

# TOWN OF BARNSTABLE

# RULES AND REGULATIONS



# LICENSING RULES AND REGULATIONS

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## **PART V: LICENSING AUTHORITY RULES AND REGULATIONS**

### **501 GENERAL RULES FOR ALL LICENSED BUSINESSES**

In addition to any other pertinent section within Part V of the Town of Barnstable Code, all licensed businesses are subject to the following General Rules and Regulations

#### **501-1 DEFINITION**

- a) 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.
- b) The term "Year-round" or annual shall mean a business that operates no less than 11 months in a calendar year.
- c) The term "seasonal" shall mean a business that operates less than 11 months in a calendar year. Seasonal alcohol licenses shall be valid for any duration between April 1 and January 15<sup>th</sup> each calendar year.
- d) The term "Cover Charge" shall mean all admission fees or admission charges.
- e) The term "premise" shall mean a parcel along with other appurtenances and including all structures, houses or buildings, occupied by a business or considered in an official context. Specific areas where alcohol is permitted is defined in description on license, approved by both Licensing Authority and ABCC.

#### **501-2 REQUIREMENTS OF LICENSURE**

- a) No individual or establishment may conduct any business which requires a license without first obtaining a valid license.
- b) No license is to be issued unless the fees as established by the Town Council and set forth in Appendix A, have been paid.

#### **501-3 CONDITIONS IMPOSED ON LICENSES**

- a) At the discretion of the Licensing Authority, conditions may be imposed upon the licensee to protect the public welfare.

#### **501-4 AVAILABILITY OF RULES AND REGULATIONS**

- a) All licensees of the Licensing Authority for the Town of Barnstable shall ensure that a copy of the rules and regulations of the Licensing Authority is kept on the premises at all times and is immediately available for inspection upon request by a member of the public or an agent of the Authority, or any police officer.
- b) The rules and regulations need not be posted but must be readily accessible to a requesting party within several minutes of the request.

#### **501-5 RESPONSIBILITIES OF LICENSE HOLDER**

- a) 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 Licensing Authority and comply with all rules and laws.
- b) License holders are required to attend any and all mandatory meetings held by the Licensing Division or any Town of Barnstable Division as related to the business operation.
- c) Licensees shall maintain a current list of all of their employees and shall have it available at all times for inspection upon the request of a police officer or an authorized agent of the Licensing Authority. 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 at the premises.

- d) Unless otherwise stated, licenses expire on December 31 of each year. Applicants are responsible for obtaining an approved license each year, prior to opening for business. (See Appendix A)
- e) The applicants will be responsible for obtaining any required Town Board approvals or department permits prior to applying for a new or transfer license. An exception is made in the event that a Zoning Board of Appeals appeal made prior is in effect, at which time an applicant may advertise for a hearing for a license provided that the date of the license hearing occurs after the ZBA appeal period is ended (20 days from the date of filing with the Town Clerk).
- f) The Licensing Authority requires all new applicants, transfer and amended license applications to come before the Authority for approval.
- g) Applicants are responsible for providing either a Worker's Comp Certificate of Liability Insurance with the Town of Barnstable Licensing Authority named as the certificate holder, or a Worker's Comp Insurance Affidavit. In addition, the applicant is responsible for completing and submitting all required forms (such as, but not limited to, application, renewal affidavit, floor plans, certificate of inspection) prior to being scheduled on Licensing Authority meeting agenda.
- h) The license holder is responsible for the proper management of the premises, according to the provisions of relevant General laws of the Commonwealth or relevant Ordinances or Codes of the Town of Barnstable, any rule or regulation of any Town of Barnstable agency or of the Alcoholic Beverage Control Commission, any business plan or management policy of said license holder, or of any other means as determined by the Licensing Authority, so that unlawful acts or unlicensed activity does not occur on the licensed premises.
- i) The License holder will maintain the orderly appearance and operation of the premise with respect to litter.
- j) 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.
- k) Licensees who have agreed to a parking program as a condition of their license must adhere to such program except upon exemption by the Licensing Authority.

#### **501-6 POSTING REQUIREMENTS**

- a) No business requiring a license from the Licensing Authority shall operate without a valid license posted.
- b) Licenses issued by the Licensing Authority, and all other licenses, permits and certificates affecting the licensed premise must be posted in a conspicuous place easily seen by the public where they can be read without difficulty and without recourse to the assistance of employees at the premises.
- c) Licensees shall not permit entrance to the premises by more persons than the number approved by the Building Commissioner for the capacity of the premises minus the number of employees working in the public areas at the time. Every room licensed for public occupancy shall be conspicuously posted at each entrance, clearly visible to patrons as they enter, with a statement of maximum occupancy. The statement must be clearly printed on permanent stock with white letters and numbers, no less than one inch high, printed on a dark contrasting background. Handwritten statements or statements on paper or cardboard are not permitted. The statement shall be permanently affixed and secured and maintained in a clearly

visible state. The statement shall contain the language "MAXIMUM CAPACITY OF THIS ROOM \_\_\_\_\_ PERSONS." The number of allowable persons included in the statement shall be that number approved by the Town of Barnstable Building Department. Whenever a section of a room is separated by an attached or secured wall, railing, divider, drink rail, or other partition, it shall be considered a separate room and all such sections shall be posted as separate rooms.

- d) All cover charge or other admissions policies SHALL BE CONSPICUOUSLY POSTED.
- e) No licensee may 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 charge; provided, however, that no such licensee shall require a person under 13 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 not less than two (2) years. Such charges must also be posted on the outside of the licensed premises. Nothing in this regulation shall be constructed to prohibit advance ticket sales.
- f) A licensee who charges a minimum charge for the purchase of food and/or nonalcoholic beverages shall include a specific statement in the posting stating that there is no minimum charge for alcoholic beverages. Such minimum charge for food and/or nonalcoholic beverages shall not be collected in advance of gaining entrance to the premises.
- g) No licensee may institute dress requirements of any kind except according to the following rules:
  - 1) No signs may 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. (Examples: "Jackets required", "Ties and jackets required", "Shirts with collars required", "No Sneakers".)
  - 2) No requirement may be made as to the type of shoes or the height of heels which may be worn; provided however, that reference may be made to the admissibility or non-admissibility of sneakers or other soft athletic shoes or open shoes such as sandals.

#### **501-7 ADMISSIONS TO THE PREMISES**

- a) No licensee may 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 orientation, physical or mental disability, or ancestry, or on account of any other classification relative to the admission or treatment of persons from the general public or employees at the licensee's premises; provided, however, that premises licensed pursuant to §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; provided, further, that private club licensees may 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.
- b) No licensee may issue special admissions passes or "VIP" cards except according to the following rules:
  - 1) A licensee may issue special passes.

- 2) The special passes must state the calendar year on the face of the pass.
  - 3) The special pass may not entitle the passholder to free drinks or to a discount on drinks.
  - 4) The licensee must keep a list of the names and the addresses of all passholders and must have such list available if requested by the Licensing Authority.
  - 5) The licensee is responsible for ensuring that persons are picked to be passholders on a rational basis and not on any basis that invidiously discriminates.
- c) 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 10 persons and shall announce no further admissions to the premises if persons in the line are being loud or disorderly or if the line is blocking the sidewalk or 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 have been deemed to be inviting a public nuisance and will be subject to disciplinary proceedings for same. Licensees in residential zoning districts or within 150 feet of a residential zoning district are not permitted to allow patrons to wait in line outside the premises.
- d) Licensees may refuse entrance to the premises to a person who appears to be intoxicated or unruly and may evict such a patron, except that in such a case the licensee will call the police and will offer assistance to an intoxicated or disruptive patron or person trying to gain entry when possible, if the employee finds, with reasonable discretion or opinion, such person poses a risk to the public or him/herself.
- e) Licensees are not permitted to lock the front door of the premises until the last patron has exited from the premises.

#### **501-8 HOURS OF OPERATION**

- a) The hours of operation shall not exceed the hours approved by the Licensing Authority.
- b) Licensees shall ensure that their patrons leave the premises in an orderly manner.
- c) Licensees are not permitted to allow any patron or any guest or any 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.
- d) 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 1/2 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 but only if they are actively engaged in cleaning, making emergency repairs to, or providing security for such premises or preparing food for the day's business or

opening or closing the business in an orderly manner. The Police must be notified if employees are going to remain after 2:00am for closing and/or cleaning. No other persons, friends, or relatives may be on the premises with the owners, managers or employees of licensed premises during the hours when the public is excluded from the premises.

- e) Licenses are granted to serve the public need and to that end licensee 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.
- f) Any licensee intending to close its place of business for a short- or long-term during regularly scheduled dates of operation must notify the Licensing Authority in writing before such closing and state the reason for such closing.
- g) In the case of alcoholic beverages licenses closing for a short- or long-term, see Chapter 502 for further specifics.

#### **501-9 PHYSICAL PREMISES**

- a) Licensees are responsible for maintaining a legal right to the premises which is covered by the license.
- b) No licenses shall issue or shall be considered in good standing unless licensed premises comply with all statutory requirements, including all applicable building codes, fire, health, safety, trash, state and local tax obligations and other government regulations and laws.
- c) The licensed premises shall conform to the floor plan approved by the Licensing Authority with regard to the structures and the walls at the premises, as well as with regard to all tables, chairs, booths, bars, counters, barstools, dance floors or areas, railing partitions, and other barriers at the premises. Any changes in the floor plan or any renovations of any kind may not be made without notification to the Licensing Authority and the approval of the Licensing Authority. This includes substantial changes in the arrangement of moveable furniture.
- d) All premises covered by the license shall be kept in a clean and sanitary condition.
- e) No outside area may be used as a gathering place for patrons unless approved by the Licensing Authority.
- f) The premises shall be lighted in all public areas in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents of the Licensing Authority to make observations at the premises without the need to identify themselves or the need to seek assistance.
- g) 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 Licensing Authority and stated on the license.
- h) All licensed premises shall be subject to inspection by the Police Department of the Town of Barnstable and other duly authorized agents of the Licensing Authority.
- i) No device or electronic equipment shall be utilized by a licensed premise for the purpose of signaling employees that police officers or agents of the Licensing Authority are present.

#### **501-10 STANDARDS OF CONDUCT AND ACTIVITY OCCURRING AT LICENSED PREMISE**

- a) 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 for 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.

