations promulgated herein. In considering the type of violation and the fact this is deemed a third offense, the LLA may consider revocation or any other action, to include re-training, given the nature of the offense.
- D. Additional violations within the sixty (60) calendar month window will be dealt with in a progressive manner commensurate with the violation.
- E. Any failure to comply with the stipulations contained within the entire policy may be considered a violation by the LLA.
- F. When a violation has been deemed to have occurred, the licensee shall provide a written explanation to the LLA of how the violation occurred and a detailed plan as to corrective measures.
- G. If an establishment incurs a violation and then remains violation free for a period of 60 months, or, in the case of seasonal licenses, for the rest of the season, the next following violation may be considered as a First Offense.

## **Other Causes for Revocation, Suspension & Modification/Inspections & Investigations:**

- A. All licensed premises shall be subject to inspection by the Police Department of the Town of Sudbury and other duly authorized representatives of the LLA.
- B. 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 LLA, may be considered by the LLA a violation of the rules and regulations of the LLA.
- C. Any person who hinders or delays a police officer or other authorized agent of the LLA in the performance of the agent's duties, who refuses to admit or locks out any such agent from any place which such agent is authorized to inspect, or who refuses to give a designated agent such information as may be required for the proper enforcement of the General Laws, Chapter 138, shall be punished by a fine of not less than fifty (\$50) and not more than two hundred dollars (\$200).
- D. Failure to pay Town real estate and/or personal property taxes or State meals and/or sales taxes may be considered by the LLA to be in violation of the rules and regulations contained hereunder.

## **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 licensee's premises. Such efforts may include, but are not limited to:
  - 1) Calling for police and medical assistance as necessary to protect patrons against injury, to evict unruly patrons, to uncover unlawful conduct, or to give medical assistance and providing police with requested information.
  - 2) Frequent monitoring of restrooms and other nonpublic areas of the premises for signs of drug activity or other illegalities.
- B. It is the affirmative responsibility of the licensee to report any illegalities discovered on the premises.

## **Renewals & Modifications:**

- A. The LLA reserves the right to obtain updated information about a renewal applicant/manager/owner at the time of renewal.
- B. Renewal or modifications of said licenses shall follow the separate fee schedule as established in the Select Board's Policies and Procedures "Fee Schedule."

## **Posting & Signs:**

- A. Licenses issued by the Board shall be posted in a conspicuous place easily seen by the public where they can be read without difficulty or assistance of employees.
- 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 any part of the license issued by the Board.
- C. The posting or presentation of any photographs, signs, posters, drawings or other matter that is of an improper or objectionable nature in the public areas of the licensed premises is prohibited. The material presented must be suitable for view by members of the general public in the same manner as if it were located in other public areas such as public ways, public parks, government offices, or business offices.
- D. Failure to comply with any stipulations outlined in this section of the policy may be considered a violation.

## **Entertainment at Premises:**

- A. No licensee may provide entertainment of any kind unless the licensee holds an entertainment license issued pursuant to the General Laws, Chapter 140, §183A.
- B. No entertainment at the licensed premises may be conducted in a manner such that the noise from the entertainment is creating a nuisance and can be heard beyond the boundaries of the premises.
- C. No dancing by patrons is permitted except upon proper licensing pursuant to General Laws, Chapter 140, §183A, and confined to a particular dance floor area which has been approved by the Local Licensing Authority and which is not inconsistent with the entertainment license requirements.
- D. No licensee may permit any electronic games to be on the premises unless such machines are properly licensed pursuant to General Law, Chapter 140, §177A.
- E. Licensees shall not permit any games to be played at the premises for money, alcoholic beverages, or for any other prize. Games may be played for money at

certain fundraising activities which have been approved by the appropriate authority and for which the licensee holds other appropriate licenses.

## **Hours of Operation:**

- A. The licensee and his/her employees may be upon the premises during the time the establishment is closed to the public only for the purpose of cleaning, making emergency repairs, providing security for the premises, or preparing food for the day's/next day's business or for opening/closing the business in an orderly manner.
- B. No alcoholic beverages shall be served except during those hours delineated on the license approved by the LLA, which establishes the outer parameters during which alcoholic beverages may be served.
- C. No seasonal license holder may serve alcohol outside of the period from April 1 – January 15 as delineated on the license approved by the LLA.
- D. Not less than fifteen (15) minutes prior to the closing hour of the premises, the licensee or his employees shall advise all patrons of the time remaining to closing.
- E. At a time no later than the time designated as the closing hour on the Liquor License, all glasses, bottles and unconsumed drinks will be surrendered by patrons.
- F. Patrons shall not be allowed on the premises for more than fifteen (15) minutes beyond the closing time.
- G. 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 shall hire security personnel to supervise the leave-taking of the patrons at closing time.
- H. No patron shall be allowed to enter the premises during the time the establishment is required to be closed.
- I. The LLA, or its agents, may enter the premises during the hours it is open to the public and at such other times as any persons are upon the premises, for the purpose of inspecting the premises and enforcing these rules and regulations.

