



**GENERAL RULES**  
***LICENSING BOARD***  
***FOR THE***  
***CITY OF BOSTON***

**MAYOR**

**Martin J. Walsh**

**COMMISSIONERS**

***Kathleen M. Joyce, Esq. Chairman***

***Keeana S. Saxon, Esq.***

***Liam P. Curran, Esq.***

**EXECUTIVE SECRETARY**

***Lesley Delaney Hawkins, Esq.***

**One City Hall Square \* Room 809 \* Boston \* Mass 02201  
Phone (617) 635-4170 FAX 635-4742**

## MESSAGE FROM THE BOARD

The Licensing Board for the City of Boston has prepared the following compendium of its general rules, revised and adopted by the Board on October 27, 2005, for the benefit of all licensees in the City, members of the Boston Police and Fire Departments, and for the general public.

The booklet is divided into eleven sections and is indexed for easy reference. Copies of the booklet are to be kept at each licensed premises and are to be available for perusal at all times. The Board also requires that all employees of its licensees be familiar with the rules contained herein, as well as the obligations mandated by them.

In issuing this booklet, the Board is attempting to make these rules as accessible as possible and to aid in the general understanding of the Board's role and function.

Any correspondence concerning these rules should be addressed to the Board's Executive Secretary in Room 809, Boston City Hall, One City Hall Plaza, Boston, MA 02201, 617-635-4170.

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**SECTION ONE: GENERAL RULES FOR ALCOHOLIC BEVERAGES LICENSEES, COMMON VICTUALLERS, INNHOLDERS AND OTHER LICENSEES OF THE BOARD**

**1.00 Nothing herein shall be construed as to limit the Board in exercising its authority under MGL ch. 138 § 23.**

**1.01 Availability of Rules and Regulations**

- A. All licensees of the Licensing Board for the City of Boston shall ensure that a copy of the Rules and Regulations of the Board is kept on the premises at all times as a reference for employees and the public, upon request.
- B. The Rules and Regulations need not be posted but shall be immediately accessible within several minutes of a request. A copy of the Rules and Regulations should be kept at the front door area where patrons pay their entrance fees or their checks, or at the main cash register. In establishments where patrons pay their checks at their tables, the Rules and Regulations may be kept in the dining room of the premises.
- C. The licensee is responsible for ensuring that all employees read, understand, and comply with the Rules and Regulations of the Licensing Board.

**1.02 Posting and 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 pursuant to section 1.03 (“Admissions”) below.
- 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 (as designated by Amendment No. 38 of

Section 3-1 of the Boston Zoning Code) may post non-obscene materials representing nudity and other adult material inside, but not outside, the premises.

### **1:03 Admissions to the Premises**

- A. Licensees shall not permit any rule, policy, or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, sexual preference, physical or mental disability, or ancestry, or on account of any other classification identified in the Boston Human Rights Ordinance (C.B.C. Ordinances of 1984, Chapter 16, as amended) relative to the admission or treatment of persons from the general public or employees at the licensed premises.
- B. 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.
- C. 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.
- D. Licensees shall not institute dress requirements of any kind except according to the following rules:
  - 1. A sign must be posted at the entrance stating dress requirements or dress restrictions with *specificity*. (Examples: "Jackets required Ties and jackets required," "Shirts with collars required, no sneakers.")
  - 2. No signs shall be posted which state "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.
  - 3. No requirement shall be made as to the type of shoes or the height of heels which may be worn; except, however, reference may be made to the admissibility or inadmissibility of sneakers, other soft athletic shoes, or open shoes such as sandals.
- E. Licensees shall not issue special admissions passes or "V.I.P." cards except according to the following rules:
  - 1. The special passes shall state the calendar year on the face of the pass.
  - 2. The special pass shall not entitle the pass holder to free drinks or to a discount on drinks.
  - 3. The licensee shall keep a list of the names and addresses of all pass holders and have such list available if requested by the Board or its Agents.



4. The licensee shall not select pass holders on any basis that is invidious or discriminates. All persons chosen to be pass holders shall be selected on a rational basis.
- F. 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 the 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 seriatim, presented to each individual customer or group of customers. Records of such receipts shall be kept by the licensee for a period of 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.
- G. No minimum charge for alcoholic beverages or minimum alcoholic beverage drinking requirements shall be imposed upon any patron of a General Law Chapter 138, section 12 licensee.
- H. A licensee who charges a minimum charge for the purchase of food and/or non-alcoholic beverages shall include a specific statement in the posting (as per section 1.03D above) 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 (204 CMR 2.16)
- I. Licensees may refuse entrance to the premises to a person who appears to be intoxicated or unruly and may evict such a patron. In such a case the licensee should call the police and should offer assistance to the intoxicated person when possible.
- J. Licensees shall not permit entrance to the premises by more persons than the number approved by the Board for the capacity of the premises minus the number of employees working at the time. At premises where the Board has approved a capacity which is less than the capacity figure approved by the Building Department, the licensee need not deduct the number of employees from the capacity figure set by the Board.
- K. Licensees who permit persons to wait in line for a table or a seat or for entrance to the premises must obey the following rules
1. Persons who wait inside the premises must 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 may not exceed the number of persons allowed as standees.

2. Persons who are permitted to wait in line outside the premises must be supervised by an employee of the licensed premises. Such employee must stand outside with the line during all times when the line exceeds ten persons.
  3. No further admissions shall be allowed and this shall be announced to those in line if persons in the line are loud, disorderly, blocking the sidewalk or if the line 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 will be deemed to have invited a public nuisance and will be subject to disciplinary proceedings for same. It is recommended that licensees in residential areas discourage lines of more than ten persons.
- L. Licensees are not permitted to lock the front door of the premises until the last patron has exited from the premises.
- M. Licensees are not permitted to allow any patron, guest or 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.

#### **1:04 Cover Charges and Minimum Fees**

- A. Cover charge shall mean all admission fees or admission charges.
- B. A sign shall be conspicuously posted at every entrance to any room or rooms where minimum charge or cover charge is required. The writing on the sign shall be in letters no less than one inch in height, stating that a minimum charge or cover charge will be charged and the amount of charge. Charges shall also be posted on the outside of the licensed premises.
- C. No licensee shall require a person under thirteen years of age to pay a minimum charge or cover charge.
- D. Cover charges 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 seriatim, presented to each individual customer or group of customers. Records of such receipts shall be kept by the licensee for a period not less than two years. Nothing in this regulation shall be construed to prohibit advance ticket sales.
- E. An admission charge shall not be credited towards the purchase price of any alcoholic beverage.
- F. No minimum charge for the purpose of alcoholic beverages or minimum alcoholic beverage drinking requirement shall be imposed upon any customer of a section 12 (General Laws, Chapter 138) licensee.