- b) Licensees are not permitted to invite the members of the general public to private areas of the premises which are approved by the Licensing Authority for storage or for an office or for a kitchen or for a music or video projection room or for any similar nonpublic use. Only owners and employees of the licensed premises may be in these areas.
- c) Any person who hinders or delays a police officer or other authorized agent of the Licensing Authority in the performance of the agent's duties or who refuses to admit to, 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 shall be punished by a fine of not less than \$50 and not more than \$200 or by imprisonment for not more than two months or both.
- d) The Licensing Authority or its agents or a police officer 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, and 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.
- e) It is forbidden to employ or to 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.
- f) 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.
- g) It is forbidden to 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.
- h) It is forbidden to employ or permit any person to wear or use any device or covering exposed to view which simulates the breasts, buttocks, pubic hair, or genitals or any portions thereof.
- i) 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.
- j) Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts will include, but are not limited to:
  - 1) Frequent monitoring of rest rooms 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 or drug dealers or 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 rest rooms 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 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.
- k) There shall be no disorder, indecency, prostitution, illegal activity on the licensed premises or any premises connected therewith by an interior communication.
- l) 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. In all other circumstances employees and security personnel will 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.
- m) Licensees and employees will call the police and an ambulance and take all other reasonable steps to assist patrons and 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.

#### **501-11 ENVIRONS OF LICENSED PREMISES**

- a) It shall be the obligations of licensees to ensure that 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, 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) No licensee may exceed the approved number of occupancy or seats posted on the license. The seating capacity and occupancy are set by the Building Commissioner and the Board of Health/Health Director. The occupancy, and if applicable, the seating capacity and, if applicable, the theater occupancy shall be posted on the license.
- e) All licensed businesses are subject to the Town of Barnstable noise code, Chapter 133.

- f) When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or 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 Licensing Authority 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.
- g) The Licensing Authority may go to a neighborhood to hold a hearing with regard to a complaint against a licensee by a private citizen when the complaint is brought to the Board's attention upon a petition of 25 adult residents who live within a one-mile radius of the licensed establishment in question; provided, however, that a spokesperson for the petitioners shall meet with the Licensing Authority's Chairperson (or duly authorized representative) to explain the case to be presented.

#### **501-12 BUSINESS ASSIGNMENTS OF LICENSES**

- a) Assignment of the licenses for purposes of collateralizing loans or notes, etc. does not give the right to the assignee to conduct the business of the licenses. Assignee must immediately notify the Licensing Authority and be heard when the assignee forecloses under such assignment or when other proceedings are brought which affect the economic and financial rights and abilities of the licensee.
- b) No person or entity may obtain or renew a license unless the applicant for such license or for renewal of such license can demonstrate proof of a legal right to the licensed premises for the term of the license. Such proof shall include ownership papers or a tenancy document or a management contract; provided, however, that all parties to such ownership or leasehold interest or management contract must be known to the Licensing Authority, and the terms of such agreements or contracts must be made known to the Licensing Authority. The Licensing Authority reserves the right to disapprove of such arrangements where it reasonably finds that such arrangements are not in the public interest.
- c) No licensee may 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 Licensing Authority. Such records must be kept for a period of three years.
- d) 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 Licensing Authority and the salaried employees of such persons.
- e) 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 may 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 Licensing Authority.
- f) No licensee may pay a landlord or creditor of any kind a percentage of the profits of the business except upon complete disclosure to the Licensing Authority and the receipt of the Board's approval.

- g) No licensee shall lease out any part of the premises or any part of the business without the approval of the Licensing Authority. No licensee shall lease out the food or beverage service without the approval of the Licensing Authority. (§501-6F)
- h) 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 Licensing Authority.

### **501-13 VIOLATIONS AND PENALTIES**

- a) Violation of any provision of this chapter may be prosecuted, as a criminal matter or as an administrative procedure or by the method provided in § 21D of Chapter 40 of the General Laws. Each violation shall be considered separately.
- b) Whoever violates the provisions of this chapter shall be fined not more than \$300. The Licensing Authority may suspend, revoke or modify any license issued by them whenever they have reasonable cause to believe the licensee has violated the terms, conditions or regulations pertaining to such license. Any violation of this chapter enforced by the methods provided in § 21D of Chapter 40 of the General Laws shall be subject to a fine of \$250.

### **501-14 OTHER CAUSES FOR REVOCATION, SUSPENSION AND MODIFICATION**

- a) All complaints and reports shall continue in force until they have been reviewed and disposed of by the Licensing Authority.
- b) Any license issued pursuant to General Laws Chapter 138 and Chapter 140 may be modified, suspended, or revoked for any of the following causes:
  - 1) Violation by the licensee of any provision of the relevant General Laws of the Commonwealth or the relevant Ordinances of the Town of Barnstable or of any rule or regulation of any Town of Barnstable agency or of the Alcoholic Beverages Control Commission or of any rule or regulation of the Licensing Authority;
  - 2) 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 renewal 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 Licensing Authority in connection with such petition, request, or application affecting the rights of the licensee;
  - 3) Failure to operate the premises covered by the license;
  - 4) Failure to have a legal right to the named licensed premises.
  - 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 Authority;
  - 6) Conviction of the licensee of any crime which is a felony under the laws of the Commonwealth of Massachusetts or the United States of America.
- c) Licensees may not give or offer any money or any article of value or pay for or reimburse or forgive the debt for services provided to any employee or agent of the Licensing Authority either as a gratuity or for any service.
- d) Licensees may not fail to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Licensing Authority or upon which any application or petition relating to the premises was granted by the Licensing Authority. 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 Licensing Authority and with any conditions on the license.

- e) A license may be suspended or modified or revoked for 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 Licensing Authority 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.

#### **501-15 SUSPENSION OF SERVICE ORDERS**

- a) Licensees must properly serve suspension and modification orders.
- b) Suspended licenses may be surrendered to the Licensing Division for the time period of suspension if such action is voted by the Licensing Authority at a show cause hearing.
- c) When the Licensing Authority suspends the license of any licensee, it shall provide the licensee with an order/sign of suspension for public display.
- d) Suspension orders/signs of the Licensing Authority, as above, shall remain affixed throughout the entire period of suspension. The removal, covering, defacement, or 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.
- e) 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 Licensing Authority.
- f) Unless otherwise ordered by the Licensing Authority, no members of the public may be on the licensed premises at any time during the suspension periods and the business may not be open for any reason.
- g) If the business is closed by order of the Licensing Authority, 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. No persons other than the licensee and its employees may be on the premises during the period of closure for any reason.

## PART V: LICENSING AUTHORITY RULES AND REGULATIONS

### 502 ALCOHOLIC BEVERAGES

#### 502-1 GENERAL PROVISIONS

- a) All applicants for the sale of alcoholic beverages are responsible for familiarizing themselves with the General Laws of Massachusetts pertaining to sale of Alcoholic Beverages: Massachusetts General Laws Chapter 138.
- b) The licensee is responsible for ensuring that all employees engaged in the service of alcoholic beverages read and understand the Rules and Regulations of the Licensing Authority and comply with all rules and laws.
- c) Until the application is complete, the application shall not be advertised or presented to the Licensing Board.
- d) In addition to the State fee, there is a liquor license application fee by the Town of Barnstable, of \$100.00 each and a legal advertisement fee, if applicable.
- e) The Licensing Authority 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 precinct in which the new location is sought.
- f) The Manager and Alternate Managers, if any, shall have successfully completed an alcoholic beverage server training program such as the "TIP's" program or its equivalent, prior to their appointment. Such training shall also be required of all bartenders in establishments that have a bar. All management personnel and bartenders shall be recertified every three years. All other employees who serve alcoholic beverages or verify identifications shall receive, at a minimum, in-house training similar to that received under the TIP's program. Verification of such training will be maintained for each employee and available for inspection.
- g) 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 licensee may employ a person under the ages of eighteen, who does not directly handle, sell, mix or serve alcohol or alcoholic beverages.
- h) Licensees may refuse entrance to the premises to a person who appears to be intoxicated or unruly/belligerent.
- i) Alcoholic beverages licensees are forbidden to make a sale or delivery of alcoholic beverages or alcohol to a person who is intoxicated or appears to be intoxicated.
- j) No licensee may pledge the stock in the licensed business or the license itself without the approval of the Licensing Authority.
- k) Managers of premises, or in the case of Special Liquor Licenses, organizations holding an alcoholic beverage license must not be changed until the Licensing Authority and if required, the Alcoholic Beverages Control Commission have approved such change.
- l) No licensee may 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 Licensing Authority. This includes kitchen equipment, video or audio equipment, lighting equipment, furniture, or any other type of equipment.
- m) No licensee shall contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed.
- n) 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 must immediately notify the Licensing Authority 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.

- o) 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.
- p) 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 Licensing Authority or unless written permission is first obtained from the Licensing Authority. The use of any unauthorized name on the books, records, stationery, or interior or exterior of the licensed premises or for advertising purposes or telephone listing is prohibited unless permission is first obtained from the Licensing Authority.
- q) Licensees shall not permit opened alcoholic beverages to be brought onto the licensed premises by patrons or employees.
- r) No alcoholic beverages will be sold to minors. 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 sales or drinking at the premises.
- s) Any person holding an alcoholic beverages license under sections 12, 14, or 15 of M.G.L. Chapter 138 who, directly or through any agent, employee or other person, dilutes or changes or substitutes or in any manner tampers with any alcoholic beverages authorized to be sold under such license so as to change its composition or alcoholic content (except that cocktails and other mixed drinks may be prepared on premises so licensed for the sale of alcoholic beverages) shall be punished by a fine, and if any holder of such a license is convicted of a violation of the foregoing, his license shall forthwith be suspended for a period of not less than six months; provided that cocktails and other mixed drinks may be prepared on premises so licensed for the sale of alcoholic beverages. Licensees and their agents are prohibited from refilling any alcoholic beverage container, which has a Brand identification or a Brand label.
- t) Whoever makes a sale or delivery of any alcoholic beverages or alcohol to any person under 21 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 § 12 or 15 of General Laws Chapter 138 delivers or procures to be delivered in any public room or area of such establishment any such beverages or alcohol to or for use of a person who he knows or has reason to believe to be under 21 years of age or whoever procures any such beverages or alcohol for a person under 21 years of age in any establishment licensed under § 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 that is a package store, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months or both. (N.B.: Alcoholic beverages may be procured for an underage child, ward or spouse in a package store by a parent, guardian or spouse but may not be so procured for such underage person in an on-premises drinking establishment). (General Laws, Ch. 138, § 34)
- u) Any person under 21 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 or her own use or for the use of any other person, shall be punished by a fine of \$300 and whoever knowingly makes a false statement as to the age of a person who is under 21 years of age in order to procure a sale or delivery of such beverages or alcohol to such person under 21 years of age, either for the use of the person under 21 years or for use of some other person, and whoever induces a person under 21 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 21 years of age shall be punished by a fine of \$300. (General Laws, Chapter 138, § 34A)

