

The general rules and regulations contained herein have been adopted by the Town of Barnstable Licensing Authority. Copies of these rules and regulations will be distributed to all licensees, the Police Department, the fire districts and Town of Barnstable inspectional personnel.

Copies of the regulations are to be kept at each licensed premises and are to be available for review at all times. The Licensing Authority requires all employees of its licensees be familiar with the rules contained herein as well as the obligations mandated by them.

It is the intent of the Licensing Authority to make the rules and regulations as accessible as possible to all persons to aid in the general understanding of the Licensing Authority's roles and functions.

Licensees are cautioned that these rules and regulations are not intended to cover every potential combination of circumstances. Should a licensee intend to implement a change in operating procedures, which circumstances are not clearly defined in these rules and regulations, an inquiry to the Licensing office is suggested.

Any correspondence concerning these rules and regulations should be addressed to:

Thomas F. Geiler,
Director of Regulatory Services
Town of Barnstable
200 Main Street
Hyannis, MA 02601
Tel (508) 862-4674
Fax (508) 778-2412

Chapter 501: ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Licensing Authority of the Town of Barnstable 9-10-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 20.

Licensing Authority jurisdiction — See Ch. 121, § 121-6F.

Outdoor businesses — See Ch. 141.

Sandy Neck alcohol policy — See Ch. 601.

Alcohol on Conservation Commission property — See Ch. 701.

ARTICLE I General Rules for Licensees

§ 501-1. 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. These rules and regulations are to be kept at the front door area where patrons pay their entrance fees or their checks or else at the main cash register; provided, however, that in establishments where patrons pay their checks at their tables, the rules and regulations shall be kept by the licensee in a location in the dining room of the premises.
- B. The rules and regulations need not be posted but must be readily accessible to a requesting party within several minutes of the request.
- C. 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.
- D. No business requiring a license from the Licensing Authority shall operate without a valid license posted as required below.

§ 501-2. Posting and signs.

- A. Licenses issued by the Licensing Authority 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.
- B. All other licenses, permits, and certificates affecting the licensed premises must be posted conspicuously; provided, however, that no such document shall be posted in such a way as to cover over any part of the license issued by the Licensing Authority.
- C. No dress code or preferred customer program or cover charge or other admissions policy shall be put into effect at the premises except upon proper posting pursuant to § 501-3 below.
- D. The posting or presentation of any photographs, signs, posters, drawings or other matter that is of an improper or objectionable nature in the public areas of the licensed premises is prohibited. The material presented must be suitable for view by members of the general public in the same manner as if it were located in other public areas such as public ways, public parks, common carrier stations, and other government and business offices.

§ 501-3. 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, 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 licensed 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 institute dress requirements of any kind except according to the following rules:
 - (1) A sign must be posted at the entrance stating dress requirements or dress restrictions with specificity. (Examples: "Jackets required." "Ties and jackets required." "Shirts with collars required." "No sneakers.")
 - (2) No signs 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.
 - (3) 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 nonadmissibility of sneakers or other soft athletic shoes or open shoes such as sandals.
- C. 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 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.
- D. 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 years. "Cover charge" shall mean all admission fees or admission charges. Such charges must also be posted on the outside of the licensed premises. Nothing in this regulation shall be construed to prohibit advance ticket sales.
- E. No minimum charge for the purpose of alcoholic beverages or minimum alcoholic beverage drinking requirement shall be imposed upon any customer of a § 12 (General Laws, Chapter 138) licensee.
- 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 (as per Subsection D above) 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. 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. (204 CMR 2:16)

- G. 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 should call the police and should offer assistance to an intoxicated person when possible.
- H. 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.
- I. 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.
- J. Licensees are not permitted to lock the front door of the premises until the last patron has exited from the premises.
- K. 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.

§ 501-4. Hours of operation.

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

- A. 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.

- B. 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. 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.
- C. Licensees shall ensure that their patrons leave the premises in an orderly manner.

§ 501-5. Physical premises.