- G. A licensee who charges a minimum charge for the purchase of food and/or non-alcoholic beverages shall include a specific statement in the posting (as per section 1.04b., above) 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 nonalcoholic beverages. (204 CMR 2:16).

### **1.05 Hours of Operation**

- A. Licensees are not permitted to have persons, including employees, on the premises except during the following hours:
  - 1. The hours on the license, except that patrons who are already on the premises at closing hour may remain on the premises for up to one-half hour after closing time; provided however, that no new patrons are admitted after closing time and that no drinks are served after closing time and that no food is served after closing time.
  - 2. 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. 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.

### **1.06 Physical Premises**

- A. No license shall issue or shall be considered in good standing unless 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 Board 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 Board. 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 Board.

- 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 Board to make observations at the premises without the need to identify themselves or seek assistance.
- F. The capacity set for the premises by the Building Department constitutes the maximum potential capacity for the premises but the actual capacity of the premises may not exceed the amount approved by the Board 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 Board 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.
- H. Where the Board has approved the sale or service or consumption of food or beverages in a theater lobby only, no person shall be permitted to bring any food or beverages into the seating area of the theater.
- I. Upon prior written approval of the Board, theaters licensed under Section 12 and offering live performances may allow patrons to consume alcoholic beverages inside the seating area during such a performance. Board approval for consumption of alcoholic beverages inside seating area shall be renewed annually upon the written request of a licensee and at the discretion of the Board.

#### **1.07 Business Arrangements of Licensees**

- A. No person or entity shall obtain or renew a license unless the applicant can demonstrate proof of a legal right to the licensed premises for the term of the license. Proof may include ownership papers, tenancy documents, or a management contract. All interested parties listed on documents used for proof of legal right shall be known to the Board as well as the terms of such agreements or contracts. The Board reserves the right to disapprove of such arrangements where it reasonably finds that such arrangements are not in the public interest.
- B. 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 Board and the salaried employees of such persons.
- C. 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 Board.
- D. 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 Board and the receipt of the Board's approval.

- E. No licensee shall lease out any part of the premises or any part of the business without the approval of the Board. No licensee shall lease out the food or beverage service without the approval of the Board.
- F. 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 Board.
- G. No licensee shall hire any employee or contract for goods or services in any name other than that of the licensee, nor may 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 must be recorded in a manner suitable for review by the Board. Such records must be kept for a period of three years.
- H. Licensees who hold alcoholic beverages licenses are further restricted to the following:
  - 1. No alcoholic beverages licensee shall pledge the stock in the licensed business or the license itself without the approval of the Board.
  - 2. 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 Board 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.
  - 3. No alcoholic beverages 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 Board. This includes kitchen equipment, video or audio equipment, lighting equipment, furniture, or any other type of equipment.
  - 4. No alcoholic beverages licensee shall contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed.
  - 5. Alcoholic beverages 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 Board or unless written permission is first obtained from the Board. The use of any unauthorized name on the books, records, stationary, or interior or exterior of the licensed premises or for advertising purposes or telephone listing is prohibited unless permission is first obtained from the Board.
  - 6. Licensees shall not enter into any agreement or understanding that sets a minimum requirement for gross sales of food and beverages at the premises.

7. Managers of Alcoholic beverages licensed premises shall reside in the Commonwealth of Massachusetts. A licensee shall not change managers without the prior approval of the Board and the Alcohol Beverage Control Commission.
  8. Any licensee intending to close its place of business for a short or long term shall notify the Board in writing before such closing and state the reason for such closing.
  9. No licensee under Chapter 138 of the General Laws may lend or borrow money, directly or indirectly, to or from any other licensee under Chapter 138.
- I. Licensees are responsible for maintaining a legal right to the premises which is covered by the license. Failure to have a legal right to the named licensed premises will result in revocation or non-renewal of the license.
  - J. Any licensee hiring armed security guards as security personnel for their licensed premises during business hours must notify the Board before doing so. Notification must include the names of each armed individual, except this does not apply to the hiring of any sworn police officers in the Commonwealth of Massachusetts.
  - K. Any licensee hiring police officers sworn within the Commonwealth, other than State Police, Boston Police, Boston Municipal Police or Suffolk County Deputies, must inform the Board in writing, of the names and police departments for which said officers work.

### **1:08 Alcoholic Beverages Sales**

- 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. Prices shall be effective for not less than one calendar week.
- C. No licensee, employee or agent of a licensee shall:
  1. Offer or deliver any free drinks to any person or group.
  2. Deliver more than two drinks to one person at one time.
  3. Sell, offer to sell, or deliver to any person or group any drinks at a price less than the price regularly charged 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 to 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 the 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. No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
- D. Nothing contained in the preceding section shall be construed to prohibit licensees from offering free food or entertainment at any time; including a drink as part of a meal package; the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person; or to prohibit those licensed under Chapter 138, section 15, from offering free tastings as allowed under Chapter 138; or to prohibit those licensed under Chapter 138, section 12, from offering room services to registered guests.
- E. Licensees shall not permit alcoholic beverages to be brought onto the licensed premises by patrons or employees.
- F. Licensees are 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 may 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 onto the premises, whether pursuant to an "I. D. bracelet" program or otherwise, are held accountable if minors are found to be drinking alcoholic beverages on the premises whether or not the Board's agents are able to prove that the licensee actually served the drink directly to the minor. Sufficient security personnel should be employed to monitor the premises to ensure that patrons do not pass alcoholic beverages to minors. (See also Rule 5.05, *infra*, prohibiting deliveries of kegs and cases of alcoholic beverages to dormitories).
- G. Throughout these rules and regulations, references to sales of alcoholic beverages are for those premises which hold licenses to sell alcoholic beverages on the premises. However, prohibitions against minors drinking on the premises and against alcoholic beverages being brought onto the premises apply to all licenses of the Board with regard to the public

rooms of the premises.

