



# *Town of Danvers, MA*

## *Liquor License Guidelines/Regulations*

### I. *Overview*

The following guidelines and regulations, developed by the Board of Selectmen, are designed to provide Liquor License holders in the Town of Danvers with an understanding of the expectations of the Board of Selectmen as the Local Liquor Licensing Authority.

Licensees are required to adhere to the provisions of these regulations, as well as other Federal, State and local law and regulations. If the Local Licensing Authority or its designated representative determines that there exists satisfactory proof of such a violation or violations, the Local Licensing Authority 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 publication of the Alcoholic Beverages Control Commission's "*Guide to Massachusetts Liquor Laws*" and adjudicated on a case-by-case basis by the Issuing Authority.

All regulatory considerations shall serve as guidelines to the Board of Selectmen 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 Danvers.

The Board of Selectmen, as Local Licensing Authority, reserves the right to follow or deviate from these general guidelines when it judges such action to be in the public interest.

### II. *General Considerations*

The Board of Selectmen, also referred to in this document as the Local Licensing Authority (LLA), has designated, in matters of administrative filings, paperwork, and correspondence, the Town Clerk's office as its representative.

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

Licensees should note that the LLA has directed that the Danvers Police Department will, on regular occasion, and no less than one time a year, conduct “compliance checks” of each establishment to ensure rules and regulations are adhered to. These include postings, licensure, and conduct as a licensee with regard to State and local regulation.

Violations of regulations will be reported to the Local Licensing Authority by the appropriate Town bodies and pursued in accordance with these guidelines.

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

The Local Licensing Authority, through the Danvers Police Department, DanversCares, or other agencies or designees will conduct Responsible Beverage Service and Sales Training Seminars for liquor license holders. The Board of Selectmen, as LLA, requires that license holders participate in such a seminar on an annual basis.

1. *Liquor License Filing Procedures & Responsibility of Applicant*

Complete and accurate filings are the responsibility of the Licensee (or Applicant)

Applicant must file completed Application for Alcoholic Beverage License for Retail Sale with the Clerk to the Board of Selectmen by:

- A. Visiting the ABCC website at [www.mass.gov/abcc/](http://www.mass.gov/abcc/)
- B. Choose: Download Forms
- C. Then choose: Retail Forms.
- D. Then choose: “Application for New License”.
- E. Type out all forms on the website, print, and submit to this office with all required documentation and appropriate fees, as follows:
  - Two-hundred dollars (\$200) payable to the “*Commonwealth of Massachusetts.*”
  - Seventy-five dollar (\$75) local filing fee payable to “*Town of Danvers.*”
  - Fifty dollars (\$50) payable to the “*Town of Danvers*” for advertising costs, when applicable.

- F. Floor plans (to include any build-outs, interior walls, bathrooms, kitchen, bar and equipment, seating, entrances, exits, windows, outside seating, railings, counters, and entertainment areas).
- G. A written policy describing the intended practice of verifying the age of patrons (carding) and monitoring alcohol consumption throughout the premises.
- H. Further, the Local Licensing Authority may consider one-day liquor licenses, in accordance with ABCC regulations. The applicant must submit a completed application no later than fifteen (15) days prior to the event. One-day liquor licenses may be restricted to three (3) applications per applicant and/or per address per calendar year at the discretion of the LLA.
- I. ABCC-approved Certificate of Insurance.

All other license modifications shall be submitted in accordance with steps A - E above, choosing from the “Existing Licensees” categories from the “Retail Forms” page.

The Town Clerk will require at least 48 hours to review an application to determine whether the filing is complete prior to scheduling a public hearing. Once it is determined that the application is complete as presented, the Clerk will place the advertisement and at the same time distribute copies of the filing to each Board member for review.

The Board may require additional information from the applicant prior to the public hearing (e.g., financing questions, additional background information).

The hearing shall not be held sooner than ten (10) days after the advertising.

Applications will be acted on within thirty (30) days after filing application with the Clerk.

The Local Licensing Authority may, with the consent of the applicant, continue the hearing to a future date in order to allow the applicant to provide additional information, or the Local Licensing Authority to investigate and consider whether the application is in the best interest of the Town.