- v) Any licensee or agent or employee thereof under Chapter 138 who reasonably relies on a 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 21 years of age. Such licensee shall be presumed to have used due care in making the sale, but such presumption shall be rebuttable. 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 138, § 34B) Any licensee claiming exemption under this section must be able to identify the identification shown, either by picture record, written log or other means deemed appropriate by the Licensing Authority.
- w) 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 of 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 \$200 or by imprisonment for not more than three months. (General Laws, Chapter 138, § 34B)
- x) Any person who is discovered by a police officer or special police officer in the act of violating the provisions of 502-1v or 502-1w 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 practicable and in any case within 24 hours, Sundays and legal holidays excepted. (General Laws, Chapter 138, § 34B)
- y) Whoever being under 21 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 \$50, provided that this section shall not apply to any person who is between 18 and 21 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 Laws, Chapter 138, § 34C)

## **502-2 HOURS OF OPERATION**

- a) No alcoholic beverages licensees may close its place of business for any reason other than the following:
  - 1) Upon written request to the Licensing Authority for closing in order to do renovations after approval by the Licensing Authority for such renovations and for a reasonable time of closing in order to perform the renovations;
  - 2) For all holidays and religious days;
  - 3) A closing of one or more days per week upon approval of the Licensing Authority pursuant to licensee's written request and a showing by licensee that it does not have adequate business upon such days;

- 4) A closing due to an act of God or an illness or some other business problem for which request has been made in writing to the Licensing Authority and approval granted.

**502-3 ADDITIONAL PROVISIONS SPECIFIC TO SEASONAL ON PREMISE LIQUOR LICENSES**

- a) Seasonal On-Premises Liquor Licenses shall be effective from April 1 to January 15.
- b) Seasonal On-Premises Liquor Licensed establishment may be open for any duration between the effective dates, however licensee must file each year with renewal application to the Licensing Division their intended opening and closing days.
- c) Seasonal On-Premise Liquor Licensed establishments who need to close for any duration between their documented "season" requires written notice from the owner or manager named on the license, and for the owner or manager named on the license to appear before the Licensing Authority at a public meeting for approval.
- d) Wholesale licensees may deliver alcoholic beverages (on days other than Sunday) to seasonal retail licensees that have renewed their licenses at the same location during the five (5) days immediately preceding the licensed season. Wholesalers may not deliver alcoholic beverages to new seasonal licensees until the first day of the licensed season.

**502-4 ADDITIONAL PROVISIONS SPECIFIC TO ANNUAL LIQUOR LICENSES**

- a) All types of Annual Liquor License holders may close for a period of no more than thirty (30) days and requires written notice from the owner or manager named on the license to be approved by the Licensing Authority at a public meeting.
- b) Closure of an annual liquor licensed establishment longer than thirty (30) days requires written notice from the owner or manager named on the license, and for the owner or manager named on the license to appear before the Licensing Authority at a public meeting for approval.
- c) The Licensing Authority reserves the right to deny or amend a closure request greater than thirty (30) days.
- d) If a licensee requests closure for greater than sixty (60) days reoccurs more than 2 consecutive years, an explanation must be included with the written request as to why the licensee should not consider amending the license to seasonal vs. retaining the annual license.

**502-5 ADDITIONAL PROVISIONS FOR ON PREMISE LICENSES**

- a) 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. 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.
- b) No alcoholic beverages shall be served to a patron, licensee or employee after the closing hours indicated on the license, and all glasses, bottles, or other containers used for or containing alcoholic beverages shall be removed from all tables, bars, counters, patrons and public areas no later than 15 minutes after the approved



- closing time on the license for the sale of alcoholic beverages. No alcoholic beverages shall be consumed thereafter.
- c) All patrons must be off the licensed premises within 30 minutes after closing. Employees must be off the premises within 60 minutes after closing except as allowed by law.
  - d) The Police must be notified if employees are going to remain after 2:00 a.m. for closing and/or cleaning.
  - e) No minimum alcoholic beverage drinking requirement or minimum charge for the purpose of alcoholic beverages shall be imposed upon any customer.
  - f) No licensee shall impose a minimum charge for food and/or nonalcoholic 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.
  - g) No alcoholic beverages shall be sold for less than the actual cost of the beverage to the licensee.
  - h) An admission charge shall not be credited towards the purchase price of any alcoholic beverage.
  - i) All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.
  - j) No licensee or employee or agent of a licensee shall:
    - 1) Offer or deliver any free drinks to any person or group of persons;
    - 2) Deliver more than two drinks to one person at one time;
    - 3) Sell, offer to sell or deliver to any person or group of persons any drinks at a price less or more than the price regularly charged for such drinks to the general public on that day and/or during the same calendar week, except at private functions not open to the general public;
    - 4) Sell, offer to sell or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time;
    - 5) Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
    - 6) Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes;
    - 7) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
  - k) Alcoholic beverages licensees shall enter into no agreement or understanding which sets a minimum requirement for gross sales of food and beverages at the premises.
  - l) All on premise licensees shall provide to the Licensing Board an accurate floor plan outlining the position of all tables, chairs, booths, bars, counters, stools, barstools, dance floors, or areas, railing partitions, and other barriers at the premises. These plans shall be certified annually with a signature from the owner or manager on record and dated. Substantive renovations of any kind may not be made without notification to the Licensing Authority and the approval of the Licensing Authority. This includes substantial changes in the arrangement of moveable furniture.
  - m) Nothing shall be construed to prohibit licensees from offering free food or entertainment at any time; or to prohibit licensees from including a drink as part of a meal package; or to prohibit 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, § 15, from offering free wine tastings; or to prohibit those licensed under Chapter 138, § 12, from offering room services to registered guests.

- n) 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.
- o) 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 § 24 of General Laws Chapter 90. Said copies shall be posted conspicuously in said establishments. Said copies are available at the Alcoholic Beverages Control Commission. (Chapter 138, § 34D)

## **502-6 ADDITIONAL PROVISIONS FOR PACKAGE STORE LICENSES**

- a) Hours of Operation:
  - 1) A package store license is permitted to make sales between 8:00 a.m. and 11:00 p.m. Monday through Saturday and between 10:00 a.m. and 11:00 p.m. on Sunday
  - 2) A package store license is permitted to make sales until 11:30 p.m. on the day before a legal holiday, and on such other days and times which may be allowed by law and approved by the Licensing Authority.
  - 3) No licensee may sell or deliver any alcoholic beverages on Memorial Day, Thanksgiving Day or Christmas Day
  - 4) Employees must be paid at a rate not less than one and one half (1½) times the employees regular rate on a Sunday.
  - 5) No employee shall be required to work, and refusal to work on a Sunday shall not be grounds for discrimination, dismissal, deduction of hours, or any other penalty.
- a) Records of Deliveries: 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 list entry therein and must be available to the Licensing Authority and its agents for inspection at any time in a form suitable for easy inspection.
- b) Sale of Kegs: Licensees shall not sell or deliver malt beverages in kegs to any person unless that person presents a valid identification containing a picture of the holder. Licensees shall record the ID number, the name, address, date of birth, and expiration date from the ID. The date of the transaction and quantity of malt beverages and brand name shall be maintained by the licensee for a period of one year and shall be available for inspection by the Licensing Authority, its agents or the police during usual business hours of the licensee.
- c) 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 (§ 24I of Chapter 90). Said copies shall be posted conspicuously in said establishments. Said copies are available at the Alcoholic Beverages Control Commission. (Chapter 138, § 34D)

## **502-7 ADDITIONAL PROVISIONS FOR PRIVATE OR PUBLIC CLUB LICENSES**

- a) Issuance of License

- 1) The Licensing Board may grant a license to any organization, LLC, Corporation or entity, authorizing it to dispense food and alcoholic beverages to be consumed on its premises.
  - 2) 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.
- b) Lists of Members and Employees For Private Clubs: A current list of employees and members and, if allowed, guests shall be available upon request of authorized agents of the Licensing Board.

**502-8 ADDITIONAL PROVISIONS FOR ARTS & CULTURAL WINE & MALT LICENSES**

- a) Arts & Cultural businesses qualified for this Wine & Malt general on premise license category shall be defined as a non or for-profit business primarily engaged in the following visual and/or performing arts:
- 1) Galleries which operate as a repository or a collection of works of individual art pieces, not mass produced, consisting of one or more of the following: paintings, drawings, etchings, sculptures, pottery, handmade wearable art and other visual art media; may include the sale of related objects and services.
  - 2) Cultural Arts Venues which host theater, dance, music or other performing arts that are open to the public
  - 3) Museums or historic sites established for preserving or exhibiting artistic, historical, scientific, natural or manmade objects of interest, designed to be used by the public for viewing.

**502-9 ADDITIONAL PROVISIONS FOR REGISTERED PHARMACISTS ALCOHOLIC BEVERAGES LICENSES**

- a) Issuance of License: A registered pharmacist who holds a certificate of fitness under M.G.L. Chapter 138, Section 30, 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 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.
- b) 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.
- c) Register to be Kept: Licensees 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 a physician; the book shall also contain the name of the physician and shall state the use for which said beverages is prescribed and the quantity to be used for such purpose.

**502-10 SPECIAL ONE-DAY LIQUOR LICENSES**

- a) All applicants of a special license are responsible for the General Laws of Massachusetts pertaining to sale of Alcoholic Beverages: Massachusetts General Laws Chapter 138 and Barnstable Licensing Authority's Rules and Regulations, Section Three (3).

- b) No person, corporation, partnership or association may be granted a special license for more than a total of 30 days per calendar year.
- c) No special license may be granted to any person, corporation, partnership or association while their application for an MGL. C.138, section 12 license is pending.
- d) No more than one license can be issued for a premise at one time. Therefore a special license cannot be issued for use in an existing or pending licensed premise.
- e) Special licenses for sale of beer and wine may be granted to for-profit and non-profit organizations.
- f) Special licenses for the sale of all alcohol beverages may only be granted to non-profit organizations.
- g) All applicants are required to purchase alcohol for their event from an authorized source, usually a licensed wholesaler in Massachusetts.
- h) Application and Public Hearing Requirements
  - 1) Applications must be submitted no less than 30 days prior to the public hearing.
  - 2) Application as a non-profit organization must submit a copy of Form 501(3)(c).
  - 3) The applicant shall further certify that the Police and Fire Departments have been consulted with respect to the event and has approved said application.
  - 4) A floor plan, approved and signed by the Building Commissioner, shall be submitted with application specifying proposed areas of service and consumption, seating, tables, entrances/exits and entertainment (if applicable).
  - 5) A security plan will be submitted with application.

