

Please note that this temporary version of the revised Lowell Alcohol Beverages Regulations shows amendments approved to the regulations on February 22, 2024, in red ink.

# ALCOHOL BEVERAGES REGULATIONS for LICENSES

## Issued by the LOWELL LICENSE COMMISSION

### TABLE OF CONTENTS

#### Introduction

#### SECTION 1: GENERAL LICENSING RULES FOR ALCOHOL BEVERAGE LICENSE HOLDER

- 1.01 License Commission
- 1.02 Filing of Applications
- 1.03 Filing Fees
- 1.04 Annual License Fees
- 1.05 Notification to the Public, Abutters, Church or School
- 1.06 Compliance with All Laws and Regulations
- 1.07 Cessation of Operations
- 1.08 Bankruptcy and Court Proceedings
- 1.09 Corporate Transactions and Change of Managers
- 1.10 Foreclosure on Loans
- 1.11 Employee Consumption Prohibited
- 1.12 Suspension, Revocation, or Modification of License
- 1.13 Display of Licenses and Permits
- 1.14 Access to Premises by Police and Agents
- 1.15 Manager
- 1.16 Manager's Responsibilities
- 1.17 Posting of Suspension of License
- 1.18 Police Complaints
- 1.19 Citizen Complaints
- 1.20 Illegal Activities
- 1.21 Intoxicated Patrons, Motor Vehicle Violations

#### SECTION 2: GENERAL CONDITIONS FOR AN ALCOHOLIC BEVERAGES LICENSE

- 2.01 Hours of Operation
- 2.02 Patron Entry Hours
- 2.03 Entertainment Hours
- 2.04 Under 21 Events; Service Prohibited to Certain Individuals
- 2.05 Training – For Managers and Employees at Alcohol Serving or Selling Establishments
- 2.06 Insurance
- 2.07 Posting of Code of Conduct
- 2.08 Clear View of Premises Interior
- 2.09 Interior/Exterior Lighting
- 2.10 Entertainment
- 2.11 Changes to Premises or Operation – Internal or External
- 2.12 Promoter Events
- 2.13 Coin-Operated Automatic Amusement Machines
- 2.14 Limitations on Service
- 2.15 Refuse Removal
- 2.16 Cover Charge
- 2.17 Police Details

SECTION 3: SPECIAL CONDITIONS

3.01 Special Conditions

SECTION 4: LICENSING RULES FOR SELLING ALCOHOL

- 4.01 Applicability
- 4.02 Hours of Operation
- 4.03 Sale and Delivery – Kegs of Beer (Malt Beverages)
- 4.04 Prices

SECTION 5: LICENSING RULES FOR SERVING

- 5.01 Applicability
- 5.02 Service Limited to Approved Areas
- 5.03 Consumption on the Premises
- 5.04 Serving Containers
- 5.05 Charge for Alcoholic Beverages

SECTION 6: COMMON VICTUALLER LICENSE

- 6.01 Food Service
- 6.02 Service Limited to Food Service Areas or Approved Lounge

SECTION 7: APPLICATION FOR SPECIAL ONE-DAY LICENSE

- 7.01 Special Event One-Day License
- 7.02 Special Requirements for Certified Art Galleries/Museums

SECTION 8: VIOLATIONS

- 8.01
- 8.02

SECTION 9: EFFECTIVE DATE

- 9.01

SECTION 10: SEVERABILITY

- 10.01

Addendum

Table of License Fees

## INTRODUCTION

In issuing regulations, the License Commission, as the licensing authority for alcoholic beverages of the City of Lowell, is setting forth requirements as to the conduct of all license holders operating within the City of Lowell. License holders must familiarize themselves with these regulations and the laws of the Commonwealth and abide by same.

### SECTION 1: GENERAL LICENSING RULES FOR ALCOHOL BEVERAGE LICENSE HOLDER

#### 1.01 LICENSE COMMISSION:

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

#### 1.02 FILING OF APPLICATIONS:

All license applications must be complete in order to be processed by the License Commission Office. The Alcoholic Beverages Control Commission web-site, <http://www.mass.gov/abcc/licensing.htm>, has the retail license application for download in the Adobe pdf format. A computer is required in order to have access to the retail license application. Instructions regarding the retail license application are available from the ABCC web-site, and from the Lowell License Commission's Executive Secretary. An application for retail license requires the publication of a legal notice, paid for by the applicant. Information regarding legal notice publication and notification to abutters, and to the governing body of a church, school, and hospital within a radius of 500 feet can be obtained from the Lowell License Commission Executive Secretary. While the License Commission Executive Secretary may assist an applicant with the filing of a retail license application, it is the responsibility of the applicant to fill out and complete the application and to include supplemental documents required by the ABCC and License Commission. It is the responsibility of the applicant to be fully versed in all relevant laws, rules and regulations pertaining to the sale and service of alcohol beverages. No legal advice will be given by the Office of the License Commission. Ignorance of the law may not be used as a defense of procedural mistakes or illegal behavior.

