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**TOWN OF EDGARTOWN  
RULES AND REGULATIONS GOVERNING ALCOHOLIC BEVERAGES**

**Introduction**

By virtue of the authority contained in Chapter 138, section 23 and Chapter 140 of the Massachusetts general Laws, as amended, the Board of Selectmen, of the Town of Edgartown, serving as the Town's Liquor Licensing Authority (hereinafter, the "Board" or Local licensing authority") hereby promulgates these Rules and Regulations governing alcoholic beverages, hereinafter, the "Regulations". The Regulations shall supersede all previous applicable regulations or policies issued by the Town of Edgartown. The Board reserves the right to amend the Regulations periodically as it sees fit, upon advance notice.

All licenses issued for the sale in any manner of any alcoholic beverage shall be issued by the Board on the condition of full compliance with the Regulations. The failure to comply with the Regulations and other applicable bylaws or rules issued by the Town or state shall constitute sufficient cause or grounds for refusing to grant said licenses, or for suspending, cancelling, or revoking any license already granted by the board.

No person shall drink any alcoholic beverages as that term is defined in Chapter 138 of the MGL, as amended (chapter 138) section 1, while on, in or upon any public way or upon any way to which the public has a right of access.

Liquor license applications - General Provisions regarding the administration of Licensed Premises

The licensing of liquor establishments and what constitutes the public convenience and overall well being in the Town of Edgartown will be subject to the informed discretion of the Selectmen.

The applicant for any type of liquor license must meet the requirements of Chapter 138, these Regulations, and any other applicable town or state law.

All employees serving alcohol to the public are required to successfully complete an accredited alcoholic beverages server-training program, including Managers, Assistant Managers and persons responsible for viewing identification cards to determine the age of patrons for service

of alcohol. All employees engaged in serving alcohol should be certified within thirty (30) days of employment.

The Police Department shall have the authority to investigate potential violations of Chapter 138, these Regulations, and any other state or local law on or about the licensed premises on behalf of the licensing authority, and to conduct other such enforcement as the Chief of Police deems appropriate, including the use of plainclothes police officers for the purposes of ensuring compliance with Chapter 138, these Regulations, and other state and local laws.

### **HOURS OF OPERATION**

In accordance with the Massachusetts General Laws Chapter 138, Section 12, the Official Opening and Closing hours are those which are designated on the licensee's liquor license.

Every applicant or current license holder shall state the desired hours of operation.

No service or sales of alcohol before 8:00 a.m. weekdays and 11:00 a.m. Sundays.

No sales or service of alcohol is permitted within 30 minutes prior to the "Official Closing Hour". All patrons must be off the premises by the "Official Closing Hour"

Owners and employees must be off the licensed premises one (1) hour after the Official Closing Hour.

Patrons are not permitted to bring alcoholic beverages into the licensed premises for their own consumption.

All holders of alcoholic beverage licenses (excluding Package Goods Stores) shall be open for business a minimum of three (3) days per week during the term of the issued license. A week is defined as Monday through Sunday.

Liquor license holders who wish to close for any period up to four (4) weeks (for annual license holders), must submit a request in writing to the Board of Selectmen at least two (2) weeks prior to the closing time.

If Seasonal license holders are not able to open by the date they requested or wish to close earlier or later for the season than what is listed on the liquor license, then they must also submit a request in writing at least two (2) weeks prior.

A violation of any of the aforementioned restrictions regarding the hours of operation shall constitute a violation of the Regulations and may subject the licensee to modification, suspension, revocation or cancellation of it's license in accordance with Chapter 138.