## **PART V: LICENSING AUTHORITY RULES AND REGULATIONS**

### **503 ENTERTAINMENT**

#### **503-1 DEFINITIONS**

- a) Entertainment is defined by Massachusetts General Laws, Chapter 140, Sections 177A, 181 and 183A, and shall be understood to include all uses listed below:
- concert
  - dance
  - exhibition
  - cabaret or public show of any description
  - dancing by patrons
  - dancing by entertainers or performers
  - darts
  - Karaoke
  - recorded or live music
  - use of an amplification system
  - theatrical exhibition or play
  - moving picture show
  - floor show of any description
  - light show of any description
  - other dynamic audio or visual show whether live or recorded
  - automatic amusement or gambling device (meaning mechanism whereby, upon the deposit of a coin or token, any apparatus is released or set in motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the playing, including, but not exclusively, such devices as are commonly known as pinball machines including free play pinball machines)
  - pool tables
  - ping pong tables
- b) Activities required to be included on a non-live entertainment license, however not defined by MGL as entertainment and requires a general fee:
- ambient sound or background music such as piped in radio, satellite radio, CD's or stereo
  - television

#### **503-2 GENERAL PROVISIONS**

- a) No entertainment shall be permitted without a valid entertainment license on the premises.
- b) The type of entertainment shall be specific on the application, and on any special license request. The following information shall be included: hours of entertainment, days of the week, description of the entertainment, use of amplification or not, contact person, and a program if possible.
- c) 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 licensee; 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 Licensing Authority 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. The food or beverage licensee shall be responsible for the actions of such independent contractor on the premises in addition to the responsibility held by the independent contractor pursuant to the entertainment license. 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. The food or beverage licensee shall provide in the contract for removing the independent contractor in the event that the entertainment is poorly managed or causes violations to occur at the licensed premises. 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 Licensing Authority.

- d) 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.
- e) 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 Licensing Authority and which is not inconsistent with the entertainment license requirements.
- f) No entertainment may take place at a licensed premises and no member of the public may be at the licensed premises except during the hours and days when the Licensing Authority has approved the premises to be open to the public. It shall be a violation of the food or beverage license if entertainment is conducted on the premises prior to the opening hour set by the Licensing Authority or subsequent to the closing hour set by the Licensing Authority for the exercise of the food or beverage license or during any period when the food or beverage license has been suspended.
- g) 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 § 501-11B.
- h) No licensee may permit any electronic games or coin operated amusement devices to be on the premises unless such machines are properly licensed pursuant to the General Laws, Chapter 140, § 177A.
- i) Licensees shall not permit any games to be played at the premises for money or for a prize of alcoholic beverages or for any other prize or prizes; provided, however, that games may be played for money at certain fund-raising activities which have been approved by the Licensing Authority and for which the licensee holds other appropriate licenses.
- j) Licensees who hold licenses under General Laws Chapter 138, § 12, to serve alcoholic beverages for on-premises consumption, may petition the Licensing Authority for approval to allow dancing on Sundays between the hours of 12:00 midnight and 1:00 antemeridian for the same hours for which the licensee is authorized to sell alcoholic beverages. (General Laws, Chapter 138, § 33)
- k) All applications for entertainment licenses must be submitted in writing and shall fully and specifically describe the conditions of the proposed entertainment, including the names and addresses of the entertainers. The application shall include the hours of

entertainment, days of the week of the entertainment, and the address of the premises on which the entertainment will take place. A statement as to the location on the premises of the entertainment must be included. The application must be submitted 75 days prior to the date of the proposed entertainment to the Licensing Authority. The Licensing Authority will, within 30 days receipt of the complete application, either grant the license or order a hearing to be held, which hearing shall be preceded by at least 10 days' written notice to the applicant.

- l) When a hearing is held, the Licensing Authority will, within 45 days following the close of the hearing, either grant or deny the license.
- m) Licensees shall not permit any games to be played at the premises for money or for a prize of alcoholic beverages or for any other prize or prizes; provided, however, that games may be played for money at certain fund-raising activities which have been approved by the Police Chief and the Licensing Authority and for which the licensee holds other appropriate licenses.
- n) All applications for entertainment licenses must be submitted in writing and shall fully and specifically describe the conditions of the proposed entertainment and the address of the premises on which the entertainment will take place. No entertainment shall be permitted without a valid entertainment license on the premises.
- o) Any premise providing adult entertainment as defined in Barnstable Zoning By-Laws must conspicuously post at the entrance that "adult entertainment" is within.
- p) Alcoholic beverages licensees may not close the licensed business on any days for which their entertainment license has been suspended unless they make such request to the Licensing Authority based upon the licensee's allegation that its primary business comes from the entertainment at the premises and that there would be little or no 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 Licensing Authority where the entertainment is a primary attraction for the public at the licensed premises. Licensees not requesting to close the premises during days on which their entertainment licenses are suspended shall remain open to the public for the sale and service of alcoholic beverages and food but may not conduct any type of entertainment on the premises during the suspension period.

### **503-3 SPECIAL ONE-DAY ENTERTAINMENT LICENSES**

- a) Applications must be submitted no less than 30 days prior to the public meeting.
- b) New applications for events being held inside a structure and with greater than 100 estimated attendees must be submitted no less than 60 days prior to the public meeting.
- c) Application as a non-profit organization must submit a copy of Form 501(3)(c).
- d) The applicant shall further certify that the Police and Fire Departments have been consulted with respect to the event and has approved said application.
- e) The Licensing Authority does not have the authority to overturn or reverse a Zoning Board condition placed on an existing annual license holder's special permit.
- f) Licensees shall not permit any games to be played at the premises for money or for a prize of alcoholic beverages or for any other prize or prizes; provided, however, that games may be played for money at certain fund-raising activities which have been approved by the Police Chief and the Licensing Authority and for which the licensee holds other appropriate licenses.
- g) No person, corporation, partnership or association may be granted a special license for more than a total of 30 days per calendar year.

- h) No annual licensee seeking a one-time expansion of their licensure will be granted more than three (3) such one-time approvals in a calendar year without filing an application to amend their annual license.



**PART V: LICENSING AUTHORITY RULES AND REGULATIONS****504 COMMON VICTUALLER****504-1 DEFINITION**

- a) A Common Victualler License is issued under Mass General Laws Chapter 140 §2 by the Licensing Authority on an annual basis and is a food service establishment with seats for patrons.

**504-2 GENERAL PROVISIONS**

- a) Every food service establishment in the Town of Barnstable with capabilities for cooking, preparing and serving food, with seating and/or eating on premise is required to have a common victualler License.

**504-3 KITCHEN FACILITIES**

- a) All common victualler licensees must have kitchen facilities at a standard determined by the Board of Health.

**504-4 ALCOHOLIC BEVERAGES/BROWN BAGGING**

- a) Patrons are not permitted to bring alcoholic beverages on the premises for their own consumption.
- b) 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 Licensing Authority 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.

**504-5 FOOD SERVICE**

- a) Reasonable food service, with suitable food, must be available upon the request of a patron at a premise with a common victualler license during all operating hours.
- b) The full dining room menu must be available at least 75% of the operating hours. The Licensing Authority will, in its discretion, determine what is reasonable food service based upon the Licensing Authority's intent on granting the license.
- c) Any minimum requirement for a non-alcoholic beverage shall be clearly and conspicuously posted.
- d) Premises licensed for the consumption of food or beverages at 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.

## **PART V: LICENSING AUTHORITY RULES AND REGULATIONS**

### **505 INNHOLDER/HOTEL**

#### **505-1 DEFINITION**

A "hotel" shall mean a hotel, motel, resort, or inn, which is kept, used or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to guests for transient occupancy. Further;

- a) An Innholder, Hotel or Resort shall mean a commercial building or part of a building owned or leased and operated by a person holding a duly issued and valid license as an innholder, under the provisions of MGL. c. 140, supervised by a person in charge at all hours, offering overnight lodging accessed through interior hallways to the public on a daily rate for compensation and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for its transient guests, including travelers and strangers and its other patrons and customers, may include additional accessory uses such as conference center facilities, meeting rooms, health club or other customary uses, and in addition meeting and complying with all the requirements imposed upon innholders under said chapter 140.
- b) Motel shall mean one or more detached buildings providing residential room accommodations intended primarily for sleeping which are rented out to the public on a daily rate, where each room has a separate entrance leading directly outside the building.
- c) Transient shall mean a period of fourteen consecutive calendar days or less for the purposes of this section only.

#### **505-2 KITCHEN FACILITIES**

- a) All Innholders, Hotels or Resorts must have kitchen facilities at a standard determined by the Board of Health and Health Department.

#### **505-3 PROVISIONS FOR STRANGERS AND TRAVELERS**

- a) Every innholder/hotel shall at all time provide suitable food for strangers and travelers.
- b) Every innholder/hotel shall also have upon its premises suitable rooms, with beds and bedding, for the lodging of guests.
- c) An innholder/hotel who upon request refuses to receive and to make suitable provision for a stranger or traveler shall be punished by a fine of not more than \$50 and shall be subject to proceedings for suspension, modification or revocation of its license.

#### **505-4 GENERAL PROVISIONS**

- a) Every innholder/hotel 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.
- b) 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 \$500 nor more than \$1,000 or by imprisonment and shall be subject to disciplinary proceedings against the license.

**PART V: LICENSING AUTHORITY RULES AND REGULATIONS****506 LODGING, BED & BREAKFAST, GUEST HOUSE LICENSES****506-1 DEFINITION**

- a) A Lodging, Guest House shall mean a dwelling with a resident manager on the premises or associated with the business where lodgings, plus accommodations, with or without meals, are let to more than four and fewer than twenty separate guest units, 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 § 71 of Chapter 111 of the General Laws or rest homes so licensed, or group residences licensed or regulated by agencies of the commonwealth.
- b) "Bed and breakfast establishment", a private owner-occupied house where four or more rooms are let and a breakfast is included in the rent, and all accommodations are reserved in advance.
- c) "Bed and breakfast home", a private owner-occupied house where three or fewer rooms are let and a breakfast is included in the rent, and all accommodations are reserved in advance.
- d) Transient shall mean a period of ninety consecutive calendar days or less for the purposes of this section only.