#### 1.03 FILING FEES:

Filing fees must be paid when the application is filed at the Office of the License Commission. Fees will vary depending upon the type of application submitted. City filing fees, if paid for by check or money order, must be payable to the "City of Lowell." Filing fees required by the Alcoholic Beverages Control Commission must be made payable to the "ABCC" or "Commonwealth of MA" by check. Filing fees are not returnable once an application has been accepted by the Office of the License Commission. No approved licenses will be issued on any checks returned by the bank or if any outstanding taxes of whatever kind are due to the City. Filing fees payable to the "City of Lowell" are included in the Table of License Fees in the Addendum section, last page.

#### 1.04 ANNUAL LICENSE FEES:

Annual license fees must be paid by certified check or bank treasurer's check prior to the issuance of any new or renewal of license. License fees may not be prorated and are not refundable. Table of License Fees is in the Addendum section, last page.

#### 1.05 NOTIFICATION TO THE PUBLIC, ABUTTERS, CHURCH OR SCHOOL:

Within three (3) days after publication of the legal notice in the newspaper, the applicant shall send or cause to be sent to the mailing address of each abutter, who owns property touching the applicant's premises, an original or true copy of the legal notice by certified mail, return receipt requested.

The list of abutters as determined by the City Assessors Office shall be made available upon completing the abutters list request form. The abutters list shall include owners of land neighboring and directly opposite on any public or private street or way, as well as any schools, hospitals and houses of worship within 500 feet of premises front door. The Assessors Office sets the fee for abutters list.

The applicant shall present to the License Commission Office prior to the scheduled hearing all white postal receipts, and all green return receipts or the mailing envelope(s) determined to be undeliverable by the U.S. Postal Service.

An affidavit is to be signed by the applicant or person responsible for the mailing, attesting to having sent or caused to be sent the published legal notice. The signing of the affidavit is to be witnessed by a Notary Public.

A mailing of a legal notice to the Governing body (or authority) of a school, church, synagogue, or hospital that is located within a radius of five hundred feet is required. An applicant for a new license or for a change of location shall include a written statement to inform the appropriate authorities of the necessity of a written objection to prevent the issuance of the license.

#### 1.06 COMPLIANCE WITH ALL LAWS AND REGULATIONS:

All licensees shall maintain their premises and operations in full compliance with all local, state and federal laws at all times, including, but not limited to: fire codes, applicable state and local building codes, all health and sanitary codes, City by-laws and Zoning by-laws and regulations. All taxes and charges owed to the City of Lowell must be paid on a current basis. The License Commission considers the prompt payment of federal, state and city tax obligations essential to the proper conduct of a business licensed to sell alcoholic beverages. Upon receiving complaint from federal, state or city authorities that a licensee is remiss in any of its tax obligations, the License Commission will take such disciplinary measures as seem appropriate. Failure to comply with any of these laws and regulations may result in revocation, suspension or modification of the license.

#### 1.07 CESSATION OF OPERATIONS:

Any licensee intending to close the licensed premises, a place of business, whether on a temporary or permanent basis, must notify the License Commission Executive Secretary in writing before such closing. If closing on a temporary basis, the licensee is to state in writing the reason, and length of time of such closing.

#### 1.08 BANKRUPTCY AND COURT PROCEEDINGS:

The licensee shall immediately notify, in writing, the Executive Secretary of the License Commission of any proceedings brought by or against the licensee under the laws or in any court or any proceedings before any state or federal agencies which may affect the status of the license.

#### 1.09 CORPORATE TRANSACTIONS AND CHANGE OF MANAGERS:

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

The License Commission disapproves all requests to pledge any license it issues as collateral for any loan. The License Commission gives no monetary value to a license; and that in accordance with section 23 of Chapter 138 of the General Laws of Massachusetts, alcohol beverage licenses convey no property right. Since January of 1988, the Lowell License Commission has maintained a policy of not permitting a license pledge, however, corporate stock, when the applicant is a corporation, or inventory may be pledged as collateral for a loan.

A decision to deny the pledge of an alcohol license as collateral may be appealed to the Alcoholic Beverages Control Commission in accordance with section 67 of Chapter 138 of the General laws of Massachusetts within five (5) days upon receipt of notice of denial.