## **CHANGE OF MANAGER**

Application for change of manager of the licensed premises must be filed with the Board at least two (2) weeks before the proposed effective date of change, unless the approved manager has terminated his or her employment without prior notice to the licensee. In that case, the licensee must notify the Board of the name of the person who will discharge the duties of manager while he or she is absent, pending selection and approval of a new manager by the close of the next business day following the manager's termination of employment. If the employment of the approved manager is terminated by the licensee, or if the approved manager is replaced, transferred, or for other reason due to action by the licensee is no longer acting as manager, the licensee must file an application for change of manager at least two (2) weeks before the action is taken by the licensee and must obtain approval by the Board (of the application) before changing the manager. If circumstances other than those stated above require a licensee to make a change in manager without timely filing the required application, the licensee shall file the application at the earliest practicable time and must include a detailed statement of the reasons for its delay. If the Board finds that the circumstances for delay justify the noncompliance, no sanction will be imposed. If the circumstances are not found to be sufficient, the Board may impose a day of suspension for each day of unjustified noncompliance, or such other sanction as stated in the "Penalty Structure for Violation" section of these Regulations. When submitting an application for change of manager, the manager shall be certified as an alcohol server prior to submitting the application. Furthermore, approval of a change of manager may be conditioned upon proof of payment of all outstanding local, state and federal taxes and fees.

Upon receipt of an application for an original license, or in the case of a new manager, upon being advised of a new manager's identity, the Edgartown Police Department will conduct a background check of any proposed licensee, manager and such check will include a review of any existing criminal record. The licensing authority may reject any application where the licensee's or manager's criminal record indicates theft, unlawful sale, use or distribution of controlled substances, alcohol-related offenses, association with known felons or individuals, or other behavior that in the opinion of the licensing authority, puts the public at risk.

Violation of any of the aforementioned restrictions regarding change of manager shall constitute a violation of the Regulations and shall subject the licensee to possible sanctions.

### **SPECIAL LICENSES or One day liquor licenses (MGL Chapter 138, section 14 )**

Applicants for a special One Day Liquor License must submit a completed application form, pay the application fee and provide a valid insurance liability certificate.

All applicants must attend the Board of Selectmen's meeting.

All applicants must be of good moral character to obtain a One Day Liquor License hereunder.

Any manager listed on the license application must be a certified TIPS server.

Special one day licenses will be issued to a retail store for a grand opening only.

Art Galleries will be issued a maximum of four (4) one day licenses per calendar year.

#### **PROCEDURE FOR OBTAINING NEW LICENSE**

The applicant for a new liquor license of any type should submit a completed liquor license application along with all the necessary attachments as required by the Alcoholic Beverages Control Commission (ABCC). In addition to the application, it is also necessary to submit a letter to the Selectmen outlining the proposal and include a request for hearing with the Board of Selectmen. The Board will review the application and set a hearing date at their regularly scheduled weekly meetings. Once a hearing date has been scheduled, the applicant will be notified of the date and time. The Board will publish a notice in the newspaper in accordance with Chapter 138. The applicant should be present at the hearing. The Board will consider the application and any input from the public. If approved at the hearing, the license application will be mailed to the ABCC as required in Chapter 138 of the Massachusetts General Laws.

Filing Fees for the ABCC as well as the Town of Edgartown must be submitted along with the completed application. This filing fee is not refundable, regardless of the outcome of the application process. Incomplete applications are deemed not to have been accepted for filing.

The Board of Selectmen in considering applications has very broad discretion to determine whether to issue a license in Edgartown and whether such license would serve a public need in such a manner as to protect the common good.

The Town will provide a copy of the Regulations to each licensee at the time the new liquor license is issued.

#### **MODIFICATIONS/ALTERATIONS TO LICENSED PREMISES**

No substantial physical changes to a licensed premise should be made without the prior approval of the Board of Selectmen. For the purpose of this regulation, a substantial physical change is a change sufficient enough to require a building permit.

#### **TRANSFERS OF LICENSE OWNERSHIP OR LOCATION**

Applications for transfer of ownership or location shall be treated as a new license application and processed as such.

Current holders of liquor licenses hold no property rights in said license and the Selectmen are not required to grant such requests.

A license for a business that has been sold before receiving approval from the Board of Selectmen is considered null and void. Any sales of alcohol from that location are considered illegal and the current license holder will be held accountable. The Board will hold a hearing to revoke the license and the new owner will have to remove all alcohol from the premises immediately and then apply for a new license.