- H. Any licensee holding an alcoholic beverages license under sections 12, 14 or 15 of General Law, Chapter 138, who directly or through their employees or agents dilutes or changes, or in any manner tamper with any alcoholic beverages authorized to be sold so as to change its composition or alcoholic content shall be punished by a fine of not less than two hundred nor more than five hundred dollars, and if any holder of such license is convicted of a violation of the foregoing, his license shall be suspended for a period of not less than 6 months. Cocktails and other mixed drinks may be prepared on premises so licensed for the sale of alcoholic beverages.
- I. Whoever makes a sale or delivery of any alcoholic beverages or alcohol to any person under twenty-one years of age, either for his own use or for the use of his parent or any other person, or whoever, being a patron of an establishment licensed under sections 12 or 15, delivers or procures to be delivered in any public room or area of such establishment if licensed under section 12, 15, 19B, 19C or 19D or in any area of such establishment if licensed under section 15, 19B, 19C or 19D any such beverages or alcohol to or for use by a person who he knows or has reason to believe is under 21 years of age or whoever procures any such beverage or alcohol for a person under 21 years of age in any establishment licensed under section 12 or procures any such beverage or alcohol for a person under 21 years of age who is not his child, ward or spouse in any establishment licensed under said section 15, 19B, 19C or 19D or whoever furnishes any such beverage or alcohol for a person under 21 years of age shall be punished by a fine of not more than two thousand dollars or by imprisonment for not more than one year or both. General Law Ch. 138, s. 34.
- J. Any person under twenty-one years of age who purchases alcoholic beverages or alcohol or makes arrangements with any person to purchase or in any way procure such beverages, or who willfully misrepresents his age, or in any way alters, defaces or otherwise falsifies his identification offered as proof of age with the intent of purchasing alcoholic beverages either for his own use or for the use of any person shall be punished by a fine of three hundred dollars and whoever knowingly makes a false statement as to the age of a person who is under twenty-one years of age in order to procure a sale or delivery of such beverages or alcohol to a person under twenty-one years of age, either for the use of the person under twenty-one years of age or for use of some other person, and whoever induces a person under twenty-one years of age to make a false statement as to his or her age in order to procure the sale or delivery of such beverages or alcohol to such person under twenty-one years of age shall be punished by a fine of three hundred dollars. General Law Chapter 138, section 34A.
- K. Employees at premises which sell or serve alcoholic beverages for on-premises consumption or at package stores must be eighteen years of age except that such licensees may employ a person under the age of eighteen who does not directly handle, sell, mix or serve alcohol or alcoholic beverages.
- L. Any licensee, agent, or employee thereof under Chapter 138 who reasonably relies on a valid Massachusetts Liquor Purchase Identification Card or Massachusetts motor vehicle license for proof of a person's identity and age shall not suffer any disciplinary action or any criminal liability



for delivering or selling alcohol or alcoholic beverages to a person under twenty-one years of age. Such licensee shall be presumed to have used due care in making the sale, but such presumption shall be rebuttal. The information on the card or license must clearly match the photograph and description of the card or license holder and there should be no obvious signs of tampering upon reasonable inspection. (General Laws, Chapter 38, section 34B.).

- M. Any person who transfers, alters or defaces any such card, or who makes, uses, carries or sells or distributes a false identification card or uses the identification card or motor vehicle license or another or furnishes false information in obtaining such card shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than three months. (General Law, Chapter 138, section 34B)
- N. Any person who is discovered by a police officer or special police officer in the act of violating the provisions of this section may be arrested without a warrant by such police officer or special police officer and held in custody, in jail or otherwise, until a complaint is made against him or her for such offense, which complaint shall be made as soon as practical and in any case within twenty-four hours, with the exception of Sundays and legal holidays. (General Law, Chapter 138, section 34B)
- O. Whoever being under twenty-one years of age and unaccompanied by his parent or legal guardian, knowingly transports or carries on his person any alcohol or alcoholic beverages shall be punished by a fine of not more than fifty dollars; provided that this section shall not apply to any person who is between eighteen and twenty-one who is acting in the course of his or her employment. A police officer may arrest without a warrant any person who violates this section (General Law Chapter 138, section 34C)
- P. Alcoholic beverages licensees are forbidden to make a sale or delivery of alcoholic beverages or alcohol to a person who is intoxicated.
- Q. 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 (section 241 of Chapter 90). Said copies shall be posted conspicuously in said establishments. Said copies are available at the Alcoholic Beverages Control Commission. (Chapter 138, section 34D.)

### **1.09 Environs of Licensed Premises**

- A. It shall be 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 will be held 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. Licensees shall maintain compliance with all health and safety laws for the areas outside and

contiguous to the licensed premises.

- C. 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. Reasonable steps to be taken by the licensee may include: (1) maintaining the front door in a closed position; (2) asking loiterers to disperse; (3) calling 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 the same 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.
- D. Licensees shall take such steps as are necessary to ensure that patrons or employees do not leave the premises with alcoholic beverages. Such steps may include: (1) having an employee stationed at the door to watch patrons as they leave; (2) refusing to serve beer in bottles; (3) refusing to serve alcoholic beverages in disposable cups. (4) 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 Board's agents, it shall be presumed that the vessels contain alcoholic beverages.
- E. When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, in the area 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 Board 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, or is offensive to public decency, the licensee may be held in violation of the license and subject to proceedings for suspension, revocation or modification of the license.
- F. Licensees who use a valet parking service shall be responsible for ensuring that valet parking is conducted in an orderly manner without undue noise, without undue blocking of traffic lanes, and without the violation of any laws or authorized parking programs.
- G. Licensees who have agreed to a parking program as a condition of their license must adhere to such program except upon exemption by the Board.

### **1.10 Inspections and Investigations**

- A. All licensed premises shall be subject to inspection by the Police Department of the City of Boston and other duly authorized agents of the Licensing Board.
- B. Any person who hinders or delays a police officer or other authorized agent of the Board 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 and not more than two hundred dollars or by imprisonment for not more than two months or both.

- C. Licensees shall maintain a current list of all of their employees and have it available at all times for inspection upon the request of an authorized agent of the Board. 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 of the premises.
- D. No device or electronic equipment shall be utilized by a licensed premises for the purpose of signaling employees that agents of the Licensing Board are present.
- E. The Board or its agents may, at any time, take samples for analysis from any beverages or alcohol kept on the premises licensed pursuant to the General Laws, Chapter 138. The vessel or vessels containing samples shall be sealed on the premises in the presence of the license holder or of one of the employees and shall remain so sealed until presented to the state's Department of Public Health for analysis. Duplicate samples shall be left with the license holder.
- F. All complaints and reports shall continue in force until they have been reviewed and disposed of by the Board.