Any change in corporate name or any change in trade name (Doing Business As or D/B/A) shall require approval of the License Authority. (MGL c. 138, s. 15A)

#### 1.10 FORECLOSURE ON LOANS:

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

#### 1.11 EMPLOYEE CONSUMPTION PROHIBITED:

No Manager or employee except employees hired for the purpose of testing or rating beers, ales, or wines shall consume any alcoholic beverages on premises while on duty or after the official closing hour. The Manager shall forward the names of excepted employees to the License Commission. A current list not limited to employees, but inclusive of promoters, with a description of their duties, shall be available on the licensed premises at all times for review by authorized agents of the License Commission.

#### 1.12 SUSPENSION, REVOCATION, OR MODIFICATION OF LICENSE:

All licenses are subject to suspension, revocation or modification for breach of any condition, regulations or laws of the City or Commonwealth. When any noise, disturbance, misconduct, disorder, act, or activity occurs in the licensed premises, in the area adjacent to the licensed premises, or in any parking lot

provided by the licensee for the use of its patrons which in the judgment of the License Commission 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.

The License Commission reserves the right to add, modify or amend any license conditions after notice and/or hearing, to the licensee.

#### 1.13 DISPLAY OF LICENSES AND PERMITS:

All licenses and permits issued by the License Commission shall be displayed on the licensed premises in a conspicuous place to which the public has access and from where the public can read.

#### 1.14 ACCESS TO PREMISES BY POLICE AND AGENTS:

All members of the Lowell Police Department and all members of the State Police of the Commonwealth of Massachusetts assigned to duty in the City of Lowell are agents of the Lowell License Commission with authority to enter the premises of any licensee at any time to ascertain the manner in which the licensed business is conducted. The licensed premises shall be subject to inspection by the members of the License Commission and duly authorized agents of the License Commission. Any hindrance or delay of such inspection caused by an owner or an employee of the licensee may be cause for action against the license.

#### 1.15 LICENSE MANAGER:

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

No appointment of a Manager shall be effective unless and until approved by the Lowell License Commission and Alcoholic Beverages Control Commission. The Manager shall be twenty-one years of age or older, and shall be a citizen of the United States. A resume of any proposed manager shall be submitted to the Lowell License Commission and Alcoholic Beverages Control Commission.

Whenever an employee leaves his or her employment as Manager, it is incumbent upon the corporate directors to take action to present a suitable candidate as a replacement either in anticipation of the current Manager's departure or within thirty days after an unexpected termination.

Massachusetts law requires that a corporate liquor licensee retain a Manager for the day-to-day business on the licensed premises. Failure to do so shall be cause for the local licensing authority to suspend the liquor license.

#### 1.16 MANAGER'S RESPONSIBILITIES:

The Manager shall at all times maintain order and decorum in the premises, in all immediately surrounding areas adjacent to the licensed premises, and in any parking lot provided by the licensee for use by its patrons. The Manager shall cooperate in all ways with City officials in ensuring safe and orderly facilities. The Manager shall ensure that there shall be no disorder, indecency, prostitution, lewdness, illegal gambling, misconduct, or any other disturbance permitted on the licensed premises, and

in any parking lot provided by the licensee for use by its patrons. The Manager will ensure that noise does not become disturbing to abutters and/or neighbors.

In the event that a disturbance or breach of the peace occurs on the licensed premises resulting in physical injury to any person, the licensee or Manager shall promptly notify the Lowell Police Department and shall take all reasonable steps to assist such injured person and shall cooperate with police in their investigation.

In all instances where the police are called to the licensed premises, regardless of the extent or severity of any incident involving people in or on the premises, the Licensee or Manager must submit to the Lowell License Commission and the Lowell Police Department within forty-eight (48) hours of the close of business, a complete and accurate written report of the incident; such report will advise them of all pertinent facts including, but not limited to:

- (a) parties involved, by name;
- (b) date and time of the incident;
- (c) action taken by the Licensee or manager;
- (d) description of the incident including damages and any injuries; and
- (e) name of duty manager responsible for the premises at the time of the incident along with any other employees present at the time of the incident.

Licensees shall act reasonably and diligently to disburse 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. Action to be taken by the licensee shall include: (1) maintaining the front door in a closed position; (2) asking loiterers to disperse; (3) promptly notifying the police if loiterers refuse to disperse; (4) considering the hiring of a security guard or stationing a security guard at the front door to disperse loiterers; (5) refusing to allow 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.

The licensee shall keep a current and accurate list of the names of all employees, including name, address, date of birth, date of hire, and position and shall make such list available for inspection upon request by the authorized agents of the police department and the License Commission. The licensee shall also keep and post in an employee area a daily schedule of all employees from open to close, the hours that each employee is scheduled to work, and each employee's position and/or role with the licensee and shall make such list available for inspection upon request by the authorized agents of the police department and the License Commission.