**FILING FEES AND ANNUAL LICENSE FEES**

The payment of license fees must be made at the time the new license is issued. The license fee may be prorated for annual licenses (approved after January 1) by vote of the Board of Selectmen, but not less than one half of the annual fee. The Selectmen reserve the right to adjust the license fee from year to year.

**LIQUOR LICENSE FEES (Annual and Seasonal)**

All Alcohol Restaurant, Innholder's, Club, Package Goods Store -	\$ 2,500.00
Wine & Malt (&Cordials) Restaurant, Innholders, Club & Package Goods Store -	\$ 1,800.00
Special One Day Alcohol (Profit)	\$ 150.00
Special One Day Alcohol (Non-Profit)	\$ 50.00

**FILING FEES**

New License, Transfer of License, Alter Premises, Seasonal to Annual, Annual to Seasonal, Change of Manager, Change of Corp. Name, Pledge of Stock, Pledge of License, New Officer/Director, New Stockholders Change of Location, Change of License Type	\$ 150.00
Filing fee at time of Annual Renewal:	\$ 100.00

**NOISE/ENTERTAINMENT**

No licensee shall provide or allow entertainment unless an entertainment license has been obtained from the Board of Selectmen.

Each license holder shall be responsible for limiting noise generated by their establishment. A violation shall be deemed to occur if noise is clearly audible at a distance of fifty (50) feet away from the inside or outside source at any time day or night.

Noise shall be defined to include, but not limited to (sounds produced by patrons and/or employees), and music produced or reproduced whether or not amplified.

Licensed premises shall keep all doors and windows closed to limit noise. (The use of screen doors and swinging doors is prohibited).

Equipment breakdown or insufficient cooling capacity shall not be deemed proper reason to deviate from these regulations.

The regulations of the local licensing authority herein do not contain all the laws and regulations pertaining to the industry. Compliance with these regulations does not absolve the license holder of his/her responsibility to learn and comply with all the laws, rules and regulations set forth in the Massachusetts General Laws, Code of Massachusetts Regulations or local regulations or By-Laws.

#### **MISCELLANEOUS OPERATING PROVISIONS.**

The licensee shall ensure that the Edgartown Police Department, Fire Department and authorized agents of the licensing authority have immediate access to the licensed premises at all times and under all circumstances.

The licensee shall ensure that all business within the licensed premises, and within areas under the licensee's control that abut the licensed premises is conducted in a responsible manner so that no activity shall detract from the quality of life in the Town generally, or in the neighborhood in which the licensed premise is located.

No alcoholic beverages shall be sold to anyone under the age of 21 years. Any delivery of alcohol is considered a sale.

No alcoholic beverages shall be sold or delivered to an intoxicated person.

No patron may remove any alcoholic beverages from the licensed premises, unless the patron is removing from the premises a resealed bottle of partially consumed wine as regulated by Chapter 138 and the regulations of the ABCC.

It is prohibited to deliver more than two drinks to a person at a time.

It is prohibited to offer or deliver any free drinks to a person or group of persons.

It is prohibited to sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public.

No patron will be permitted to bring into a licensed restaurant any alcoholic beverages for consumption on the premises. There shall be no serving of alcoholic beverages at tables outside any restaurant unless specifically approved by the Selectmen and the A.B.C.C.

It is prohibited to 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.

Wrist bands, stickers or any other kind of markings/marking devices are prohibited as a method of identifying persons to be served alcoholic beverages.

Certain practices, including, without limitation, "Happy Hours", are prohibited per Chapter 138, Sections 12 and 14, 204CMR 4.00 et seq.

Cover charges are not permitted except in compliance with Massachusetts General Laws Chapter 140, Section 183D and 204CMR 2.16.

No licensee shall make any distinction, discrimination or restriction on account of race, color, creed, sex, sexual orientation or ancestry relative to the admission or treatment of any person.