## 2. Renewals & Modifications

- A. The Local Licensing Authority reserves the right to obtain updated information about a renewal applicant/manager/owner at the time of renewal.
- B. A Seventy-Five Dollar (\$75) fee will be required for any license modifications requested; i.e., Change of Manager, Transfer of License, Alteration of Premises,

etc. This will be in addition to the fee charged by the Alcoholic Beverages Control Commission for similar changes.

3. *Violations*

- A. Upon written notice from the Chief of Police or other source that an illegality 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 Local Licensing Authority, the Clerk shall send written notice to the applicant by Certified Mail/Return Receipt Requested.
- C. Any hearing will normally occur within the following two (2) scheduled meetings of the Board of Selectmen after the vote of the Board to conduct such hearing.
- D. At the hearing, the Local Licensing Authority will first hear evidence from the Police Chief and his agents and/or witnesses or from other complaining party, as may be appropriate. Then the licensee and the licensee's counsel will have an opportunity to present their response and evidence.
- E. After all testimony has been given, the Board 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 Local Licensing Authority.

4. *Disciplinary Remedies / General Approach*

- A. In matters of a first offense, the Local Licensing Authority shall issue a letter of reprimand to the owner and license manager and/or consider whether a suspension, revocation, or any other action is warranted at that time. The Local Licensing Authority may also consider imposing a suspension of 1 to 7 consecutive days, which can be deferred for up to a period of twelve (12) months, provided that during the period of suspension of this penalty, 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 there under.
- B. In matters of a second offense in a period of twenty-four (24) months, the Local Licensing Authority may consider the issuance of a suspension for a period of 3 to 14 days, and/or consider whether a suspension, revocation, or any other action is warranted at that time.

- C. In matters of a third or subsequent violation within 24 calendar months, the Local Licensing Authority shall consider a suspension of 7 to 30 days, and/or consider whether a suspension, revocation, or any other action is warranted at that time.
- D. If an establishment incurs a violation and then remains violation-free for a period of 24 months, the next following violation may be considered as a First Offense.

5. *Non-Use of Licenses*

Licenses are granted to serve the public need and, to that end, licensees are expected to operate the license for a substantial number of hours on all days when the premises are permitted to be open under the terms of the license. In the case of alcoholic beverages licenses, the numbers of which are limited according to statute, no alcoholic beverages licensee may close its place of business for any reason other than the following:

- A. Upon approval of a request to the Board for closing in order to do renovations for a reasonable time;
- B. For all holidays and religious days;
- C. A closing of one or more days per week upon approval of a request to the Board and a showing by licensee that it does not have adequate business upon such days;
- D. A closing due to an act of God, illness, or some other business problem for which request has been made to the Board and approval granted.
- E. Any licensee intending to close the license premises for a period in excess of one week shall notify the Local Licensing Authority in writing before such closing and, in the notice, state the reason and length of closing desired.
  - 1) If the Board becomes aware of a liquor license not being exercised, it may, within thirty (30) days of being made aware, call in the license holder for a status update.
  - 2) The Board reserves the right to require that the license holder appear before the Local Licensing Authority every three (3) months from that point until the business has commenced or resumed operations, or the license has been transferred, or turned back to the Town.
  - 3) A license is considered inactive as of the first day of closing. A license may remain inactive for no more than six (6) months unless the license holder petitions the Board of Selectman for an extension. Failure to appear and/or receive an extension shall constitute conditions for a public hearing to consider whether a suspension, revocation, or any other action is warranted.

- 4) Said petition is the responsibility of the license holder. The license holder shall appear, and give adequate cause for an extension no later than two (2) regularly-scheduled Selectman's meetings prior to the end of the six (6) month period. Failure to appear and/or receive an extension shall constitute conditions for a public hearing to consider whether a suspension, revocation, or any other action is warranted.
- 5) No more than two (2) extensions, for a total of eighteen (18) months of inactivity, may be granted by the Local Licensing Authority. Each extension shall be considered on its own merits. Failure to appear and/or receive an extension shall constitute conditions for a public hearing to consider whether a suspension, revocation, or any other action is warranted.
- 6) The Board reserves the right to revoke the license at any time, if it deems that the public good is not being served.