#### 1.17. POSTING OF SUSPENSION NOTICE:

Whenever the License Commission suspends the license or licenses of any licensee, the License Commission shall provide the licensee with a sign containing the words, Closed by Order of the License Commission of the City of Lowell, which sign shall be attached on the inside but visible from the outside of the licensed premises in a conspicuous place during the entire period of such suspension.

#### 1.18. POLICE COMPLAINTS:

Police complaints shall be accepted by the License Commission. The complaints shall be detailed in nature, shall identify all witnesses, and shall state the relief requested. Upon review, the License Commission may schedule a hearing on the complaint or forward same to the Lowell Police Department for investigation.

### 1.19 CITIZEN COMPLAINTS:

Citizen complaints shall be accepted by the License Commission. The complaints shall be detailed in nature and shall state their requested relief. Upon review, the License Commission may schedule a hearing on the complaint or forward same to the Lowell Police Department for investigation.

### 1.20 ILLEGAL ACTIVITIES:

All licensees for the sale and service of alcoholic beverages, either the individual, the partnership, the manager of record for a corporation (profit and non-profit) shall notify the Lowell Police Department immediately, by telephone or otherwise, when any violation of law, disorder, disturbance is taking place, or is about to take place on the licensed premises, or other premises approved by the License Commission for sale, service, and/or consumption of alcoholic beverages. A notification to the Lowell Police when a violation of law, disorder, disturbance is taking place, or is about to take place shall not have an adverse effect upon the licensee's record, provided that there is no finding of fact of a violation by the licensee. Any person employed by the licensee for the purpose of selling and/or serving alcoholic beverages or any person so engaged without compensation shall notify the Lowell Police in the absence of the manager.

### 1.21 INTOXICATED PATRONS, MOTOR VEHICLE VIOLATIONS:

Relating to the sale or delivery of alcoholic beverages to intoxicated persons and motor vehicles violations related thereto:

Upon receipt by the License Commission within an eighteen (18) month period of three (3) reports from the Middlesex County District Attorney's Office, or any other governmental agency, containing information provided to the court by an individual, that said individual was served alcohol at an establishment holding a liquor license in the City of Lowell, prior to committing a motor violation involving operating under the influence of intoxicating liquor:

- (a) The License Commission shall request the Lowell Police Department, in writing, to conduct an investigation into said allegations.
- (b) If the report of the police investigation warrants further action, the licensee will be notified of a hearing before the Lowell License Commission.
- (c) If after a hearing, the License Commission finds a violation of law or of its regulations relative to any liquor license, the license will be suspended for not less than three (3) days, nor more than six (6) days, for each offense (person).
- (d) After three (3) suspensions, the licensee will be notified of a hearing to revoke its license.
- (e) After suspension or revocation, the licensee shall have a right to appeal the decision to the Alcoholic Beverages Control Commission as provided by law.

**Licensees shall refuse entrance to the premises to a person who appears to be intoxicated or unruly; and shall be evict such patron, except in such a case the licensee should call for the police and should aid the intoxicated person when possible.**

## SECTION 2. GENERAL CONDITIONS FOR AN ALCOHOLIC BEVERAGES LICENSE

### 2.01 HOURS OF OPERATION:

The licensee must, at all times, comply with the established hours of operation for their license. The hours of an establishment shall be fixed by the local licensing authority either generally or specifically for each license. The licensing authority shall not decrease the hours of a license until after a public hearing concerning the public need, pursuant to M.G.L. c. 138 s. 12.

## 2.02 PATRON ENTRY HOURS:

Patrons shall not be allowed to enter or re-enter a licensed establishment one-half (½) hour prior to the licensed establishment's closing time.

## 2.03 ENTERTAINMENT HOURS:

Licensed live entertainment and disc jockey shall end thirty (30) minutes prior to the licensed establishment's closing time. Other forms of entertainment, e.g. juke box, radio-receiver-cd-tape-cassette player, television, shall end fifteen (15) minutes prior to the licensed establishment's closing time.

## 2.04 UNDER 21 EVENTS; SERVICE PROHIBITED TO CERTAIN INDIVIDUALS:

All special events involving or targeting 18-20 year old patrons at alcohol beverages establishments shall be not permitted without the expressed consent of the License Commission. No employee and/or entertainer shall solicit, induce or request a patron to purchase any alcoholic or non-alcoholic beverage for him or her or any other person.