- A. 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.
- B. 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.
- C. All premises covered by the license shall be kept in a clean and sanitary condition.
- D. No outside area may be used as a gathering place for patrons unless approved by the Licensing Authority.
- E. 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.
- F. The capacity set for the premises by the Building Department constitutes the maximum potential capacity for the premises but the actual capacity of the premises may not exceed the amount approved by the Licensing Authority and stated on the license.
- G. 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.

§ 501-6. Business arrangements of licensees.

- A. 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.
- B. 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.

- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. 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.
- H. No licensee may pledge the stock in the licensed business or the license itself without the approval of the Licensing Authority.
- I. 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.
- J. No licensee shall contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed.
- K. Managers in licensed premises must not be changed until the Licensing Authority and the Alcoholic Beverages Control Commission have approved such change.
- L. Any licensee intending to close its place of business for a short- or long-term must notify the Licensing Authority in writing before such closing and state the reason for such closing.
- M. 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.
- N. Subsections H through M above shall apply only to licensees who hold alcoholic beverages licenses.
- O. 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.
- 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 are responsible for maintaining a legal right to the premises which is covered by the license. Failure to have a legal right to the named licensed premises will result in

revocation or nonrenewal of the license.

- R. 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.

§ 501-7. Alcoholic beverages sales and laws.

- A. No alcoholic beverages shall be sold for less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage.
- B. All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.
- C. 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 than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the general public;
 - (4) Sell, offer to sell, or deliver to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the general public;
 - (5) Sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
 - (6) Sell, offer to sell or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time;
 - (7) Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
 - (8) Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.
 - (9) Advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
- D. Nothing contained in the preceding section shall be construed to prohibit licensees from offering free food or entertainment at any time; 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.
- E. Licenses shall not permit alcoholic beverages to be brought onto the licensed premises by patrons or employees.
- F. Licensees are responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by another patron. Licensees who do not have the ability to keep track of the drinking activity of minors at the premises may exclude minors from coming onto the premises in order to meet the burden of ensuring that there is no underage drinking at the premises. Licensees who choose to permit minors onto the premises, whether pursuant

to an "I.D. bracelet" program or otherwise, are held accountable if minors are found to be drinking alcoholic beverages on the premises, whether or not the Board's agents are able to prove that the licensee actually served the drink directly to the minor. Sufficient security personnel should be employed to monitor the premises to ensure that patrons do not pass alcoholic beverages to minors.

- G. Throughout these rules and regulations, references to sales of alcoholic beverages are for those premises which hold licenses to sell alcoholic beverages on the premises. However, prohibitions against minors drinking on the premises and against alcoholic beverages being brought onto the premises apply to all licenses of the Licensing Authority with regard to the public rooms of the premises.
- H. Any person holding an alcoholic beverages license under §§ 12, 14, or 15 of General Laws 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 shall be punished by a fine of not less than \$200 nor more than \$500, and if any holder of such 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 the 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.
- I. 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)
- J. Employees at premises which sell or serve alcoholic beverages for on-premises consumption or at package stores must be 18 years of age except that such licensee may employ a person under the age of 18 who does not directly handle, sell, mix or serve alcohol or alcoholic beverages.
- K. 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)
- L. 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.

- M. Any person who transfers, alters or defaces any such card, or who makes, uses, carries or sells or distributes a false identification card or uses the identification card or motor vehicle license 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)
- N. Any person who is discovered by a police officer or special police officer in the act of violating the provisions of Subsections L through M 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)
- O. 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)
- P. 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.
- Q. Any establishment licensed to sell alcoholic beverages to be drunk on the premises shall post a copy of the penalties for driving under the influence set forth in § 24 of General Laws Chapter 90. Establishments licensed to sell alcoholic beverages not to be drunk on the premises shall post a copy of the penalties for operating a motor vehicle while drinking from an open container (§ 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)
- R. No alcoholic beverages shall be served 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.
- S. No patron, licensee, or employee shall be served any alcoholic beverages after the legal hour for sale of same.
- T. 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.

§ 501-8. Environs of licensed premises.

- A. It shall be obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee will be held accountable for all violations that are related to the licensed premises to determine whether or not the licensee acted properly in the given circumstances.