#### **1.11 Entertainment at Premises with In-house Food or Beverage Services:**

- A. No licensee may provide entertainment of any kind unless the licensee holds an entertainment license issued pursuant to the General Laws, Chapter 140, section 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 Board.

- E. No entertainment at the licensed premises may be conducted in a manner such that the noise from the entertainment can be heard outside the boundaries of the premises.
- F. No dancing by patrons is permitted except upon proper licensing pursuant to General Law, Chapter 140, section 183A, and confined to a particular dance floor area which has been approved by the Board 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 Board for the exercise of the food or beverage license or during any period when the food or beverage license has been suspended.
- H. All areas where entertainers perform, including stages and platforms, shall be separated by a walkway of at least two feet in width from any area where drinks are served and consumed if the entertainment includes performers who are unclothed or substantially unclothed pursuant to Rule 1:12 B infra.
- I. No licensee may permit any electronic games to be on the premises unless such machines are properly licensed pursuant to General Law, Chapter 140, section 177A.
- J. 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 Board and for which the licensee holds other appropriate licenses. See Rule 1.12B
- K. Licensees who hold licenses under General Law Chapter 138, section 12, to serve alcoholic beverages for on premises consumption, may petition the Board 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, section 33)

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

- A. Premises licensed for the consumption of food or beverages on the premises are public places where members of the public are invited and expect to be treated in the same manner as in other public places with regard to the provision of a decent and non-offensive environment. Food and beverage licensees are not permitted to have, create, produce, or tolerate any environment at the premises which is intended to hold any person or any group of people up to ridicule or derision such that said person or said group of persons would not feel comfortable at the premises.
- B. It is forbidden to employ or permit any person in or on the licensed premises while such person is unclothed or in such attire as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals with the

exception of performers at licensed premises located in the "Adult Entertainment Zone" designated by Amendment 38 of section 3-1 of the Boston Zoning Code; provided, however, that such person is providing entertainment pursuant to an entertainment license issued under the General Laws, Chapter 140, section 183A.

- C. 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.
- D. Licensees, agents or employees shall not 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.
- E. It is forbidden to employ or permit any person in or on the licensed premises to wear or use any device or covering exposed to view which simulates the breasts, buttocks, pubic hair, genitals or any portions thereof.
- F. It is forbidden to employ or permit any person in or on the licensed premises to perform any act or acts or to simulate any act or acts of sexual intercourse, masturbation, sodomy, flagellation, or any sexual acts prohibited by law; or touching, caressing, or fondling of breasts, buttocks, or genitals of another or of himself or herself.
- G. No employee and/or entertainer shall solicit, induce or request a patron to purchase any alcoholic or nonalcoholic beverage or any food for them or any other person. Nothing shall prohibit the above activity in connection with any contact which such person may have with a patron to whom they are related by blood or marriage.

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

- A. Licensees shall make all reasonable and diligent efforts to ensure that illegal activities does not occur at the licensed premises. Such efforts may include:
  - 1. Frequent monitoring of restroom 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, drug dealers, prostitutes or others who are known to have been convicted of crimes which may be conducted at a licensed premises.
  - 3. Diligence in observing and taking action against persons who make unusually frequent trips in and out of the premises or in and out of the restroom and/or persons who are visited at the premises by an unusually large number of people or by one or more people at frequent intervals and/or persons who appear to be making exchanges of small packages (matchbooks, cigarette packs, bags, paper squares, plastic or foil containers, or other containers) or payments of money.
  - 4. Monitoring of activities of persons who talk about weapons or who appear to be

hiding a weapon.

5. 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.
  6. 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, indecency, 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.
1. No gaming activity (casino type games) are to be held on any licensed premises without the explicit written approval of the Board. This rule applies to all gaming activities, whether or not monetary fees or rewards exchange hands.

#### **1.14 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. 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.

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

- A. Any license issued pursuant to General Laws Chapter 138 and Chapter 140 for the service of food and/or beverages to the public may be modified, suspended, or revoked for any of the following causes:
1. Violation by the licensee of any relevant provision of the General Laws of the Commonwealth or Ordinances of the City of Boston.
  2. Violation of any rule or regulation of any City of Boston agency, the Alcoholic Beverages Control Commission or the Licensing Board.
  3. 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 Board in connection with such petition, request, or application affecting the rights of the licensee.
4. Failure to operate the premises covered by the license.
  5. 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 Board.
  6. Conviction of the licensee of any crime that is a felony under the laws of the Commonwealth of Massachusetts or the United States of America.
  7. The granting or offer by a licensee of any money, article of value, or pay for or reimburse or forgive the debt for services provided to any employee or agent of the Board either as a gratuity or for any service.
  8. Failure to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Board or upon which any application or petition relating to the premises was granted by the Board. 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 Board and with any conditions on the license.
  9. The refusal by any licensee and, if a corporation, by a manager, officer, or director thereof to appear and to testify under oath at an inquiry or hearing held by the Board 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.
  10. Failure to properly serve suspension and modification orders.

### **1.16 Service of Suspension Orders**

- A. When the Board 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 City of Boston." 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 Board 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.

- 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 and the business may not be open for any reason. The licensee may be on the premises during suspension periods and the business may not be open for any reason. The licensee may be on the premises only if it is in the process of actively cleaning up or doing office work at the premises.

### **1.17 Permission to Close Premises Required**

- A. 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:
  - 1. Upon approval of a request to the Board for closing in order to do renovations for a reasonable time;
  - 2. For all holidays and religious days;
  - 3. 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;
  - 4. 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.
- B. Alcoholic beverage licensees shall not close the licensed business on any days for which their entertainment license has been suspended unless they make a request to the Board based upon the licensee's allegation that its primary business comes from the entertainment and that there would be little business or public reason to keep the premises open during the days when entertainment cannot be provided at the premises. Such requests may be granted by the Board where the entertainment is a primary attraction for the public at the licensed premises. Licensees that remain open to the public for the sale and service of alcoholic beverages and food during days on which their entertainment licenses are suspended may not conduct any type of entertainment on the premises during the suspension period.

### **1.18 Definitions**

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.