## 2.05 TRAINING – FOR MANAGERS AND EMPLOYEES AT ALCOHOL SERVING OR SELLING ESTABLISHMENTS:

The License Commission approved Manager, and duty managers, shall have successfully completed an alcoholic beverage server training program such as Training for Intervention Procedures by Servers (TIPS Certification) for restaurants and lounges, or Beverage Alcohol Training (BAT) for package stores. Managers must become re-certified every three years and provide the City with an updated certificate. All other employees of the licensed establishment such as cashiers and waitresses who sell alcoholic beverages shall receive, at minimum, in-house training equivalent to that received under TIPS or BAT programs within 30 days of employment. The employee training program shall include proper procedures for verifying that patrons are at least 21 years of age and not intoxicated.

There shall also be a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, and the policy shall be maintained on the licensed premises at all times. A signed certification of each employee, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the licensed premises at all times. Copies of all such documents and certifications shall be available to the License Commission, or any authorized agent thereof, upon demand. Lack of supporting documentation may be cause for action against the licensee. The license holder shall be responsible for having a TIPS or BAT certified manager on duty at all times the establishment is open for business. The Manager shall be responsible for ensuring that all other employees are in compliance with such training requirements. A license will not take effect until the Commission is provided with sufficient proof of a License Manager's certification.

## 2.06 INSURANCE

The licensee must, at all times, maintain the requisite insurance requirements. The applicant must annually provide proof of insurance to the License Commission. When a police complaint is forwarded to the License Commission, the complaint shall be forwarded [by the police] [by the License Commission Executive Secretary] to the license holder's insurance carrier.

## 2.07 POSTING OF CODE OF CONDUCT

The licensee must post a patron code of conduct in at least two visible locations at their establishment.  
[Police provide code of conduct]

## 2.08 CLEAR VIEW OF PREMISES INTERIOR:

No advertising matter, screen, curtain or other obstruction which in the opinion of the License Commission, or agent of the License Commission, prevents a clear view of the interior of the premises shall be maintained in or on any window or door. The License Commission or agent may order the removal of said obstruction without hearing.

## 2.09 INTERIOR/EXTERIOR LIGHTING:

The interior of the premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted signs, stating "Exit" as requested by the Development Services of the City or by the Fire Prevention Office of the City. All interior lights shall be turned on within twenty (20) minutes of the established closing hour. Licensees shall at all time keep all parts of their licensed premises adequately and properly lighted as well as in a neat, clean and orderly fashion satisfactory to the License Commission.

## 2.10 ENTERTAINMENT

Certain forms of entertainment, including but not limited to recorded or live music, or dancing, shall not be allowed without first obtaining an entertainment license. This is to include use of amplified music, inside or outside. Licensees for the sale of alcoholic beverages to be consumed on the premises shall be permitted to have musical entertainment and dancing provided that the entertainment is conducted in a manner that is not offensive or disturbing to the general neighborhood.

## 2.11 CHANGES TO PREMISES OR OPERATION - INTERNAL OR EXTERNAL:

No physical changes to the interior or exterior of the licensed premises shall be made without the prior approval of the License Commission; this includes any change to the general operation of the premises. Any changes to the original plans must be approved by the License Commission and the ABCC prior to any work commencing. All plans and documents submitted shall be processed as required in 1.02 Filing of Applications and 1.03 Filing Fees. The only exception will be work of an emergency nature. Any work reasonably classified as "emergency work" must be documented and submitted to the License Commission within five (5) business days of the commencing of the work.

## 2.12 PROMOTER EVENTS

Any licensee utilizing the services of a promoter, defined as an individual acting as a third party to the licensee for advertisement and to generate revenue for the licensee, shall acquire either directly or through the promoter, a separate promotion license from the License Commission. The licensee shall specify, in writing, the specific event(s) being promoted. The licensee shall not engage any promoter or a promoted event that is not specifically covered under the separate promoter license.

Licensees are required to notify the Lowell Police Department and Lowell License Commission at least 14 days in advance when they are using anyone to promote and/or self-promoting an event in such a manner that they anticipate a larger than normal attendance. The licensee must note every person or company promoting the event, how they are promoting the event, and anticipated attendance.

### 2.13 COIN-OPERATED AUTOMATIC AMUSEMENT MACHINES:

The License Commission may grant, suspend, or revoke a license for automatic amusement device when it is in the public's interest to take such action. Types of machines upon the premises, must be approved. The licensee, not the distributor, shall make application under Massachusetts General Laws, Chapter 140, section 177A.

### 2.14 LIMITATIONS ON SERVICE:

No alcohol service thirty (30) minutes prior to the licensed establishment's closing time. During this time, tables shall be cleared of all empty glasses and bottles.