- B. Licensees shall maintain compliance with all health and safety laws for the areas outside and contiguous to the licensed premises.
- C. Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate in front of or at the licensed premises. Failure of the licensee to keep persons from congregating at the licensed premises may lead to disciplinary action against the licensee for allowing a public nuisance. Reasonable steps to be taken by the licensee may include:
 - (1) Maintaining the front door in a closed position;
 - (2) Asking loiterers to disperse;
 - (3) Calling the police if loiterers refuse to disperse;
 - (4) Hiring a security guard or stationing a security employee at the front door to disperse loiterers;
 - (5) Refusing to allow the same patrons to walk in and out of the premises at short intervals;
 - (6) Maintaining order in lines of patrons waiting outside to get in;
 - (7) Announcing that no further patrons will be allowed into the premises if lines become too long or disorderly or loud.
- D. Licensees shall take such steps as are necessary to ensure that patrons or employees do not leave the premises with alcoholic beverages. Such steps may include: (1) having an employee stationed at the door to watch patrons as they leave; (2) refusing to serve beer in bottles; (3) refusing to serve alcoholic beverages in disposable cups. When patrons are observed leaving the premises with beer bottles, beer cans, or cups or glasses filled with liquids that smell like alcoholic beverages to the Board's agents, it shall be presumed that the vessels contain alcoholic beverages.
- E. When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, 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.
- F. Licensees who use a valet parking service shall be responsible for ensuring that valet parking is conducted in an orderly manner without undue noise, without undue blocking of traffic lanes, and without the violation of any laws or authorized parking programs.
- G. Licensees who have agreed to a parking program as a condition of their license must adhere to such program except upon exemption by the Licensing Authority.

§ 501-9. Inspections and investigations.

- A. 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.
- B. 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.

- 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. No device or electronic equipment shall be utilized by a licensed premises for the purpose of signaling employees that police officers or agents of the Licensing Authority are present.
- E. 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.
- F. All complaints and reports shall continue in force until they have been reviewed and disposed of by the Licensing Authority.

§ 501-10. Entertainment at premises which serve food or beverages to be consumed on the premises.

- A. No licensee may provide entertainment of any kind unless the licensee holds an entertainment license issued pursuant to the General Laws, Chapter 140, § 183A. Such license must be held in the same name, by the same owners, and with the same manager as the food or beverage 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.
- B. 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.
- C. 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 in consistent with the entertainment license requirements.
- D. 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.

- E. 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.
- F. No licensee may permit any electronic games to be on the premises unless such machines are properly licensed pursuant to the General Laws, Chapter 140, § 177A.
- G. 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.
- H. 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)
- I. 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 proceeded by at least 10 days' written notice to the applicant.
- J. When a hearing is held, the Licensing Authority will, within 45 days following the close of the hearing, either grant or deny the license.
- K. No entertainment shall be permitted without a valid entertainment license on the premises.

§ 501-11. Standards of conduct on the premises.

- A. 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 nonoffensive environment. Food and beverage licensees are not permitted to have, create, produce, or tolerate any environment at the premises which is intended to hold any person or any group of people up to ridicule or derision such that said person or said group of persons would not feel comfortable at the premises.
- B. It is forbidden to employ or 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.
- C. It is forbidden to permit any employee or person in or on the licensed premises to promise, offer, suggest, or accept sexual acts or favors in exchange for money or for the purchase of any alcoholic beverages or other commodities.
- D. 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.
- E. 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.

- F. It is forbidden to employ or permit any person in or on the licensed premises to perform any act or acts or to simulate any act or acts of sexual intercourse, masturbation, sodomy, flagellation, or any sexual acts prohibited by law; or touching, caressing, or fondling of breasts, buttocks, or genitals of another or of himself or herself.
- G. No employee and/or entertainer shall solicit, induce or request a patron to purchase any alcoholic or nonalcoholic beverage or any food for them or 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.

§ 501-12. Illegal activity on the licensed premises.