## **1.19 Hearings in the Neighborhoods**

- A. The Board may hold a hearing on an application for a new license location for an all-alcoholic beverages license in the neighborhood in which the applicant seeks to locate the license. For the purposes of this rule, the neighborhood shall be defined as the political ward in which the new location is sought. However, reasonable efforts will be made to seek a hearing location that is close to the site of the proposed premises.
- B. The Board may go to a neighborhood to hold a hearing upon its own motion to do so or when requested by a private citizen with a complaint against a licensee brought to the Board's attention upon a petition of twenty-five adult residents who live within a one-mile radius of the licensed establishment in question. A spokesperson for the petitioners shall meet prior to any meeting with the Board's Executive Secretary or duly authorized representative to explain the case to be presented.

## **SECTION TWO: SPECIAL ADDITIONAL RULES FOR COMMON VICTUALLERS**

### **2.01 Kitchen Facilities**

All common victualler licensees must have kitchen facilities for storing foods required to be kept at cold temperatures and facilities for cooking and serving foods.

### **2.02 Alcoholic Beverages**

Patrons are not permitted to bring alcoholic beverages on the premises for their own consumption. Licensees are not permitted to keep alcoholic beverages on the premises except for a reasonably small quantity that is used in the preparation of certain specialty foods. The Board will, in its discretion, determine what is reasonable for this purpose and whether or not it is customary in the preparation of such specialty foods.

### **2.03 Food Service**

Some type of food must be available upon the request of a patron at a premises with a common victualler license during all operating hours; provided, however, that the full dining menu does not need to be available at all times.

### **2.04 Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in section 1, above, with the exception of those parts that refer to the sale of alcoholic beverages.

**SECTION THREE: SPECIAL ADDITIONAL RULES FOR INNOLDERS**

**3.01 Provisions for Strangers and Travelers**

- A. Every innholder shall at all times be provided with suitable food for strangers and travelers. Every innholder shall also have upon its premises suitable rooms, with beds and bedding, for the lodging of guests. An innholder who upon request refuses to receive and to make suitable provisions for a stranger or traveler shall be punished by a fine of not more than fifty dollars and shall be subject to proceedings for suspension, modification or revocation of its license.

**3.02 Immorality on the Premises**

Whoever being licensed as an innholder, or being in actual charge, management or control of the premises for which the license is issued, knowingly permits the premises under his or her control to be used for the purpose of immoral solicitation, immoral bargaining or immoral conduct, including prostitution, drugs or gambling, shall be punished by a fine of not less than five hundred not more than one thousand dollars or by imprisonment and shall be subject to disciplinary proceedings against the license.

**3.03 Maintaining a Register**

Every innholder shall maintain a permanent register in which shall be recorded the name and residence of every person engaging or occupying a private room. Such register shall be retained by the holder of the license for a period of at least one year after the date of the last entry therein and shall be open to the inspection of the licensing authorities, their agents, and the police.

**3.04 Applicable rules**

Licenses under this section are subject to all applicable general rules for licensees set out in Section One, above, with the exception of those parts that refer to the sale of alcoholic beverages if the innholder does not hold an alcoholic beverages license.

**SECTION FOUR: SPECIAL ADDITIONAL RULES FOR LODGING HOUSE LICENSES**

**4.01 Definitions**

- A. “*Lodging House*” shall mean a house where lodgings are let to four or more persons not within the second degree of kindred to the person conducting it and shall include fraternity houses and dormitories of educational institutions, but shall not include dormitories of charitable or

philanthropic institutions or convalescent or nursing homes licensed under section 71 of Chapter 111 of the General Laws or rest homes so licensed, or group residences licensed or regulated by agencies of the Commonwealth; provided, however, that the Board will grant dormitory licenses under a separate category within the lodging house license category. (General Law Chapter 140, section 22)

- B. The term “*lodgings*” shall be limited to single rooming units or sleeping accommodations rented individually, or occupants living together in a single dwelling unit, but not as a single housekeeping unit, with or without common kitchen facilities. Shared living situations, i.e. unrelated roommates or housemates with equal rights to the entire dwelling, shall not constitute a lodging house.
- C. A family shall be considered as one “*person*,” “*lodger*” or “*boarder*” for all purposes of lodging house requirements and enforcement. “*Family*” shall mean two or more persons related by blood, marriage, adoption or analogous family union and living as a single, nonprofit housekeeping unit.
- D. When a landlord allows a tenant to bring in another person or persons to reside in the dwelling unit occupied by the tenant, in exchange for financial contribution toward the rent, utilities and/or household expenses, the tenant and the tenant’s family shall be considered the operator or “*person conducting it*.”
- E. Nothing herein shall be interpreted or construed as granting a tenant authority which is outside the scope of his or her rental/lease agreement with the owner of the property.

#### **4.02 Cooking Facilities**

A lodging house where lodgings are let to more than five but less than twenty persons may furnish individual cooking facilities for the preparation, serving, eating and storage of food; provided that no such facility shall be furnished in a room having an area of less than one hundred fifty square feet. Such facilities shall, in a single room, consist of a gas or electric plate, a refrigerator and hot and cold running water and in a unit consisting of two adjoining rooms shall consist of a gas or electric range, a sink with hot and cold running water, a refrigerator and storage area for food. Any facilities furnished under this section shall comply with the Building Code.

#### **4.03 Immorality On the Premises**

Whoever being licensed as a lodging house keeper or being in actual charge, manage or control of such lodging house, knowingly permits the property under his or her control to be used for the purpose of immoral solicitation, immoral bargaining or immoral conduct, including criminal activities such as prostitution, use and sale of drugs, possession of drugs, and gambling, shall be punished by a fine of not less than five hundred nor more than one thousand dollars or by imprisonment for not less than six months nor more than one year, or both, and the licensee shall be subject to disciplinary proceedings before the Board.

#### **4.04 Maintaining a Register**

Every lodging house keeper shall keep or cause to be kept, in permanent form, a register in which shall be recorded the true name or name in ordinary use and residence of every person engaging or occupying a private room averaging less than four hundred square feet floor area. Such register shall be kept for a period of at least one year after the last entry therein, and shall be open to the inspection of the licensing authorities, their agents and the police. Whoever violates this requirement shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than three months, or both, and the licensee shall be subject to disciplinary proceedings before the Board.

#### **4.05 Rooms to Be Let to Persons Only**

Whenever the Board issues a lodging house license, the licensee may let individual rooms to individual persons only and may not contract out rooms to an entity or institution which intends to choose lodgers for the rooms. Such conduct will be held to constitute leasing out of the license and is prohibited. Violation of this rule may result in suspension or revocation of the license.