### 2.15 REFUSE REMOVAL

No licensee shall allow refuse generated at the premises to be collected by any contractor between the hours of 11:00 p.m. and 7:00 a.m. on weekdays and Saturdays. On Sundays and legal holidays no such collection shall be allowed prior to 10:00 a.m. nor after 10:00 p.m. Refuse shall be promptly removed to prevent any nuisance.

All refuse shall be stored in a dumpster or in such other manner as approved by the Lowell Board of Health, and shall be maintained in accordance with the regulations and conditions of the Lowell Board of Health. Any rules and regulations of the Lowell Board of Health which conflict shall supersede this section.

### 2.16 COVER CHARGE

Hotel, restaurant, club, tavern licensees licensed to sell/serve alcoholic beverages may have a cover charge in accordance with M.G.L. chapter 140, section 183D, Minimum or cover charge: No innholder, common victualler or person owning, managing or controlling a café, restaurant, or other eating or drinking establishment shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of charge; provided, however, that no such innholder, common victualler or person owning, managing or controlling a café, restaurant or other eating or drinking establishment shall require a person under thirteen years of age to pay a minimum charge or cover charge. Whoever violates this section and 204 CMR 2.00 Regulations of the Alcoholic Beverages Control Commission 204-2.16: Cover Charge shall be punished by a fine of not more than fifty dollars.

- 1) The posting of a "cover charge" shall be made in accordance with M.G.L.c.140 s. 183D. Said "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 years. For the purposes of 204 CMR 2.00, the term "cover charge" shall include all admission fees or admission charges, except that the sign required to be posted under M.G.L. c. 140 s. 183D shall, in the case of an admission fee or charge, be posted on the outside of the licensed premises. Nothing in 204 CMR 2.00 shall be construed to prohibit advanced ticket sales by any on-premises licensee under M.G.L. c. 138, s. 12, a hotel, restaurant, tavern, club.
- 2) No minimum charge for the purchase of alcoholic beverages or minimum alcoholic beverage drinking requirement shall be imposed upon any customer of a section twelve licensee. Any such licensee who charges a minimum charge for food and/or non-alcoholic beverages in accordance with the requirements of M.G.L. c. 140 s 183D shall include a specific statement in the posting

required therein that there is no minimum charge for alcoholic beverages. Said minimum charge shall not be collected in advance of gaining entrance to 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. No licensee shall impose a minimum charge for food and/or non-alcoholic beverages upon any customer who incurs charges for alcoholic beverages equal to or greater than the posted minimum charge for food and/or non-alcoholic beverages.

- 3) At no time should a licensee charge separate cover charges that are priced differently based upon a patron's race, color, religious creed, national origin, sex, gender identity, sexual orientation, disability, any other enumerated protected categories set forth in M.G.L. c. 272, § 98, or for any other reason.

## 2.17 POLICE DETAILS

The License Commission shall have the right and authority to order any licensee to engage as many private detail police from the police department which in the License Commission's judgment are necessary to maintain law and order upon the licensed premises and the areas immediately adjacent to or serving the licensed premises, including the parking lots.

## SECTION 3. SPECIAL CONDITIONS

### 3.01 SPECIAL CONDITIONS

The License Commission, in addition to all general conditions otherwise stated, may require a licensee to conform to special licensing conditions, for example: may mandate video cameras installed in the establishment; patrons may only purchase one drink per person at a time.

## SECTION 4: LICENSING RULES FOR SELLING ALCOHOL

### 4.01 APPLICABILITY

This section shall apply to all establishments selling alcoholic beverages.

### 4.02 HOURS OF OPERATION

Unless specified otherwise on a license, hours of operation shall be Monday through Saturday from opening time at 8:00 a.m. to closing time at 2:00 a.m.; Sundays, Memorial Day, and Christmas Day from opening time at 11:00 a.m. to closing time at 2:00 a.m. A patron of a hotel who is not registered to occupy a private room, or a patron of a restaurant or tavern, or a club member and his/her guest(s) shall not be permitted to be on the licensed premises after the legal closing time for the sale and service of alcoholic beverages to the next legal opening time for the sale and service of same.

Retail package stores may sell alcoholic beverages Monday through Saturday from 8:00 a.m. to 11:00 p.m., Sundays from 10:00 a.m. to 11:00 p.m., and may remain open to sell alcoholic beverages until 11:30 p.m. on the day immediately before a Massachusetts legal holiday exclusive of holidays recognized only in Suffolk County; no alcoholic beverages sold or delivered Memorial Day, Thanksgiving Day, Christmas Day.