- A. Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts may include:
 - (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 as necessary to protect patrons against injury or to evict unruly patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information;
 - (6) Hiring security personnel to deal with chronic unlawful activity at the premises such as prostitution or gambling or larceny from patrons or assaults and batteries or other problems associated with the premises.
- B. There shall be no disorder, indecency, prostitution, illegal activity on the licensed premises or any premises connected therewith by an interior communication.

§ 501-13. Injuries to persons at the premises.

- A. Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a patron unless to protect other patrons or themselves from being subjected to body blows from an unruly patron. In all other circumstances employees and security personnel are to call the police to have patrons removed from the premises when such patrons are being disruptive and they are unable to convince the patron to leave the premises voluntarily.
- B. Licensees shall call the police and an ambulance and take all other reasonable steps to assist patrons or persons who are injured in or on the licensed premises or whose injuries have occurred outside the premises but have been brought to the attention of the licensee.

§ 501-14. Other causes for revocation, suspension, and modification.

- A. Any license issued pursuant to General Laws Chapter 138 and Chapter 140 for the service of food or beverages to the public 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 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;
 - (5) 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.
- B. 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.
- C. 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.
- D. 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.
- E. Licensees must properly serve suspension and modification orders.

§ 501-15. Service of suspension orders.

- A. When the Licensing Authority suspends the license or any licensee, it shall provide the licensee with an order of suspension of public display that must contain words: "Closed per order of the Licensing Authority for the Town of Barnstable." Such order shall be publicly displayed by the licensee in the following manner: If there is a door opening from the street into the licensed premises and a window facing the street upon which such door opens, such order shall be displayed in such window so that it may readily be seen from the street. If the licensed premises are otherwise located, such order shall be affixed to the door of the entrance to the premises and displayed in such a way that it may be readily seen from the street.
- B. Suspension orders 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.

- C. Suspension periods may not be used as a time to do renovations at the licensed premises unless such renovations have previously been approved by the Licensing Authority.
- D. No members of the public may be on the licensed premises at any time during suspension periods and the business may not be open for any reason. The licensee may be on the premises only if it is in the process of actively cleaning up or doing office work at the premises. No persons other than the licensee and its employees may be on the premises during the suspension period for any reason.

§ 501-16. Permission to close premises required.

- A. 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. In the case of alcoholic beverages licenses, the numbers of which are limited according to statute, no alcoholic beverages licensees may close its place of business for any reason other than the following:
 - (1) Upon 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 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 to the Licensing Authority and approval granted.
- B. 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.

§ 501-17. Definitions.

Whenever the word "licensee" is used herein it shall mean an individual licensee and each member of a partnership licensee and each officer, director, manager, and stockholder of a corporate licensee and any agent of a licensee including those employees who work in the public areas of the premises.

§ 501-18. Hearings in the neighborhoods.

- A. 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.

- B. 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.

§ 501-19. Activity without valid license displayed prohibited.

No person shall suffer or allow any activity to take place on premises which they own or control or manage which requires a license from the Town of Barnstable Licensing Authority which license is not valid and displayed on the premises.

ARTICLE II Common Victuallers

§ 501-20. Kitchen facilities required.

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

§ 501-21. Alcoholic beverages.

Patrons are not permitted to bring alcoholic beverages on the premises for their own consumption. Licensees are not permitted to keep alcoholic beverages on the premises except for a reasonably small quantity that is used in the preparation of certain specialty foods. The 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.

§ 501-22. Food service.

Reasonable food service must be available upon the request of a patron at a premises with a common victualler license during all operating hours; however, 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.

§ 501-23. Applicable rules.

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

ARTICLE III Innholders

§ 501-24. Provisions for strangers and travelers.

- A. Every innholder shall at all times be provided with suitable food for strangers and travelers. Every innholder shall also have upon its premises suitable rooms, with beds and bedding, for the lodging of guests.

- B. An innholder 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.

§ 501-25. Immorality on the premises.

Whoever being licensed as an innholder, or being in actual charge, management or control of the premises for which the license is issued, knowingly permits the premises under his or her control to be used for the purpose of immoral solicitation, immoral bargaining or immoral conduct, including prostitution, drugs or gambling, shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment and shall be subject to disciplinary proceedings against the license.

§ 501-26. Maintenance of register.