**506-2 COOKING FACILITIES**

- a) A lodging house where lodgings are let to more than five but less than 20 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 150 square feet. Such facilities shall, in a single room, consist of a gas or electric plate, a refrigerator and storage area for food. Any facilities furnished under this section shall comply with the Building Code and the Town of Barnstable Zoning Regulations. *Editor's Note: See Ch. 240, Zoning.*

**506-3 GENERAL PROVISIONS**

- a) Every lodging house keeper shall keep or cause to be kept, in permanent form, a register in which shall be recorded the true name and residence of every person engaging or occupying a private room averaging less than 400 square feet floor area. Such register shall be kept for a period of one year after the last entry therein, and shall be open to the inspection of the licensing authorities, their agents and the police.
- b) Whoever being licensed as a lodging house keeper or being in actual charge, management 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 subject to disciplinary proceedings against the license and shall be subject to a fine and imprisonment as set out by statute.
- c) Whenever the Licensing Authority 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.

**PART V: LICENSING AUTHORITY RULES AND REGULATIONS****507 NONINTOXICATING BEVERAGES****507-1 CERTAIN PREMISES TO BE LICENSED**

- a) The Licensing Authority 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 1/2 of 1% 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. (See MGL C. 140, § 21A.)

**507-2 SALE OF SOFT DRINK**

- a) 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.

**507-3 VIOLATIONS AND PENALTIES**

- a) Whoever not being licensed as aforesaid keeps open his place of business for the retail sale of any such beverage shall be punished by a fine of not more than \$50. 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 § 7 of Chapter 136. (See MGL C. 140, § 21 C.)

**507-4 RESPONSIBILITIES OF LICENSE HOLDER**

- a) 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 Licensing Authority a disciplinary hearing will be held and, as a result of evidence brought to the attention of the Licensing Authority at the hearing, the Licensing Authority may modify, suspend or revoke the license.

**507-5 INAPPLICABILITY TO CERTAIN PERSONS**

- a) The provisions of this article 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.

## PART V: LICENSING AUTHORITY RULES AND REGULATIONS

### 508 SECONDHAND/JUNK DEALER

#### 508-1 DEFINITIONS

- a) **ACCEPTABLE IDENTIFICATION** means either:
  - 1) A current driver's license that includes the date of birth, photograph, and physical description of the person offering the identification; or
  - 2) Two other pieces of current identification, at least one of which is issued by a governmental agency or subdivision and includes the date of birth, photograph and physical description of the person offering the identification.
- b) **POLICE CHIEF** means the Chief of Police of the Town of Barnstable or her or his designee.
- c) **REGULATED PROPERTY** means the following used property:
  - 1) Precious metals, including but not limited to, any metal valued for its character, rarity, beauty or quality, including gold, silver, copper, platinum or other metals, whether as a separate item or in combination with other items.
  - 2) Precious gems, including but not limited to, any gem valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or other precious or semi-precious gems or stones, whether as a separate item or in combination with other items or as a piece of jewelry.
  - 3) Watches and jewelry containing precious metals or precious gems, including but not limited to, rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wrist watches, or stop watches.
  - 4) Sterling silver flatware, including but not limited to, knives, forks, spoons, candlesticks, coffee and tea sets, or ornamental objects.
  - 5) Any electronic audio, video or photographic and optical equipment along with computer or computer equipment or recordings in any form.
  - 6) Any power tools or equipment.
  - 7) Musical instruments.
  - 8) Sporting equipment.
  - 9) Automobiles, boats, planes, motorcycles in whole or taken in parts, or any other type machinery.
  - 10) Collectibles; including objects of art, coins, currency and antique objects, but not including those items identified in 508-8H
- d) **SECONDHAND COLLECTOR** shall have the same meaning as the term "junk collector" G.L c. 140 § 56.
- e) **SECONDHAND DEALER** shall have the same meaning as the term "junk dealer" and keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles in G.L c. 140 § 54."

#### 508-2 ISSUANCE, RENEWAL AND REVOCATION OF LICENSES REQUIRED.

- a) Secondhand collectors and secondhand dealers must obtain a license to conduct said activities.
- b) The Licensing Authority of the Town of Barnstable may after notice and a public hearing deny an original or renewal application for a Secondhand Dealer or Secondhand Collector License or revoke an issued license if it has probable cause to believe any of the following conditions exist after a public hearing:

BARNSTABLE LICENSING AUTHORITY  
PART V, RULES AND REGULATIONS

APPROVED ON OCTOBER 17, 2016; EFFECTIVE NOVEMBER 17, 2016

- 1) The applicant, or any person who in part or whole, owns, manages or operates the Secondhand Dealer or Secondhand Collector business, has owned or operated a Secondhand Dealer or Secondhand Collector business regulated under this regulation or any substantially similar license and, within the five years prior to the application date;
- 2) Has had a Secondhand Dealer or Secondhand Collector License revoked for a reason that would be grounds for a denial or revocation pursuant this ordinance;
- 3) The Secondhand Dealer or Secondhand Collector business has been found to constitute a public nuisance.
- 4) The licensee applicant, or any person who in part or whole, owns, manages or operates the Secondhand Dealer or Secondhand Collector business, has been convicted of a felony or any crime involving a false statement or within 15 years prior to the application date.
- 5) The applicant has:
  - a) Knowingly made a false statement in the application.
  - b) Knowingly omitted information requested to be disclosed in the application; or
  - c) Completed the application with reckless disregard for the truth or accuracy of the statements made therein.
- 6) A lawful inspection of the Secondhand Dealer or Secondhand Collector business premises by the Police Chief or his designee has been unjustifiably refused by a person who in part or whole, manages or operates the business.
- 7) The Secondhand Dealer or Secondhand Collector business, the applicant or any person who in part or whole, owns, manages or operates the Secondhand Dealer or Secondhand Collector business, has more than five violations of these regulations, any State or Federal law, or any combination thereof within a two-year period, including the two years prior to the application date.
- 8) The Secondhand Dealer or Secondhand Collector business, the applicant or any person who in part or whole, owns, manages or operates the Secondhand Dealer or Secondhand Collector business has been convicted of any law of the Commonwealth of Massachusetts that is contrary to the type of secondhand business to be conducted such as, but not limited to: Receiving stolen property, any form of breaking and entering, larceny's from a person, or any other form of larceny, or any form of aggravated assault, as verified by a CORI by the Police Chief or his designee.
- 9) Such other grounds as the Authority determines to be in the public interest or in violation of the conditions of the license or any law or regulation of the commonwealth or the Town of Barnstable.

### **508-3 INSPECTION OF PROPERTY AND RECORDS.**

- a) Whenever necessary to make an inspection to enforce the provisions of this ordinance, or when the Police Chief or his designee has reasonable grounds to believe more likely than not that a specific item of regulated property held by a Secondhand Dealer or Secondhand Collector is associated with criminal conduct, the Police Chief or his designee may enter the premises of the Secondhand Dealer or Secondhand Collector at any reasonable time, provided that the premises are occupied at the time of entry and the Police Chief or his designee presents proper official identification at or near the time of entry. If entry is refused, the Police Chief or his designee shall have recourse to every remedy provided by law to secure entry, including an administrative search warrant or a criminal search warrant.
- b) Authority to inspect Secondhand Dealer or Secondhand Collector premises under this regulation is in addition to and not in limitation of the authority the town or the

Police Chief or any police officer would otherwise have to enter the business premises.

- c) Once allowed to enter the premises of the Secondhand Dealer or Secondhand Collector, the Police Chief or his designee may inspect property kept there. The Police Chief or his designee may also inspect the business records associated with regulated property and perform any duty imposed upon the town or the Police Chief by this regulation.

#### **508-4 RECORD KEEPING**

- a) The Police Chief or his designee shall design a purchase report form and make copies available to all Secondhand Dealers or Secondhand Collectors. Secondhand Dealers or Secondhand Collectors shall utilize these forms, or any other substantially similar form approved by the Police Chief, to record purchases of regulated property. The form may request any information reasonably calculated to help the Police Chief identify the purchaser, the seller or the property associated with the purchase of regulated property.
- b) Whenever a Secondhand Dealers or Secondhand Collectors purchases regulated property for business purposes, the Secondhand Dealers or Secondhand Collectors shall obtain acceptable identification from the seller along with the seller's current residence address. The Secondhand Dealers or Secondhand Collectors shall fill out a purchase report form in all relevant aspects at the time of the purchase. A purchase report form as required to be filled out by this section shall be filled out in legible English. The seller shall sign his or her name on the filled-out form.
- c) A digital photograph will be taken of each item purchased as defined under regulated property section 1-E. The photograph may be stored electronically, but are subject to the same record keeping requirements as listed in section 6-A. Copies of the photographs will be made available to the Chief of Police in a timely manner, and are subject to the same rights of inspection as listed in section 8.
- d) The licensee shall cause to be delivered to the Barnstable Police Department on a weekly basis, a copy of all transactions recorded in the ledger on the form provided.
- e) If, during the preceding week such Secondhand Dealers or Secondhand Collectors has taken no articles in, he/she shall make out and deliver to the Police Department a report of such fact.

#### **508-5 POSTING OF LICENSES AND NOTICES.**

- a) All licenses shall be conspicuously posted in an accessible place on the licensed premises, available at all times to the proper authorities.
- b) A secondhand dealer shall post the following notice no smaller than eight and one-half inches by 11 inches with lettering no smaller than one-fourth of an inch in height outside each point of entry intended for patron use and at or near each place where a secondhand dealer purchases used property in the regular course of business.

**NOTICE:**

*The sale or attempted sale of property to a secondhand dealer without consent of the property's owner is punishable by a civil penalty not to exceed \$300 per item.*

*Don't sell property without consent of the property's owner. You will be held strictly liable for violation of this law.*

*If a significant number of the patrons of the regular second-hand dealer use a language other than English as a primary language, the notice shall be worded in both English and the primary language or languages of the patrons.*



**508-6 PURCHASES BY A SECONDHAND DEALER OR SECONDHAND COLLECTOR.**

- a) A secondhand dealer or secondhand collector shall not make any cash purchase in an amount that exceeds \$50.00 [fifty dollars and zero cents].
- b) A secondhand Dealer must not carry on the business of buying or selling secondhand property except at the premises designated in the dealership license.
- c) A secondhand Dealer must not purchase any property whose serial number or other identifiable marking has been wholly or partially tampered with or removed.
- d) A secondhand dealer or secondhand collector may not purchase any item from any person under the age of 18 (eighteen).