#### 4.03. SALE AND DELIVERY – KEGS OF BEER (MALT BEVERAGES):

A written record shall be maintained listing the name and address of every person to whom a delivery of one or more keg(s) or any fraction of a keg of malt beverages is made outside of the premises. Such record shall include the amount of the beverages that were delivered, the date and time of delivery, and the signature of the person receiving the delivery. Such records shall be maintained for a period of not less than one year and must be available for inspection by the Licensing Authority and its agents. All orders for the delivery of alcoholic beverages received by a Package Goods Store licensee shall be delivered only by said licensee or employee(s) and only in a motor vehicle covered by an alcoholic beverage transport permit and registered to said licensee or employee. Under no circumstances shall said order be delivered in hand to a person under twenty-one (21) years of age.

#### 4.04. PRICES:

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

### SECTION 5: LICENSING RULES FOR SERVING

#### 5.01 APPLICABILITY

This section shall apply to all establishments serving alcoholic beverages.

#### 5.02 SERVICE LIMITED TO APPROVED AREAS

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

#### 5.03 CONSUMPTION ON THE PREMISES

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

#### 5.04 SERVING CONTAINERS

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

#### 5.05 CHARGE FOR ALCOHOLIC BEVERAGES

No alcoholic beverages shall be sold for a fee less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage. The price charged for alcoholic beverage shall not be discounted for any particular hour(s) of the day or day(s) of

the week. No minimum charge shall be made for alcoholic beverages.

## SECTION 6: COMMON VICTUALLER LICENSES

### 6.01 FOOD SERVICE:

Licenses issued under Massachusetts General Laws, Chapter 138, section 12, which are restaurant licenses, may be issued only to those who have been granted a common victualler license under Massachusetts General Laws, Chapter 140. This section also applies to an Innholder license. A common victualler licensee must have adequate and sanitary kitchen and dining room equipment and capacity for preparing cooking and serving suitable food for strangers, travelers and other patrons as required by Massachusetts General Laws, Chapter 140, Sections 5 and 6.

Licenseses for the sale of alcoholic beverages for on-premises consumption, restaurants and taverns, are licensed as a common victualler in accordance with sections 2 through 9, inclusive, of Chapter 140 of the General Laws of Massachusetts. The License Commission requires licensees to have the means to prepare food on the licensed premises. Implements for food preparation shall require compliance with Building, Health and Fire Prevention regulations.

Implements for food preparation need not be uniform but shall allow the licensee to offer food prepared by one or more of the following: kitchen stove (gas or electric), fryolator, microwave oven, toaster oven, pizza oven, and electric burner. Food that is subject to spoilage shall be stored in a refrigerator or freezer. Licensees who have discontinued using a gas oven or fryolator shall have said implements disconnected and/or removed from the licensed premises in compliance with Building, Health and Fire Prevention regulations to ensure public safety. Electrical and gas service required to safely operate anyone of the above implements for food preparation shall comply with state and local building code and fire regulations.

Licenseses shall display a food menu on the licensed premises either by posting a sign or signs in a conspicuous place or by offering to patrons a printed menu, listing food items that are prepared on the premises, and the price for each item.

### 6.02 SERVICE LIMITED TO FOOD SERVICE AREAS OR APPROVED LOUNGE

The License Commission may require food service to be available in all areas of the licensed premises where alcoholic beverages are served, this to include dining areas and lounge areas. This does not include any area approved as a waiting area by the License Commission. Within approved waiting areas, and by approval of the License Commission, individuals who have given their name to the maître d' and are waiting to be seated for dining, may have not more than two standard size drinks served to them while waiting.

## SECTION 7: APPLICATION FOR SPECIAL ONE-DAY LICENSE AND SPECIAL REQUIREMENTS FOR CERTIFIED ART GALLERIES/MUSEUMS

### 7.01 SPECIAL ONE-DAY LICENSE

Applications for special one-day license to sell all alcoholic beverages or malt beverages and wines, only, or any of them, may be granted by the Lowell License Commission to the responsible manager of an indoor or outdoor activity, and also to the responsible manager acting on behalf of a nonprofit organization for the same type of activity (Chapter 138, section 14, M.G.L.). The responsible manager, who must be a United States citizen and at least twenty-one (21) years of age, shall be the licensee of

record. The responsible manager shall be liable for any violation of the Liquor Control Act, i.e. Chapter 138 of the General Laws of Massachusetts, the Commonwealth of Massachusetts Regulations of the Alcoholic Beverages Control Commission, and the rules and regulations of the Lowell License Commission.