#### **4.06 Lodging House License Not to Coexist with Dormitory**

A lodging house license may not coexist with or include a license for a dormitory operation in which one or more rooms are assigned to students from a particular educational institution and may not exist in the same building with another lodging house license except upon special permission of the Board.

#### **4.07 Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in section 1, above, with the exception of those parts that refer to the sale of alcoholic beverages.

### **SECTION FIVE: SPECIAL ADDITIONAL RULES FOR DORMITORY LICENSES**

#### **5.01 Special Class of Lodging House Licenses**

- A. Subject to the provisions of General Laws, Chapter 140, sections 22 et seq., the Board will provide educational institutions with the opportunity to apply for a separate class of lodging house license to be known as a Dormitory License and such licenses shall be available for dormitories of any size and configuration or building designation not inconsistent with the provisions of General Laws, Chapter 140, sections 22 et seq.

- B. An educational institution may not lease rooms in a lodging house from a lodging house licensee but must apply in its own name for a Dormitory License for a building or for units within a building when the educational institution intends to let such units to four or more persons or to direct another party to let such units to four or more persons who are registered students at the educational institution.

### **5.02 Supervision of Dormitory**

The conduct of students while within the units of the dormitory must be subject to the rulemaking, supervisory and disciplinary powers of the educational institution.

### **5.03 Applications for Dormitories**

- A. No application for a Dormitory License will be processed by the Board unless it is accompanied by proof of approval of occupancy by the Building Department (1) as a "dormitory," where more than fifty percent of the building is intended to be occupied by registered students only; or (2) as a "lodging house," where fifty percent or less of the building is intended to be occupied by registered students only; or (3) for some other designation of occupancy which would permit the building or the units to be used by the educational institution as residential units for four or more students registered at the educational institution where fifty percent or less of the building is intended to be occupied by registered students only; provided, however, that in the event that the Building Department changes its rule for designation of dormitories to include buildings or units in buildings which are let by an educational institution to four or more persons who are students registered at the educational institution whether or not such students comprise any particular percentage of the total occupancy of the building, then the Board will require approval for such dormitory occupancy by the Building Department prior to processing any application for a Dormitory License.
- B. No new license for a dormitory and no expansion of a dormitory license will be granted or denied by the Board except after a public hearing at which evidence may be presented bearing on the fitness of the applicant, the record of the applicant in running dormitories, the plans of the applicant for the units, the physical adequacy and safety of the building and the units, the plans of the applicant for supervision of the student occupants, the qualifications and character of the supervisors of the dormitory, and whether or not the dormitory will have an adverse effect upon the public health, safety and morality with regard to persons who will be living in the building. The Board will not consider public interest grounds relating to any potential adverse effect that the dormitory may have upon a neighborhood when considering whether or not to grant a license, the Board having been precluded from making such prospective determinations by the ruling in the case of *Trustees of Boston University v. Licensing Board of Boston*, 510 N. E. 2d 283 (Mass. App. 1987).
- C. At least five business days prior to a hearing upon an application for a dormitory license, the applicant will submit to the Board a written plan for supervision of the building. Such plan must include details as to fire prevention, trash storage and removal, regulations for student cars, regulations for noise, regulations for student use of any outside areas of the

units or building, and the name, address, and qualifications of the resident manager of the dormitory. Such manager may be a student or a non student designated by the educational institution and responsible for supervision of the dormitory.

#### **5.04 Dormitory Lodgers Not to Coexist with Other Lodgers**

Whenever the Board grants a dormitory license it gives the right to one educational institution to provide lodging to students of the same educational institution and there is no authority given to the licensee to let rooms to other members of the public or to students from other educational institutions except upon special permission of the Board.

#### **5.05 Alcoholic Beverages**

Dormitory licensees shall ensure that minors do not drink alcoholic beverages on the premises. Rules shall be posted and enforced prohibiting drinking by minors and prohibiting deliveries of kegs of beer or cases of beer or other quantities of alcoholic beverages which are not intended for the personal use of the person ordering the alcoholic beverages. Where the Board finds that deliveries of kegs of beer or cases of beer or other large quantities of alcoholic beverages are regularly made to a dormitory premises, the Board will take action to modify, suspend or revoke the dormitory license.

#### **5.06 Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in section 1, above, with the exception of those parts that refer to the sale of alcoholic beverages.

### **SECTION SIX: SPECIAL ADDENDUM TO THE RULES FOR NON-INTOXICATING BEVERAGE**

#### **6.01 Soft Drink Definition**

The Board will require persons to be licensed who keep open their places of business for the retail sale of beverages derived wholly or in part from cereals or substitutes therefore and containing less than one-half of one percent of alcohol, unfermented grape juice, ginger ale, root beer, sarsaparilla, pop, artificial mineral waters, carbonated waters or beverages, and other so-called soft drinks, if the business has the primary purpose of providing an establishment where patrons gather in order to socialize and/or to enjoy some form of entertainment. (General Law Chapter 140, section 21 A).

#### **6.02 Sale of Soft Drink**

For purposes of this regulation, a sale is defined as the provision of a soft-drink beverage to

a patron in or by the establishment in exchange for something of value by means of an in-person exchange or by means of a vending machine exchange or by means of a cover charge which gives the patron the right to obtain drinks without additional payment.

### **6.03 Penalties**

Whoever not being licensed as aforesaid keeps open his or her place of business for the retail sale of any such beverage may be subject to penalty of law. This section shall not apply to persons who keep open their places of business on Sunday for the sale of soda water, if they are licensed under section seven of chapter one hundred and thirty-six. (See General Law Chapter 140, section 21 C.)

### **6.04 Responsibilities of License Holder**

The license-holder is responsible for the proper management of the premises so that unlawful acts do not occur on the premises and so that the premises does not become a threat to the public welfare or public safety. When violations of the license or of the law are brought to the attention of the Board a disciplinary hearing will be held and, as a result of evidence brought to the attention of the Board at the hearing, the Board may modify, suspend or revoke the license.

### **6.05 Inapplicability to Certain Persons**

The provisions of this section shall not apply to innholders, common victuallers, druggists, nor to dealers whose principal business is the sale of groceries and meats or either of said products, nor to the sale of any or all of such beverages when sold not to be drunk on the premises.

### **6.06 Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in section one, above, with the exception of those parts that refer to the sale of alcoholic beverages.