**508-7 UNAUTHORIZED SALE OF PROPERTY.**

- a) No secondhand dealer or secondhand collector may purchase or sell any property of any type without the consent of the owner.
- b) No purchase will be made from anyone under the age of 18.

**508-8 HOLDING PERIODS.**

- a) A copy of every purchase report form filled out as required by this ordinance shall be kept on the premises of the Secondhand Dealer or Secondhand Collector business during normal business hours for at least three (3) year from the date of purchase. The report form shall be subject to inspection by the Police Chief or his designee.
- b) All regulated property in the categories of precious metals or precious gems, defined in Sec 2 A-D, purchased by a Secondhand Dealer or Secondhand Collector and required to be recorded on a purchase report form shall be held by said Secondhand Dealer or Secondhand Collector for at least 21 days from the date of purchase.
- c) All other regulated property purchased by a Secondhand Dealer or Secondhand Collector and required to be recorded on a purchase report form shall be held by said Secondhand Dealer or Secondhand Collector for at least ~~45~~ 21 days from the date of purchase.
- d) The Secondhand Dealer or Secondhand Collector shall maintain the property in substantially the same form as when purchased and shall not alter, exchange or commingle the property. During the holding period the regulated property shall be kept on the business premises during normal business hours and shall be subject to inspection by the Police Chief, or his designee.
- e) The Police Chief or his designee may give written notice to a Junk Dealer or Junk Collector holding regulated property that the Police Chief or his designee has reasonable grounds to believe more likely than not a specific item of regulated property is associated with criminal conduct. The Secondhand Dealer or Secondhand Collector holding the regulated property shall then continue to hold the property specified in the notice in the same manner and place as required under subsection (B) of this section until released by the Police Chief.
- f) The holding period for any item of regulated property shall not exceed 180 days from the date of purchase.
- g) A Secondhand Dealer or Secondhand Collector may from time to time request in writing that the Police Chief shorten the length of the holding period. If the Police Chief or his designee determines relief from the holding period is appropriate due to unreasonable hardship, the Police Chief or his designee shall provide the Secondhand Dealer or Secondhand Collector who requested relief with written authorization to sell, transfer or otherwise dispose of the regulated property. The request shall identify the property and state the basis or bases of the unreasonable

hardship or hardships. The authorization shall be effective only upon delivery of the written authorization to the second-hand dealer.

- h) Secondhand Dealers, retailing or wholesaling used property limited to the following, are exempt from section B above:
  - 1) Used clothing, furniture, costume jewelry, knickknacks, footwear, and house ware items such as dishes, pots, pans, cooking utensils, and cutlery; or
  - 2) Used clothing, furniture, costume jewelry, footwear and house ware items such as dishes, pots, pans, cooking utensils and cutlery, obtained only from or through a "registered charity" or by donations; or
  - 3) Used books, papers, or magazines.

**508-9 TESTING OF WEIGHING AND MEASURING DEVICES.**

- a) All weighing or measuring devices used by a licensee in the conduct of the licensed business shall be tested and sealed by the Town of Barnstable Weights and Measures Division prior to being placed in service.

**508-10 VIOLATIONS AND PENALTIES.**

- a) Violation of any provision of this chapter may be prosecuted, as a criminal matter or as an administrative procedure or by the method provided in § 21D of Chapter 40 of the General Laws. Each violation shall be considered separately.
- b) Whoever violates the provisions of this chapter shall be fined not more than \$300. The Licensing Authority may suspend, revoke or modify any license issued by them whenever they have reasonable cause to believe the licensee has violated the terms, conditions or regulations pertaining to such license. Any violation of this chapter enforced by the methods provided in § 21D of Chapter 40 of the General Laws shall be subject to a fine of \$250.

**508-11 SEVERABILITY.**

- a) Each provision of this chapter shall be construed as separate. If any part of this chapter shall be held invalid for any reason, the remainder shall continue in full force and effect.

## **PART V: LICENSING AUTHORITY RULES AND REGULATIONS**

### **509 AUTOMOBILE SALES**

#### **509-1 DEFINITIONS**

- a) **CLASS I** means any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, and further defined by MGLc.140 §58.
- b) **CLASS II** means a person whose principal business is the buying or selling of second hand motor vehicles, a person who purchases and displays second hand motor vehicles for resale in retail transactions, and any other person who displays second hand motor vehicles not owned by him pursuant to an agreement in which he receives compensation, whether solely for displaying the vehicles, upon the sale of each vehicle, and subject to conditions as defined in MGLc.140 §58.
- c) **CLASS III** means a person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding and selling the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts may be granted a motor vehicle junk license.

#### **509-2 GENERAL PROVISIONS**

- a) It is prohibited for any person or business to engage in vehicle sale activity without an appropriate license issued by the Licensing Authority.
- b) The applicant/licensee must prove sale of vehicles is principal business.
- c) A sign is required on the property, whether it is a free standing sign or displayed in the door or window, listing the name of the business and hours of operation.
- d) All dealerships shall have a repair facility or provide repairs themselves (provided repairs are allowed on premise). Location of repairs will be available and listed on the application and renewal of the license. This information shall be provided yearly.
- e) A 'Notarized Letter' stating where repairs will be performed to satisfy the warranty obligations imposed by section 7N.25 of M.G.L., Chapter 190 must be submitted with each application and renewal.
- f) All licensees may use a computer-generated version of the Used Vehicle Inventory Book, so long as it is approved by the Mass. DOR.
- g) An inspection of the Used Vehicle Inventory Book for each dealership shall be conducted by the police/inspector, at least once a year.
- h) All Class II dealers who do not display vehicles on the licensed property or who only conduct business via the internet, shall submit to the Licensing Authority a quarterly report of all vehicle transactions, as delineated in the Used Vehicle Inventory Book.
- i) "Internet Only" operations may only be allowed in permitted zoning districts permitted for class II operations and may not, on or off licensed premises, store or display any vehicle for sale to the public or conduct business via pedestrian sales.
- j) Each licensee must comply with MGLc.90 §7N1/2.
- k) All Class II licenses are required to carry, at minimum, \$25,000.00 Bond.
- l) All vehicles that are for sale which are parked outside of a building must be in saleable and drivable condition.

- m) Licensing Agents for the Town of Barnstable will perform inspections throughout the year to ensure the license holder is in conformance with the restrictions of that license.

### **509-3 PHYSICAL PREMISE**

- a) All signs, flags and other forms of outdoor display must be approved by the Building Department.
- b) No spare or junk parts may be stored outside of a building. No repair work may be conducted outside of a building except for minor emergency or reactive repairs to be completed by the end of the workday. Scrap metal must be kept in a recycling container and emptied on a regular basis.
- c) Properties must be kept clean and maintained at all times.
- d) Any outdoor lighting must not impose on any abutting properties.

### **509-4 VEHICLE DISPLAY – PARKING PLAN**

- a) An approved parking plan shall be available on site for any inspections.
- b) All spaces delineated on the approved parking plan shall be marked out with lines, on the surface of the property, except for lots that are storage or non-asphalt surfaces. Existing licensed premises or existing storage lots may be of non-asphalt surfaces; however surfaces may not be altered from paved to non-asphalt at any time.
- c) Total vehicle count shall include the numbers of displayed/unregistered vehicles, customer vehicles, including spaces Handicap accessibility, and employee vehicles. The plan shall be approved by the Building Commissioner and Fire Department. This shall apply to all new, transferred or amend license applications.
- d) A physical vehicle count may be conducted quarterly by the police/inspectors of all Class I and Class II dealerships.
- e) Motor vehicles for sale or lease may not be displayed less than 10 feet from property line.

### **509-5 CHANGES IN OPERATION**

Prior to any changes in operation, the licensee must apply to the Licensing Authority for a license which will include the proposed change, if such change involves any of the following:

- a) Sale, transfer or any change in ownership of the licensed premises;
- b) Incorporation or other business organization procedures which may distribute ownership and/or liability of such business in a manner different than as set forth in the current business organization of the licensee.
- c) Expansion of that portion of the premise occupied by the licensee to be designated or devoted to the licensed activity beyond the boundaries designated and highlighted in the plan submitted with the original application.
- d) Removal of a substantial portion of the licensed activity to a different premise than those set forth in the previous license.
- e) A change in the licensed activity which constitutes a substantial portion of the licensed activity being conducted in a license classification for which the licensee is not licensed.
- f) A change in principal business activity of the licensee.

## **PART V: LICENSING AUTHORITY RULES AND REGULATIONS**

### **510 FORTUNE TELLER**

#### **510-1 DEFINITION**

- a) A Fortune Teller shall mean phrenologist, medium, clairvoyant, soothsayer, astrologist, fortuneteller, palmist, reader-advisor or the like, by whatsoever name called, for the purposes of entertainment only.

#### **510-2 GENERAL FORTUNE TELLER PROVISIONS**

- a) No person shall tell fortunes or conduct like business or practice for money in the Town of Barnstable without first obtaining a license from the Licensing Authority through an advertised Public Hearing.
- b) the following items must be completed successfully prior to the hearing:
  - 1) License Application Form
  - 2) Criminal history check conducted by the Barnstable Chief of Police or his/her designee;
  - 3) A plan of the property specifying the area to be used for operation approved by the Barnstable Building Commissioner.
  - 4) Property Liability Insurance certificates.
  - 5) Proof of an active business certificate, and
  - 6) The fee due at the time application is submitted.
- c) A license to conduct a business shall be issued only to individuals and shall apply only to the premises shown on a plan furnished by the applicant.
- d) No person who is not duly licensed may conduct any business nor shall any license issued for one premise be issued upon another.
- e) The license shall be displayed at all times in a prominent place upon the licensed premises.
- f) Said license shall be granted only to applicants who have resided continuously in the town of Barnstable for at least twelve months immediately preceding the date of the application.
- g) No such license shall be transferred or assigned.
- h) Whoever, by a game, device, sleight of hand, pretended fortune telling or by any trick or other means by the use of cards or other implements or instruments, fraudulently obtains from another person property or money of any description shall be punished as in the case of larceny of property of like value and shall not hold a Fortune Teller license.
- i) Each licensee under this chapter shall provide sanitary facilities for the use of all customers upon the licensed premises in accordance with regulations of the Board of Health of the town.