The responsible manager shall take the necessary precautions to insure that a person who is not of legal drinking age, twenty-one (21) years of age or older, is not sold, served or allowed to consume alcoholic beverages. Furthermore, the responsible manager shall also take the necessary precautions to insure that no person shall be served alcoholic beverages who is under the influence of alcohol or acts in a manner that may be interpreted as being under the influence of alcohol.

The responsible manager must purchase alcoholic beverages to be sold and served at the scheduled activity from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder. Alcoholic beverages cannot be purchased from a package store for sale and service at the scheduled activity.

Special License for All Alcoholic Beverages may be issued by the License Commission only to a person acting on behalf of a nonprofit organization. No other person may be issued a special license to sell all alcoholic beverages.

Special License for Wine or Malt Beverages, or Both may be issued to a person who is conducting an activity or enterprise for profit.

No person may be granted special licenses for more than a total of 30 days per calendar year.

No special license under section 14 of Chapter 138, M.G.L., shall be granted to any person while his or her application for an annual license under section 12 of said chapter is pending before the License Commission.

## 7.02 SPECIAL REQUIREMENTS FOR CERTIFIED ART GALLERIES/MUSEUMS

The License Commission may grant a special license to serve, without sale or profit, wine and/or champagne to the responsible manager of an art gallery and/or museum for purposes of providing light refreshment during an indoor art presentation, display, or other such special event involving the exhibition of artwork for commercial or non-profit purposes on behalf of a profit or non-profit organization dedicated to the promulgation of artistic activity. To qualify, the art gallery must be certified through the Office of Cultural Affairs & Special Events (CASE). The certified entity may then apply for the special one-day license at a reduced rate designated by the License Commission.

The responsible manager is prohibited from charging, offering, selling for profit, or soliciting donations for alcohol under color of a special one-day license. Any such act will be deemed a violation of the special license and subject the establishment to all applicable penalties under the law.

Any such special license issued under 7.02 remains subject to the Liquor Control Act, i.e. Chapter 138 of the General Laws of Massachusetts, the Commonwealth of Massachusetts Regulations of the Alcoholic Beverages Control Commission, and rules and regulations of the Lowell License Commission.

## SECTION 8: VIOLATIONS

8.01 Any violations of City of Lowell, License Commission, or Commonwealth of Massachusetts regulations regarding the sale or service of alcoholic beverage may result in a warning, suspension,

modification or revocation of the issued license. Any complaints and/or reports presently on file shall continue in full force until dispositive action upon them is taken by the License Commission.

8.02 Violations on file with the City of Lowell License Commission prior to the effective date of the revised alcohol beverages regulations shall be ruled upon under the previous rules and regulations.

#### SECTION 9: EFFECTIVE DATE

9.01 These Alcohol Beverages Regulations are in effect.

#### SECTION 10: SEVERABILITY

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

<b>Lowell License Commission fees</b> Annual fee paid by bank check				
<b>Annual All Alcoholic Beverages for on-premises license</b>	<b>11:00 PM</b>	<b>12:00 AM</b>	<b>1:00 AM</b>	<b>2:00 AM</b>
Hotel	\$2,500.00	\$3,000.00	\$3,500.00	\$4,000.00
Restaurant	\$500.00	\$1,500.00	\$2,000.00	\$2,750.00
Club	\$500.00	\$1,500.00	\$2,000.00	\$2,750.00
Tavern	(X)	(X)	(X)	\$1,750.00
<b>Annual Malt Beverages and Wines for on-premises license</b>	<b>11:00 PM</b>	<b>12:00 AM</b>	<b>1:00 AM</b>	<b>2:00 AM</b>
Restaurant	\$500.00	\$1,250.00	\$1,500.00	\$1,750.00
<b>Annual Malt Beverages Only Pouring Permit</b>	\$250.00	(X)	(X)	(X)
<b>Annual All Alcoholic Beverages for off-premises license (Package Store)</b>	\$2,225.00			
<b>Annual Malt Beverages &amp; Wines for off-premises license (Package Store)</b>	\$1,725.00			
<b>Special license to sell/dispense for all alcoholic beverages</b>				
For responsible manager of non-profit organization only	\$125.00 <i>per day</i>	\$75.00 <i>two hours or less</i>		
<b>Special license to sell/dispense for malt beverages or wines, or both</b>				
For responsible manager of profit enterprise, and non-profit organization	\$75.00 <i>per day</i>	\$30.00 <i>two hours or less</i>	\$10.00 <i>thirty minutes</i>	
<b>Special license to dispense wines only</b>				
For responsible manager at certified art gallery, and museum	\$10.00 <i>per day</i>			
<b>Fees for Alcohol Beverages Applications</b>	\$75.00 <i>filing fee</i>	\$200.00 <i>Legal notice</i>		