## **SECTION SEVEN: SPECIAL ADDITIONAL RULES FOR PACKAGE STORE LICENSEES**

### **7.01 Records of Deliveries**

A. Package store licensees are required to keep a written record of the name and address of every person to whom a delivery is made outside of the premises. Additionally, the record must include the information as to the amount of alcoholic beverages that were delivered, the date and time of delivery, and the signature of the

person receiving the delivery. If such signature is illegible the licensee is required to have the patron print his or her name under said signature. Such records must be maintained for a period of not less than one year from the last entry therein and must be available to the Board and its agents for inspection at any time in a form suitable for easy inspection.

- B. Any retail licensee making the sale of a keg must notify the Boston Police Department District Commander within a reasonable time on the date of sale, via email, fax or telephone. Notification shall include the name, address and date of birth of the purchaser.
- C. For purposes of Rule 7.01(B), a keg is defined as a container having a capacity by volume of more than 6 gallons.

### **7.02 Applicable Rules**

Licensees under this section are subject to all applicable general rules for licensees set out in section 1, above, with the exception of those parts that refer to sales of alcoholic beverages for consumption on the premises and those parts that refer to sales of food or to entertainment on the premises. Package store licensees who also hold common victualler licenses are subject to additional special rules for common victuallers in section 11, above.

### **7.03 Off-Premises Sales**

Alcoholic beverages shall be transported or delivered for sale only upon orders actually received at the licensed business prior to the shipment thereof. Violations of this section shall be punished by a fine not exceeding two hundred dollars or by imprisonment for not more than six months, or both. (General Law Chapter 138, section 32).

## **SECTION EIGHT: SPECIAL ADDITIONAL RULES FOR BILLIARD TABLES, POOL TABLES, SIPPIO TABLES, AND BOWLING ALLEY**

### **8.01 Issuance of Licenses**

The Board may issue licenses to persons to keep a billiard, pool or sippio table or a bowling alley for hire, gain or reward, to be used for amusement only and not for the purpose of gaming for money or for property.

### **8.02 Penalties**

Whoever without such a license keeps or suffers to be kept in a house, building, yard or dependency thereof, actually occupied or owned by him or her, a table for the purpose of playing at billiards, pool or sippio or a bowling alley for hire, gain or reward, or whoever



for hire, gain or reward suffers any person to resort thereto for such purpose shall forfeit not more than one hundred dollars. (General Law Chapter 140, section 178)

### **8.03 Minors**

The keeper of a billiard, pool or sippio room or table who admits a minor under the age of eighteen thereto without the written consent of his or her parent or guardian or the keeper of a bowling alley in which alcoholic beverages are sold who admits thereto a minor under the age of sixteen without such consent shall forfeit ten dollars for the first and twenty dollars for each subsequent offense and shall be subject to disciplinary proceedings against the license.

### **8.04 Applicable Rules**

Licenses under this section are subject to all applicable general rules for licensees set out in section 1, above, with the exception of those parts pertaining to the sale of alcoholic beverages. If the licensee under this section also has an-alcoholic beverages license he or she is subject to all of the general rules set out for licensees in section 1, above. If the licensee under this section also has a common victualler or a non-intoxicating beverages or a club victualler or other such license, then the licensee is also subject to all rules under the corresponding section of these rules.

## **SECTION NINE: SPECIAL ADDITIONAL RULES FOR DISPENSING FOOD OR BEVERAGES AT CLUBS WHICH ARE NOT LICENSED FOR THE SALE OF ALCOHOLIC' BEVERAGES**

### **9.01 Issuance of Licenses**

- A. The Board may grant a license to any club, society, association or other organization, whether incorporated or not incorporated, authorizing it to dispense food and beverages on its premises, to its stockholders or members and their guests, but to no others; provided, however, that the Board is satisfied that such organization is a proper one to which to grant such a license.
- B. If such organization is not incorporated, the names of all the officers and members shall be submitted with the application for the license and shall be kept available for public inspection.

### **9.02 Exemptions**

The provisions of this section shall not apply to literary, benevolent, charitable, scientific or religious corporations or religious organizations or associations whose real or personal property is exempt from taxation, or to any club so long as it is licensed under section 12 of General Laws Chapter 138 to sell alcoholic beverages nor to any recognized veteran or fraternal organization.

### **9.03 Penalties**

It is illegal for any officer or employee of any such organization to dispense or causes to be dispensed any food or beverage on its premises, unless such organization is licensed as aforesaid. Said officer or employee shall be punished by a fine of not more than one hundred dollars for the first or second offense and by such a fine and imprisonment for not more than three months for each subsequent offense. (General Law Chapter 140, sections 21 E and 21 F)

### **9.04 Improper Use of License**

If such organization at any time exercises in an improper manner the authority conferred upon it by such license, the Board, after notice to the licensee and reasonable opportunity to be heard, may upon the satisfactory proof thereof suspend or revoke or modify the license.

### **9.05 Conviction of Officer**

If any officer or employee of such incorporated organization convicted of any offense under this section, the police commissioner shall immediately give notice to the state secretary, who, upon receipt thereof, shall declare the charter of such organization void, and shall publish a notice that such incorporation is void and of no further effect.

### **9.06 Applicable Rules**

Licensee under this section are subject to all applicable, general rules for licensees set out in section 1, above, with the exception of those parts which refer to sales of alcoholic beverages.

## **SECTION TEN: SPECIAL ADDITIONAL RULES FOR THE SALE OF ALCOHOLIC BEVERAGES BY REGISTERED PHARMACISTS**

### **10.01 Issuance of License**

A registered pharmacist who holds a certificate of fitness under section 30 of General Laws Chapter 138 may use alcohol for the manufacture of United States pharmacopoeia or national formulary preparations and all medicinal preparations unfit for beverage purposes, and may sell alcohol and upon the prescription of a registered physician, wines, malt beverages, and other alcoholic beverages, and a registered pharmacist may be licensed by the Licensing Board to sell alcoholic beverages for medicinal, mechanical or chemical purposes without a physician's prescription. (General Laws, Chapter 138, sections 29, 30A.)

### **10.02 Sundays and Legal Holidays**

No licensee under this section shall sell any alcoholic beverages or alcohol without a physician's prescription on Sundays or legal holidays.

### **10.03 Certification of Purchaser**

Licenses under this section shall not sell alcoholic beverages of any kind for medicinal, mechanical or chemical purposes except upon the certificate of the purchaser, which shall state the use for which it is wanted and which shall be immediately canceled at the time of sale in such manner as to show the date of cancellation.