## **Code - Fire/Health/Capacity:**

- A. No license shall be issued or shall be considered in good standing unless the licensed premises complies with all statutory requirements, including all applicable building codes, and fire, health, safety, trash and other government regulations and laws.

- 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 LLA and the ABCC, if alcohol is consumed.
- D. All public areas in licensed premises shall be lighted in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents of the LLA to make observations at the premises without the need to identify themselves or seek assistance.

## **Service of Suspension Orders:**

- A. When the Local Licensing 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, "Closed per order of the Licensing Board for the Town of Sudbury." Such an order shall be publicly displayed by the licensee in the following manner. The order shall be readily seen from the street by being affixed to the door of the entrance to the premises or a window facing the street upon which the door opens.
- B. Depending on the severity of the violation, the LLA may vote to implement the suspension in two ways:
  - 1. The licensee may be allowed to remain open for service of food only and must comply with the other stipulations delineated for suspension of their license.
  - 2. The licensee will be required to close in their entirety, not being allowed to continue with the sale of food and must comply with the other stipulations delineated for suspension of their license.
- C. Suspension orders of the LLA shall remain affixed throughout the entire period of suspension. The removal, covering, defacement, 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.
- D. Suspension periods may not be used as a time to make renovations at the licensed premises unless such renovations have previously been approved by the appropriate entity.
- E. No members of the public may be on the premises at any time during suspension periods, with the exception that restaurants may be able to continue to service patrons without serving alcohol with the approval of the Local Licensing Authority.

## **Other Business Responsibilities:**

- A. Licensees shall immediately notify the Local Licensing Authority of any proceedings brought against them (or by them) under the Bankruptcy Act, or of any other proceedings, in court or otherwise, which may affect the status of the license.
- 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 LLA and ABCC, and comply with all rules and laws.
- C. There shall be no alcoholic beverages brought onto or transported from the premises of a licensed establishment except for deliveries for the operation of the business as controlled by the laws, rules and regulations of the Commonwealth of Massachusetts, or regulations of the Town of Sudbury or as allowed for under 204 CMR 2.18 Resealing of Partially Consumed Bottles of Wine.

## **Employee Training:**

- A. Any licensee holding an All Alcoholic, or Beer and Wine License shall participate in a program designed to train employees who engage in either package sales or pouring in methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors. This program will be based on the type of license issued.
- B. Listed below are programs currently available which meet the requirements of this policy:
  - 1) Techniques of Alcohol Management (T.A.M.), sponsored by the Mass. Package Store Association;
  - 2) Training for Intervention Procedures by Servers of Alcohol (TIPS), offered by Health Communications, and Alcohol Intervention Methods (AIM) Campbell/Trent;
  - 3) ServSave – recommended by the National Restaurant Association;
  - 4) Any Insurance Industry approved and qualified program offered by a certified trainer and previously approved by the Select Board.
- C. All personnel shall be required to participate in a training program based on the type of license issued. Establishments shall comply with this policy by having all of its eligible employees trained and certified.

D. All establishments must maintain a roster or certificate of trained personnel in an accessible place during operating hours. An updated roster shall be submitted with the annual application for renewal of the license. The roster shall include:

1. Employee name
2. Employee date of birth
3. Employee social security number
4. Type of training (license)
5. Date valid
6. Date of expiration
7. Date of hire

All personnel shall be required to be re-certified once every three (3) years by an approved program, as noted above.

E. Failure to comply with this policy may result in suspension or revocation of the license. Fines may also be levied against the license holder should any violation of this policy occur.

## **Food Service:**

- A. Coinciding with the service of alcoholic beverages, licensees must serve food. Following the close of the full menu, licensees must provide, at a minimum, five (5) assorted items up until thirty (30) minutes before closing. The proposed assorted items will be submitted to the LLA for approval upon request for the original license or renewal. The LLA will approve said items with the understanding that chips, pretzels, popcorn or similar snacks will not suffice.
- B. Any deviation from the approved limited menu must be submitted to the LLA for approval.