## TOWN MANAGER RULES AND REGULATIONS

### 406B PEDICAB AND PEDICAB OPERATOR

#### 406B -1 GENERAL PEDICAB PROVISIONS

a. DEFINITIONS:

1. "Pedicab" or "Pedicab Vehicle" means a multi-wheeled bicycle like vehicle, similar to a cycle rickshaw, that transports or is capable of transporting passengers, propelled by human power through a belt, chain or gears (and periodically assisted by no larger than an attached 500-watt electric motor), and constructed in such a manner as to engage in the business of carrying passengers, seated behind the driver, for hire.
- b. The Town Manager retains full executive authority of the adoption and amending of any and all Pedicab Rules and Regulations, through a public hearing process.
- c. The Licensing Authority, on behalf of the Town Manager, will act as the regulatory body overseeing the granting of licenses and making compliance determinations and verdicts, through a public hearing process.
- d. The Barnstable Police Department and Licensing Division are hereby designated as the enforcement agents of the Pedicab Rules & Regulations and shall file and request a show cause hearing with the Licensing Authority of any alleged violation thereof.
- e. Any amendment to the Pedicab Rules and Regulations will require the Licensing Division, after approval by the Town Manager, to provide written and advertised notice within fourteen (14) days prior to the Town Manager's public hearing to all pedicab businesses.
- f. Pedicab licenses shall be valid only during the calendar year for which they are issued. If one year lapses between licenses, the applicant must apply as a new applicant.
- g. Hours of operation shall not exceed 6AM to 2AM.
- h. The Barnstable Police Department and Licensing Division retains the right and authority to suspend the operation of Pedicabs within the district during special events on public property and/or public ways.
- i. Pedicab owners/operators shall comply with Rules & Regulations. Any violation of the Licensing Authority's Rules & Regulations, State and local laws may result in:
  1. a non-criminal citation of up to \$100 per violation; and
  2. A suspension or revocation of license through a show cause hearing held by the Licensing Authority.

#### 406B-2 BUSINESS OPERATION REQUIREMENTS

- a. No person shall engage in the business of transporting persons for hire in a Pedicab vehicle without first having obtained a license from the Barnstable Licensing Authority authorizing him/her to engage in such business.
- b. No Pedicab license application shall be brought before the Licensing Authority at a public meeting for consideration until the applicant has filled the following completed documents with the Licensing Division:
  1. License Application Form
  2. A "Vehicle Condition Check-Off Form" by a licensed bicycle shop indicating the vehicle passed inspection.

3. Proof of the vehicles insurance that the insurance policy covers no more than the driver and 3 passengers riding in the vehicle, and the applicant provides a Certificate of Vehicle Insurance naming the Town of Barnstable as the certificate holder.
  4. If Pedicabs are to be stored at an address other than the owner's place of residence, a copy of a lease agreement must be filed with the application.
- c. The Licensing Authority, in determining whether to approve any application for a new Pedicab business, shall consider the following:
    1. public need and demand for the proposed service;
    2. impact of the proposed service on the Town's services;
    3. suitability and financial stability of the applicant;
    4. effects of the business and tourism community; and
    5. any other information or circumstances deemed relevant by the Licensing Authority.
  - d. When a Pedicab business owner changes his/her address or the place at which the Pedicabs owned by him/her are kept, the owner shall notify the Licensing Authority within three days of such change and must appear before the Authority at the next regularly scheduled meeting to amend the pedicab licenses.
  - e. Pedicab owners shall notify the Licensing Authority when drivers leave the company.
  - f. Records, accounts, books and other relevant documents of a Pedicab business shall be kept for a period of not less than one (1) year. The Licensing Authority or Licensing Division retains the right to examine such documents.
  - g. Pedicab businesses are responsible for the training of operators in all laws, rules and regulations pertaining to Pedicabs and the knowledge of town streets and landmarks.
  - h. Pedicab businesses are responsible for supplying operators' uniforms, which may only have information regarding the pedicab business printed on it. Sponsorship information or logos printed or adhered on the uniforms is prohibited.

### **406B-3 PEDICAB REQUIREMENTS**

- a. GENERAL:
  1. Only five (5) pedicab licenses may be issued to a business.
  2. Each Pedicab will be licensed individually and is non-transferable. The fee for each application and license is a total of \$100.00 and is non-refundable.
  3. All Pedicabs shall have the business name and phone number posted on the rear and sides of Pedicab. Website address and used methods of social media may also be posted on the exterior of the pedicab. All lettering must be painted or self-adhesive contrasting lettering (magnetic or other removable signs are not permitted).
  4. The Licensing Division is authorized after approval of the applicant by the Police Department, to issue a temporary vehicle license swap after a vehicle inspection by the designated officer. Temporary license may be valid for no longer than till the next regularly scheduled meeting.
  5. A pedicab business owner may petition the Licensing Authority in writing for an increase in the number of allowed Pedicabs, and will be considered on an individual case-by-case basis, through a 14-day advertised public hearing with a recommendation by the Police Department. Decision of the Licensing Authority may not be appealed and reconsideration can not be petitioned till the following calendar year, through the same process.
- b. FARE: A fare shall be a person or persons picked up and dropped off together and pedicab rates are a minimum of five dollars (\$5.00) and negotiated with the driver. "Rates: minimum of \$5.00 and negotiated with Driver" shall be visibly posted on the exterior of the pedicab. All

lettering must be painted or self-adhesive contrasting lettering (magnetic or other removable signs are not permitted).

c. ADVERTISING SIGNAGE:

1. Any form of signage or advertisements, including bumper stickers, logos or decals for any business other than of the licensed pedicab, are not permitted on the exterior of the vehicle, however are permitted on the interior.
2. Interior signage may not protrude, interfere or be hazardous to passenger safety and may not be illuminated, reflective or any form of animation.
3. Tobacco, alcohol, sexually explicit and/or illegal drug related advertisement is strictly prohibited.
4. Vehicles may be named after a sponsoring business. The name of the business may be permitted on the exterior of the vehicle in addition to 9.02.a.3 and in the same font style, and coloring as 9.02.a.3, but no other additional information or icons regarding or representing the sponsor may be placed on the exterior and may not be magnetic and other removable material.

d. OPERATION:

1. All Pedicabs shall be maintained, and kept neat and clean while on duty.
2. Smoking and any form of alcohol is prohibited in Pedicabs at any time by driver and/or passengers.
3. There shall be no more than three passengers and an operator to a pedicab at any time and shall remain seated throughout the ride.
4. Pedicabs may not be operated, at any time, while under the influence of alcoholic beverages or controlled substances other than medication prescribed by a physician.
5. It shall be unlawful for any person to operate a pedicab in any manner which impedes or blocks the normal or reasonable movement of pedestrian or vehicular traffic unless such operation is necessary for safe operation or in compliance with law.
6. Pedicabs must yield to all pedestrian crosswalks.
7. In addition to headlights and taillights being required to be used at night while in operation, a flashing taillight must be used at all times while in operation.
8. Passengers may not be picked up or dropped off within an intersection.
9. Pedicab operator shall not, when otherwise available for hire, refuse to transport anyone requesting a ride except under the following circumstances:
  - a. The transportation requested is such that the driver may not legally accept such passenger;
  - b. The driver has reasonable cause to believe the proposed passenger will refuse to pay or cannot pay the fare; or
  - c. The proposed passenger is disorderly, engaged in the commission of any crime, or is otherwise unfit to be transported as a passenger.

e. HYANNIS ROUTES:

1. Pedicabs may only operate on a public way or gain access to a public park/beach within the following Hyannis Pedicab Zone:
  - a. As far North as Hyannis Transportation Center;
  - b. As far West as 21 West Main Street
  - c. As far Southwest as Hyannis Port Beach
  - d. As far Southeast as Kalmus Park Beach; and
  - e. As far East as Hyannis Marina



2. Pedicabs may not travel on any portion of Route 28, Camp Street or Yarmouth Road. Caution should be emphasized on Main Street, South Street and other highly traveled roads within the district
3. Pedicabs stored outside of the Hyannis Pedicab Zone must be transported by trailer or take secondary public roads directly to the Hyannis Pedicab Zone.

#### **406B-4 PEDICAB OPERATOR REQUIREMENTS**

- a. The applicant must be 18 years of age or older.
- b. The total Pedicab Operator application and license fee is a non-refundable total of 50.00.
- c. No Pedicab Operator license application shall be brought before the Licensing Authority at a public meeting for consideration until the applicant has filled the following completed documents with the Licensing Division:
  1. License Application Form
  2. Certified copy of their driving record
  3. copy of a valid State driver's license and/or internationally approved driver's license
  4. CORI Request Form. (The form is obtained and filed through the Police Department for submission to the Commonwealth of Massachusetts, subject to any and all additional applicable fees)
- d. An applicant will not be approved to operate a pedicab if he/she has been convicted of any of the following within the past seven (7) years from the date the criminal record check is authorized:
  1. conviction of a felony;
  2. involvement in illegal lottery;
  3. violation of parole or probation;
  4. sex offense;
  5. assault and battery or disobeying directives of a police officer;
  6. narcotic or alcohol offense;
  7. illegal possession of firearms; and
  8. four (4) or more motor vehicle violations.
- e. Pedicab operator's license shall be valid only during the calendar year for which it is issued.
- f. TEMPORARY LICENSE:
  1. A temporary operator's license may be issued by the Licensing Division, for operator license renewals only.
  2. The Temporary License may only be issued if the application is completed with a clear CORI check, driver's record and all, if any, traffic violations have been paid.
  3. The temporary license may be valid for no longer than the next regularly scheduled meeting.
- g. Pedicab Operators must be courteous and accommodating at all times to the general public and town officials.
- h. DRESS CODE:
  1. All pedicab Operators shall wear pedicab business-issued attire or uniform while having charge of a pedicab vehicle.
  2. A Pedicab Operator, while having charge of a pedicab vehicle, shall keep a clean and well-groomed appearance as well as be clean of body.
  3. Pedicab Operators are not permitted to wear the following during the course of normal business hours:
    - a. Clothing containing a hole or holes in need of repair
    - b. Bathing trunks, swim-wear, jogging trunks, body shirts, cut-offs or similar attire;

- c. Torn or ripped shorts;
  - d. Open-toe footwear or any type of footwear that could obstruct the operation of the pedicab.
- i. When a pedicab operator changes his/her address, the operator shall notify the Licensing Authority within three days of such change.