### **10.04 Register to Be Kept**

Licenses under this section shall maintain a book in which each licensee shall enter, at the time of every such sale, the date thereof, the name of the purchaser, the kind, quantity and price of said beverage, the purpose for which it was sold, and the residence by street and number, if any, of the purchaser. If such sale is made upon the prescription of a physician, the book shall also contain the name of the physician and shall state the use for which said beverage is prescribed and the quantity to be used for such purpose and the prescription shall be canceled in the manner provided in the preceding section with reference to certificates. Said book shall be maintained in the format prescribed in General Laws, Chapter 138, section 30E and said certificate shall be in the form prescribed in the same section.

### **10.05 Applicable Rules**

Licenses under this section are subject to all applicable general rules for licenses set out in section 1, above, with the exception of those parts that refer to sales of alcoholic beverages or food for consumption on the premises.

## **SECTION ELEVEN: SPECIAL ADDITIONAL RULES FOR PRIVATE CLUBS LICENSED TO SELL ALCOHOLIC BEVERAGES**

### **11.01 Who May Be Served**

Private clubs licensed for the sale and service of alcoholic beverages may serve such beverages and may serve food to members and to guests of members and to no others.

### **11.02 Inspections**

Private clubs may be inspected by the police department and other agents of the Licensing Board in the same manner and to the same extent as other food or beverage licenses pursuant to General Laws, Chapter 138, sections 63 and 63A.

### **11.03 Lists of Members and Employees**

A current list of employees and members shall be available upon request of authorized agents

#### **11.04 No Discrimination**

- A. No private club licensee shall make any distinction, discrimination or restriction on account of race, color, religious creed, national origin, sex, sexual preference or ancestry relative to the admission or treatment of any person.
- B. This section is reserved for the rule on discrimination with regard to membership. See full text of present rule in the Board's offices.
- C. This section is reserved for the rule on discrimination with regard to guests. See full text of present rule in the Board's offices

#### **11.05 Membership Lists**

The names of all club members must be provided to the Board as part of the renewal application of each present club licensee on an annual basis. New applicants for club licenses must provide a list of charter member's names and update the list annually at renewal time. Names of members may be submitted in a sealed envelope and will be kept in a confidential file by the Board.

#### **11.06 Entrance to Private Clubs**

Persons who are not listed as club members shall not be permitted to enter the licensed premises except when escorted into the club by a club member or when the club member has properly notified the club of his or her guest's arrival.

#### **11.07 Definition of "Guest"**

Any person who is not made a member of the club for at least one year and has not paid an annual membership fee and is not recorded in the club's log of members is considered to be a "guest" for the purposes of the Licensing Board's regulations unless an exemption from the restriction has been granted by the Board (pursuant to rule 1 1.06 above.)

#### **11.08 Fees and Surcharges**

Club members may be assessed an annual fee and may be assessed surcharges to be divided equally among the membership. Club members may not be charged a fee for entrance into the club on any particular occasion, unless written notice has been sent to each club member at least one week prior to the particular occasion, informing the membership that there will be an entrance charge for the particular occasion.

#### **11.09 Applicable Rules**

Licensees under this section are subject to all applicable general rules for licenses set out in Section 1, above.

**SECTION TWELVE: SPECIAL ADDITIONAL RULES FOR  
COMMON VICTUALLER HOLDING  
BYOB (BRING YOUR OWN BOTTLE)  
PERMITS**

Common Victualler license holders must obtain a BYOB permit prior to allowing patrons to bring alcoholic beverages into their premise.

**12.01 Eligibility:**

- A. Restaurants holding any type of alcoholic beverage license granted by this Board and the ABCC are not eligible to hold a BYOB permit.
- B. Restaurants in the Downtown, North End, South End, Bay Village, Fenway, Chinatown, Seaport, West End, Beacon Hill and Back Bay neighborhoods of Boston are not eligible for a BYOB permit.

**12.02 Restaurant Types:**

- A. Common Victualler license holders with a capacity of 30 or less may apply for a BYOB permit.
- B. Only Common Victualler license holders who offer on premise dining with table service provided by wait staff may apply for a BYOB permit.

**12.03 Liability Requirements:**

A BYOB permit will not be issued unless and until a licensee submits proof of liquor liability insurance for bodily injury or death for a minimum amount of \$250,000 on account of injury to or death of 1 person, and \$500,000 on account of any 1 accident resulting in injury to or death of more than 1 person.

Proof of liquor liability insurance for bodily injury or death for a minimum amount of \$250,000 on account of injury to or death of 1 person, and \$500,000 on account of any 1 accident resulting in injury to or death of more than 1 person is required as a condition to renew a BYOB permit.

#### **12.04 Training Requirements:**

The licensee, manager of record, and all employees must complete an in-person, insurance industry-approved safe service of alcohol training program, prior to issuance of a BYOB permit.

Employees hired after the issuance of a BYOB permit must complete an in-person, insurance industry-approved safe service of alcohol training program prior to beginning their employment.

#### **12.05 Permitted Types/Sizes of Alcohol:**

- A. Patrons may only bring wine and malt beverages into the licensed premise.
- B. Patrons are prohibited from bringing distilled spirits and/or liqueurs/cordials into the licensed premise.
- C. Patrons may only bring malt beverages in containers no larger than 64 oz., and may bring in no more than a total of 64 oz. per person.
- D. Patrons may only bring wine in containers no larger than 750 ml., and may bring in no more than a total of 750 ml. per person.
- E. Patrons are prohibited from re-entering the premise with additional alcohol.

#### **12.06 Miscellaneous:**

- A. Licensees shall not charge a "corkage" or any other fee or surcharge for permitting BYOB or providing any service or amenity relative to BYOB.
- B. Licensees are not prohibited from providing glassware and/or a bottle opener.
- C. Nothing in this section shall prohibit a licensee from discarding an empty or abandoned alcoholic beverage container or its content.

#### **12.07 Hours of Operation:**

Licensees shall only allow BYOB between the hours of 5:00 P.M. and 11:00 P.M.

**12.08 Renewal and Annual Fee:**

- A. Licenses shall be renewed each year within the month of October, to coincide with the renewal of the Common Victualler license.
  
- B. The annual fee is \$400.00

Licenses under this section are subject to all applicable general rules for licensees set out in sections 1 and 2, above, with the exception of those rules that refer to sales of alcoholic beverages on the premise.