### **PENALTY STRUCTURE FOR VIOLATIONS**

The purpose of this section is to improve the ability of the Board to prevent alcohol abuse and violation of the liquor laws of the Commonwealth and the requirements of the Regulations. It is the intent of the Board that this section will help to achieve reasonable uniformity in the imposition of sanctions to avoid confusion in the minds of the public, patrons and licensees due to a lack of understanding of the consequences of violating the liquor laws and the terms of liquor licenses. This section is intended to empower this Board to consider the circumstances of each case and provide a mechanism for which licensees can ensure their compliance with the Regulations.

**Suspension of license for a stated number of days.** Licensees are advised that the following chart only represents guidelines for use by the Board when making its final decision in response to a liquor license violation. The Board, in accordance with the aggravating or mitigating factors as presented above, shall retain the authority to deviate from these guidelines in such cases as it deems appropriate.

First Violation: Written warning; or 1 day suspension

Second Violation: 1 - 2 day suspension

Third Violation: 3-4 day suspension or revocation of license

Fourth Violation: 5-6 day suspension, or revocation of license

Fifth violation: 7-15 day suspension, or revocation of license and prohibition on reapplying for a one (1) year period

1. Suspension of license for a stated number of days with a portion of the suspension deferred upon condition that no further offenses occur within a specified period of time and that licensee waives its right to a hearing upon such further offense.

2. Revocation of liquor license or suspension for a specified period of time after a hearing for cause.
3. Mandatory participation in prevention program(s) by licensee/manager and server as appropriate.

### **ALCOHOL ENFORCEMENT COMPLIANCE CHECK POLICY**


These guidelines are intended to provide the basic framework to be used when conducting underage drinking compliance checks on licensed premises in the Town of Edgartown.

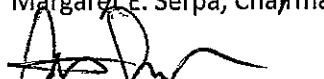
1. Notification that a compliance check will be taking place will be made to the media prior to the start date.
2. The underage person taking part in the compliance check should reasonably look their age. Efforts to make them appear older should be avoided.
3. A photo of the underage person should be taken and attached to the information requested in #5.
4. The underage person should not carry any money with them other than that given by the law enforcement officer supervising them.
5. The underage person shall sign a release form provided by the Police Department prior to starting participation in this program. The underage person and the law enforcement officer should also sign and date a copy of these guidelines. Not applicable if the underage person is an Edgartown Police Department employee.
6. The underage person shall enter the licensed premises under observation by a law officer.
7. The underage person shall attempt to purchase any alcoholic beverage. They should attempt to purchase the same thing at each location.
8. At no time shall the underage person attempt to misrepresent their age.
9. If served at an on premise establishment, the underage person shall remain on the licensed premises for a period of time instructed by the supervising law enforcement officer. They should then exit the licensed premises leaving the alcoholic beverage. If served at an off-premises establishment, the underage person shall carry the alcoholic beverage out to the supervising law enforcement officer.
10. At no time, under any circumstances, shall the underage person consume any alcoholic beverages.
11. The safety and welfare of all underage participants will be of utmost importance to law enforcement personnel. Underage persons shall not be exposed to any unusual, unnecessary or unreasonable risk.
12. The underage person will not wear, exhibit or carry law enforcement identification or falsely represent themselves as an employee of any law enforcement unit while participating in this program. They shall not under any circumstance carry a weapon.
13. Law enforcement personnel should only enter the premises to observe on an as-needed basis where circumstances warrant.
14. Notice to licensees of alleged violations will be given upon conclusion of the compliance check. Official notification shall include date, time and place of hearing.

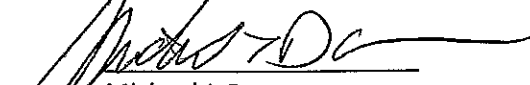


The Board reserves the right to amend the Regulations as it deems necessary. It is the responsibility of the licensee to keep abreast of any changes to the Regulations that may affect its establishment.

As adopted by the Board of Selectmen on September 9, 2013

  
Margaret E. Serpa, Chairman

  
Arthur Smadbeck

  
Michael J. Donaroma  
BOARD OF SELECTMEN