## TOWN MANAGER RULES AND REGULATIONS

### 406-A OPEN AIR PRIVATE PARKING LOT

#### TOWN OF BARNSTABLE PARKING LOT REGULATIONS REVISED – DECEMBER 13, 2011

1. Parking lots must comply with all Town of Barnstable Ordinances and Regulations and shall meet the requirements of zoning, including the site plan review process. A detailed plot plan of the premises specifying the area to be used for parking must be submitted with the application. The plot plan must be approved by the Fire Chief and the Town Engineer before the license shall be approved. A copy of the plot plan shall be retained by the Town Engineer and a copy shall at all times be available for inspection on the premises by any town officer. All vehicles shall be parked in spaces as shown on the approved plot plan and no vehicle shall be parked so as to block the exit or entrance of any other vehicle. **NO PARKING LOT SHALL BE OPERATED WITHOUT A VALID LICENSE ON THE PREMISES.**
2. A statement of the current maximum daily rate shall be posted conspicuously on the lot. The rate statement must be visible to a customer from the street at all times. The posting of the maximum daily rate shall be in clearly readable block letters 12 inches high and 6 inches wide with a 1 inch stroke. There shall be a minimum of 1 inch of clear space between all numbers and a minimum of 1 1/2 inches of clear space between the outside of the numbers and any other lettering. If the lot uses more than one entrance, each entrance must comply with this section.
3. A notice shall be posted conspicuously on the premises detailing who to contact in the case of emergency. Said information shall contain a telephone number where a person authorized to conduct the business of the owner may be reached during those hours that the lot is not manned. The same information must be legibly printed on the back of all receipt tickets given to customers.
4. A notice shall be posted conspicuously detailing when a refund may be due a customer and further explaining how to apply for a refund in the event the lot is not manned at the time of return of the customer. Customers intending to use a service, such as a boat line or sightseeing, which is cancelled or sold out or otherwise not available, and return to the parking lot within one hour of parking and inform the attendant of the cancellation or nonavailability of the intended service may be charged a maximum of two dollars (\$2.00). The same information must be legibly printed on the back of all receipt tickets given to customers.
5. No parking lot operator or employee shall accept payment from a customer without issuing a receipt. Each receipt must contain the name and address of the lot, the date of the transaction, the maximum daily rate, the number of days paid for, and the total dollar amount charged. The receipt must also contain the

Town of Barnstable  
Parking Lot Regulations  
Page Two

information required in 3 and 4. A copy of the receipt to be used must be filed with every new or renewal application.

6. License holders shall notify the Licensing Authority in writing of their rates and no change in rates may be implemented until twenty-four (24) hours after notification in writing to the Licensing Authority of the proposed rate change.
7. Permit must be posted conspicuously on the premises.
8. There shall be no soliciting business on any public way, which includes a town sidewalk. No license holder or any employee of a licensee shall signal from upon the licensed premises or upon the public way a moving vehicle on any public way or cause the stopping of a vehicle thereon. Under no conditions shall any license holder or employee signal or direct traffic on a public way. At all entrances and exits to a public way, all license holders and employees shall remain inside the licensed premises, and off the public way.
9. No license holder or any employee of a license holder shall by means of outcry accost any occupant of a moving vehicle which is on a public way.
10. The fee for a parking lot license shall be eight (\$8.00) dollars per parking space annually.
11. The Rules and Regulations are adopted under the authority of Massachusetts General Laws Chapter 148 Section 56.
12. Any violation of these Rules and Regulations or violations of any Town of Barnstable Ordinance or Regulation, or Massachusetts General Laws, shall be cause for rejection, suspension or revocation of a Parking Lot License. Any violation of these regulations may be enforced by the methods provided in Section 21D of Chapter 40 of the General Laws. The fine for violations enforced by said Section 21D of Chapter 40 shall be one hundred (\$100.00) dollars.

ADOPTED BY TOWN MANAGER OF THE TOWN OF BARNSTABLE ON APRIL 12, 1991 AND AMENDED ON DECEMBER 13, 2011.

Town Manager

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## APPENDIX A: LICENSING FEES

CATEGORY	FEE	EXPIRATION DATE
<b>ADMINISTRATIVE</b>		
Application fee – licenses and permits	\$100.00	
Late Filing Fee	\$100.00	N/A
Bad Check Fee	\$25.00	N/A
<b>MGL.c. 138</b>		
Club, All Alcohol*	\$2,225.00	December 31
Club, Wine & Malt	\$1,725.00	December 31
Common Victualer, All Alcohol*	\$3,050.00	December 31
Common Victualer, Beer & Wine*	\$1,950.00	December 31
General On-Premises, All Alcohol, No Food	\$3,900.00	December 31
General On-Premise, Wine & Malt, No Food	\$3,400.00	December 31
Arts & Cultural, Wine & Malt, Annual	\$750.00	December 31
Arts & Cultural, Wine & Malt, Seasonal	\$1,000.00	January 15
Innholder, All Alcohol*	\$3,550.00	December 31
Innholder, Wine & Malt	\$2,450.00	December 31
Farmer-Brewery Pouring	\$3,050.00	December 31
Package Store, All Alcohol	\$3,025.00	December 31
Package Store, Beer & Wine	\$1,950.00	December 31
One-Day, All Alcohol	\$90.00	N/A
One-Day, Beer & Wine	\$40.00	N/A
One-Day, Beer Only/Wine Only	\$35.00	N/A
Pharmacist to sell alcoholic beverages	\$2,000.00	N/A
Temporary License to sell for charitable purposes	\$10.00	N/A
<b>MGL.c. 140</b>		
Inns and Common Victualler (Restaurants)	\$100.00	December 31
Outside Dining	\$50.00	Seasonal
Lodging Houses - 10 or more Lodgers	\$125.00	December 31
Lodging Houses - Less than 10 Lodgers	\$75.00	December 31
Nonalcoholic Beverages	\$100.00	December 31
<b>ENTERTAINMENT</b>		
Automatic Amusement Devices	\$100.00 each machine	December 31
Live Theatre	\$100.00	December 31
Pool Table	\$75.00 each table	December 31
Carousel	\$75.00	December 31
Daily Live Entertainment (includes Sundays)	\$275.00	December 31
Daily Non-Live Entertainment (includes Sundays)	\$75.00	December 31

Karaoke	\$100.00	December 31
One Day Entertainment (for profit)	\$50.00	N/A
One Day Entertainment (non-profits)	\$25.00	N/A
Street Performers (Town Manager)	\$0	December 31
<b>VEHICULAR</b>		
Auto Dealer - Class I and II	\$150.00	December 31
Open Air Private Parking Lot (Town Manager)	\$14.00/space	April 30
Narrated Bus Tours (Town Manager)	\$500.00/vehicle	December 31
Duckmobile (Town Manager)	\$500.00/vehicle	December 31
Taxicabs/Limos (Town Manager)	\$50.00/vehicle	December 31
Pedi-Cabs(Town Manager)	\$100.00/vehicle	December 31
Pedi-Cab Drivers (Town Manager)	\$50.00/driver	Seasonal
<b>OTHER</b>		
Junk Dealer/Secondhand Dealer	\$50.00	April 30
Fortune Tellers	\$250.00	December 31
Auctioneer – Annual (Town Manager)	\$15.00	December 31
Auctioneer – Temporary (Town Manager)	\$10.00	N/A
Non-Intoxicating Beverages	\$100.00	N/A
Storage of hazardous materials (Town Manager)	\$100.00	N/A
<b>SPECIAL EVENTS</b>		
One-Day, All Alcohol	\$90.00	N/A
One-Day, Beer & Wine	\$40.00	N/A
One-Day, Beer Only/Wine Only	\$35.00	N/A
One Day Entertainment (for profit)	\$50.00	N/A
One Day Entertainment (non-profits)	\$25.00	N/A
Late Filing Fee (less than 30-days prior to event)	\$25.00	
<b>VIOLATIONS /NON-CRIMINAL CITATIONS</b>		
Licensing Rules and Regulations	\$300.00/offense/day	
Town Manager Rules and Regulations	\$100.00/offense/day	

## **APPENDIX B: ABUTTER NOTIFICATION AND LEGAL AD REQUIREMENTS**

### **I. NEW LICENSES REQUIRING ABUTTER NOTIFICATION AND LEGAL AD**

- a) New **Common Victualers** licenses
- b) New **Entertainment** licenses
- c) New **Innholder/Hotel** licenses
- d) New **Alcohol** licenses
- e) New **Lodging/Guest House** licenses
- f) New **Parking Lot** licenses
- g) Transfer of Alcohol Licenses
- h) Change of location
- i) Altering premises
- j) Change from Wine & Malt to All Alcohol
- k) Change of seasonal to annual
- l) Change in Mgt/Operating Agreement for Alcohol Licenses
- m) Addition of cordials and liqueurs
- n) Alcohol Farmer Series Pouring License

### **II. TRANSACTIONS REQUIRING LEGAL AD**

- a) Transfer/Issuance of Stock for Alcohol Licenses
- b) Change in License Type for Alcohol Licenses
- c) New Fortune Teller Licenses
- d) New Pedicab Licenses

**APPENDIX C: LICENSING POLICIES**

**POLICY TITLE:** COMMON VICTUALLER LICENSES - ADA COMPLIANCE  
**POLICY NUMBER:** LICENSING 16-01  
**DATE:** October 17, 2016 APPROVED

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No application for any new common victualler license or for the transfer of such license shall be approved by the Licensing Authority unless the Authority determines that the licensed premises are accessible to the public according to ADA (Americans with Disabilities Act) and the AAB (Architectural Access Board).

Factors to be considered by the Licensing Authority shall include, without limitation, whether such premises have mandatory handicapped accessible parking with proper signage, ramps, and restrooms, which comply, at a minimum with applicable requirements.

Exceptions may be granted by the Licensing Authority if it finds that such access is architecturally impossible or economically unfeasible. Reasonable accommodation of services by the licensee must be made in order for the exception to be granted.

Mandatory handicapped accessible parking with proper signage, which designates such parking spaces, cannot be granted an exception.

The Barnstable Disability Commission shall be informed of any licenses that the Licensing Authority has granted exception to.



**APPENDIX C: LICENSING POLICIES**

<b>POLICY TITLE:</b>	<b>LEGAL AD BILLING</b>
<b>POLICY NUMBER:</b>	<b>LICENSING 16-02</b>
<b>DATE:</b>	<b>June 13, 2016 APPROVED</b>

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Any application requiring a legal ad to be published will be charged by the Town the exact cost associated with the publishing of such ad.

Payment will be in the form of a check or cash and submitted to the Licensing Division prior to the public hearing.

Bad check fees will apply to any payment returned.