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

§ 501-27. Applicable rules.

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

ARTICLE IV Lodging Houses

§ 501-28. Definition.

As used in this article, the following terms shall have the meanings indicated:

LODGING HOUSE — A house where lodgings are let to four or more persons not within the second degree of kindred to the person conducting it and shall include fraternity houses and dormitories of educational institutions but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under § 71 of Chapter 111 of the General Laws or rest homes so licensed, or group residences licensed or regulated by agencies of the commonwealth.

§ 501-29. Cooking facilities.

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.*

§ 501-30. Immorality on the premises.

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.

§ 501-31. Maintenance of register.

Every lodging house keeper shall keep or cause to be kept, in permanent form, a register in which shall be recorded the true name 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.

§ 501-32. Rooms to be let to persons only.

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.

§ 501-33. Applicable rules.

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

ARTICLE V Nonintoxicating Beverages

§ 501-34. Certain premises to be licensed.

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 therefor 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.)

§ 501-35. Sale of soft drink.

For purposes of this regulation, a sale is defined as the provision of a soft-drink beverage to a patron in or by the establishment in exchange for something of value by means of an in-person exchange or by means of a vending machine exchange or by means of a cover charge which gives the patron the right to obtain drinks without additional payment.

§ 501-36. Violations and penalties.

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.)

§ 501-37. Responsibilities of license holder.

The license holder is responsible for the proper management of the premises so that unlawful acts do not occur on the premises and so that the premises does not become a threat to the public welfare or public safety. When violations of the license or of the law are brought to the attention of the 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.

§ 501-38. Inapplicability to certain persons.

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.

§ 501-39. Applicable rules.

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

ARTICLE VI Package Stores

§ 501-40. 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 last 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.

§ 501-41. Applicable rules.

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

§ 501-42. Off-premises sales.

Alcoholic beverages shall be transported or delivered for sale only upon orders actually received at the licensed business prior to the shipment thereof. Violation of this section shall be punished by a fine not exceeding \$200 or by imprisonment for not more than six months or both. (General Laws, Chapter 138, § 32)

§ 501-43. Sale of kegs.

Licensees shall not sell or deliver malt beverages in kegs to any person unless that person presents a valid Massachusetts liquor ID card or a valid driver's license issued by a political subdivision of the United States and 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 beverage and brand name shall also be recorded. Records of sales of malt beverages in kegs 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.

ARTICLE VII Billiard Tables, Pool Tables, Sippio Tables, and Bowling Alleys

§ 501-44. Issuance of licenses.

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

§ 501-45. Violations and penalties.

Whoever without such a license keeps or suffers to be kept in a house, building, yard or dependency thereof, actually occupied or owned by him or her, a table for the purpose of playing at billiards, pool or sippio or a bowling alley for hire, gain or reward, or whoever for hire, gain or reward suffers any person to resort thereto for such purpose shall forfeit not more than \$100.

§ 501-46. Minors.

The keeper of a billiard, pool or sippio room or table who admits a minor under the age of 18 thereto without the written consent of his parent or guardian or the keeper of a bowling alley in which alcoholic beverages are sold who admits thereto a minor under the age of 16 without such consent shall forfeit \$10 for the first and \$20 for each subsequent offense and shall be subject to disciplinary proceedings against the license.

§ 501-47. Applicable rules.

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

ARTICLE VIII Dispensing Food or Beverages at Clubs Which Are Not Licensed for Sale of Alcoholic Beverages

§ 501-48. Issuance of licenses.

- A. The Licensing Authority may grant a license to any club, society, association or other organization, whether incorporated or unincorporated, authorizing it to dispense food and beverages to be consumed on its premises, to its stockholders or members and their guests, but to no others; provided, however, that the Licensing Authority is satisfied that such

organization is a proper one to which to grant such a license.

- B. If such organization is unincorporated, the names of all the officers and members shall be submitted with the application for the license and shall be kept available for public inspection.

§ 501-49. Exemptions.

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

§ 501-50. Violations and penalties.