6. *Other Causes for Revocation, Suspension & Modification/  
Inspections & Investigations*

All licensed premises shall be subject to inspection by the Police Department of the Town of Danvers and other duly authorized agents of the Local Licensing Authority.

- A. 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 Local Licensing Authority.
- B. Any person who hinders or delays a police officer or other authorized agent of the Local Licensing Authority in the performance of the agent's duties or 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 to such 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) or by imprisonment for not more than two (2) months or both.
- C. Failure to pay Town real estate and/or personal property taxes, Electric, Sewer, or Water fees or State meals and/or sales taxes may be considered by the Licensing Board in accordance with M.G.L. Chapter 40, §57 as adopted by the Town of Danvers on May 20, 1991.

7. *Illegal Activity on the Licensed Premises*

Licenses shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licenses premises. Such efforts may include:

- A. Calling for police and medical 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.
- B. Frequent monitoring of restrooms and other nonpublic areas of the premises for signs of drug activity or other illegalities.
- C. It is the affirmative responsibility of the Licensee to report to the Danvers Police Department any calls for safety or medical aid, or report any illegalities discovered on the premises.

8. *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. No dress code, preferred customer program, cover charge or other admission policy shall be put into effect at the premises except upon proper posting.
- D. 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, common carrier stations, other government office, and business offices. Premises located within the Adult Entertainment Zone may post non-obscene materials representing nudity and other adult material inside, but not outside, the premises.

9. *Entertainment at Premises w/In-house Food and/or Beverage Service*

- 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. Such license must be held in the same name, by the same owners, and with the same manager as the food or beverage license; provided, however, that in cases where entertainment on the premises is to be conducted by a person or entity who is an independent contractor at the premises, the food or beverage licensee may seek the approval of the Board for an exemption from this rule

based upon a written contract with the independent contractor which gives control of the premises to the food or beverage licensee while allowing the independent contractor to book and/or to produce the entertainment.

- B. The food or beverage licensee shall be responsible for the actions of any independent contractor on the premises providing entertainment in addition to the responsibility held by the independent contractor pursuant to the entertainment license.
- C. The food or beverage licensee shall pay the independent contractor a fee according to the written contract, said fee to be commensurate with the market value of the services, and the independent contractor shall not be given any direct or indirect interest in the licensed premises other than the fee set out in the contract. Said fee shall not be based upon the number of patrons attending an entertainment event.
- D. Any food or beverage licensee who permits entertainment at the licensed premises pursuant to a license held by a person in violation of this rule will be subject to disciplinary action by the Local Licensing Authority.
- E. 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 outside the boundaries of the premises.
- F. 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.
- G. Entertainment shall not be conducted on the premises prior to the opening or subsequent to the closing hour set by the Local Licensing Authority for the exercise of the food or beverage license or during any period when the food or beverage license has been suspended.
- H. No Licensee may permit any electronic games to be on the premises unless such machines are property licensed pursuant to General Law, Chapter 140, §177A.
- I. 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.
- J. Licensees who hold licenses under General law Chapter 138, §12, to serve alcoholic beverages for on premises consumption, may petition the Local Licensing Authority for approval to allow dancing on Sundays between the hours of twelve midnight and one o'clock antemeridian or two o'clock antemeridian for the

same hours for which the licensee is authorized to sell alcoholic beverages. (General Law Chapter 138, §33).

- K. Licensees must adhere to the Rules and Regulations of the Licensing Board of the Town of Danvers Establishing a Code of Conduct and Dress in and on Premises Licensed in Accordance with General Laws Chapter 138, §§1, 12, 14, & 23, adopted by the Danvers Licensing Board on January 17, 1978.

10. *Hours of Operation*

- A. Licensees are not permitted to have persons, including employees, on the premises except during the following hours:

The owner, manager and employees may be on the premises after hours only if they are actively engaged in cleaning, making emergency repairs, providing security for such premises, preparing food for the day's business or opening or closing the business in an orderly manner. No other persons, friends, or relatives may be on the premises with the owners, managers or employees of the licensed premises during the hours when the public is excluded from the premises.

- B. Licensee shall insure that no sale or service of pitchers, or multiple alcoholic beverages per person, will occur within one hour prior to posted closing time.
- C. Licensee shall insure that no sale or service of singular alcoholic beverages will occur within thirty (30) minutes prior to posted closing time.
- D. Consumption of alcoholic beverages shall cease at closing time, all glasses, bottles and receptacles shall be removed from tables, bars, and patrons promptly at closing time.
- E. 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 should hire security personnel to police the leave-taking of the patrons at closing time.

11. *Code Fire Health - Capacity*

- A. No license shall be issued or shall be considered in good standing unless the licensed premises comply with all statutory requirements, including all applicable building codes, and fire, health, safety, trash and other government regulations and laws.
- B. The licensed premises shall conform to the floor plan approved by the Local Licensing Authority with regard to the structures at the premises, as well as with

regard to all tables, chairs, booths, bars, counters, barstools, dance floors, railing partitions, and other barriers at the premises. Changes in the floor plan or any renovations of any kind shall not be made without the approval of the Local Licensing Authority. This includes substantial changes in the arrangement of moveable furniture.

- C. All premises covered by the license shall be kept in a clean and sanitary condition.
- D. No outside area shall be used as a gathering place for patrons unless approved by the Local Licensing Authority and the ABCC if alcohol is consumed.
- E. 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 Local Licensing Authority to make observations at the premises without the need to identify themselves or seek assistance.
- F. The capacity set for the premises by the Code Administration Department constitutes the maximum potential capacity for the premises but the actual capacity of the premises may not exceed the amount approved by the Local Licensing Authority and stated on the license.
- G. Licensees shall not permit or invite members of the general public to private areas of the premises which are approved by the Local Licensing Authority for storage, office, kitchen, music or video projection rooms or for any similar non-public use. Only owners and employees of the licensed premises may be in these areas.

12. *Sanitation*

All premises covered by the licensee shall be kept in a clean and sanitary condition with specific reference being made to fruit flies contaminating open liquor bottles.

13. *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 Danvers." Such 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. Suspension orders of the Local Licensing Authority shall remain affixed throughout the entire period of suspension. The removal, covering, deface-

ment, 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 may not be used as a time to do renovations at the licensed premises unless such renovations have previously been approved by the Board.
- D. 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.

14. *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. Assignment of stock in incorporated licensed places for the purpose of safeguarding the assignee on loans, etc., gives no right to such assignee to conduct the business of the Licensee.
- C. No license issued under these regulations may be pledged by the holder to a third party to secure a loan whenever such action may encumber or interfere with the right of the Local Licensing Authority to demand immediate possession thereof upon the expiration, suspension, revocation, cancellation or forfeiture of such a license.
- D. 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 Local License Authority and ABCC, and comply with all rules and laws.
- E. The Manager of Record, identified in Form A, must be on the premises for no fewer than forty (40) of the hours open to the public per week.
- F. The Manager of Record, identified in Form A, shall not take a leave of absence exceeding four (4) consecutive weeks in duration without written notification to the Local License Authority, via the Town Clerk, at least two (2) weeks prior to said absence. This notice must identify an Alternate Manager who is certified and capable of fulfilling license conditions.
- G. There shall be no alcoholic beverages brought onto the premises of a licensed establishment except for deliveries for the operation of the business as con-

trolled by the laws, rules and regulations of the Commonwealth of Massachusetts, or regulations of the Town of Danvers.

H. Employee Training

- 1) The Manager and all Alternate Managers shall have successfully completed an alcoholic beverage server training program such as the Training for Intervention Procedures Program (TIPS), or its equivalent, prior to appointment.
- 2) TIPS, or equivalent training, shall be required for all bartenders at restaurant establishment.
- 3) All other employees engaged in service or sales of alcohol shall receive, at a minimum, in-house training similar to that received under the TIPS program.
- 4) Verification of the training referred to in the previous section shall be maintained for each employee and shall be available for inspection on the premises at all times.
- 5) Certification and recertification must be current. Employees must be recertified at the end of the certification process. Employers or License holders are responsible for appropriate documentation of current certification, and shall make it immediately available at the request of the LLA or its designees.

**Revised by the Board of Selectmen, June 14, 2011**