Any officer or employee of any such organization who dispenses or causes to be dispensed any food or beverage on its premises, unless such organization is then licensed as aforesaid, shall be punished by a fine of not more than \$100 for the first or second offense and by a fine and imprisonment for each subsequent offense as set out in General Laws, Chapter 140, §§ 21E and 21F.

§ 501-51. Improper use of license.

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

§ 501-52. Conviction of officer.

If any officer or employee of such organization which is incorporated is convicted of any offense under this article, the Police Commissioner shall immediately give notice to the State Secretary, who, upon receipt thereof, shall declare the charter of such organization void, and shall publish a notice that such incorporation is void and of no further effect.

§ 501-53. Applicable rules.

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

ARTICLE IX Sale of Alcoholic Beverages by Registered Pharmacists

§ 501-54. Issuance of license.

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

§ 501-55. Sundays and legal holidays.

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

§ 501-56. Certification of purchaser.

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

§ 501-57. Maintenance of register.

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

§ 501-58. Applicable rules.

Licensees under this article are subject to all applicable general rules for licensees set out in Article I above, with the exception of those parts that refer to sales of alcoholic beverages or food for consumption on the premises.

ARTICLE X Private Clubs Licensed to Sell Alcoholic Beverages

§ 501-59. Who may be served.

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

§ 501-60. Inspections.

Private clubs may be inspected by the Police Department and other agents of the Licensing Authority in the same manner and to the same extent as other food or beverage licensees pursuant to General Laws, Chapter 138, §§ 63 and 63A.

§ 501-61. Lists of members and employees.

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

§ 501-62. Discrimination prohibited.

No private club licensee shall make any distinction, discrimination or restriction on account of race, color, religious creed, national origin, sex or ancestry relative to the admission or treatment of any person.

§ 501-63. Membership lists.

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

§ 501-64. Entrance to private clubs.

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

§ 501-65. Who is considered a guest and not a member.

Any person who is not made a member of the club for at least one year and has not paid an annual membership fee and is not recorded in the club's log of members is considered to be a "guest" for the purposes of the Licensing Board's regulations unless an exemption from the restriction has been granted by the Licensing Authority pursuant to § 501-64 above.

§ 501-66. Fees and surcharges.

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

§ 501-67. Applicable rules.

Licensees under this article are subject to all applicable general rules for licenses set out in Article I above.

ARTICLE XI Enforcements and Penalties

§ 501-68. Criminal or noncriminal disposition.

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. *Editor's Note: See Ch. 1, General Provisions, Art. I, Noncriminal Disposition.* Each violation shall be considered separately.

§ 501-69. Violations and penalties.

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 \$100.

Chapter 502: JUNK DEALERS

[HISTORY: Adopted by the Licensing Authority of the Town of Barnstable 9-10-1990.
Amendments noted where applicable.]

GENERAL REFERENCES

Noncriminal disposition — See Ch. 1, Art. I.

Jurisdiction of Licensing Authority — See Ch. 121, § 121-6F.

Junk on streets — See Ch. 206, Art. I.

§ 502-1. License required.

Collectors of, dealers in, or keepers of shops for the purchase, sale or barter of junk, old metals or secondhand articles must obtain a license to conduct said activities.

§ 502-2. Inspections.

The licensed premises shall be subject to inspection by the agents of the Licensing Authority and police officers of the Town of Barnstable during all hours that the premises is open to the public.

§ 502-3. Record of purchases and sales.

The licensee shall keep a detailed written record of every purchase and sale and a description thereof, the date of such purchase or sale, and the name and residential address of the person from or to whom such purchase or sale was made. This record shall be made available for inspection at all reasonable times for all state and local police officers and agents of the Licensing Authority.

§ 502-4. Posting of license.

All licenses shall be conspicuously posted in an accessible place on the licensed premises, available at all times to the proper authorities.

§ 502-5. License suspension, revocation or modification.

Any license shall be subject to suspension, revocation or modification for any violation of these regulations or conditions of the license or any law or regulation of the commonwealth of the Town of Barnstable.

§ 502-6. Retention period.

Licensees shall retain all purchases for a period of not less than seven days.

§ 502-7. Testing of weighing and measuring devices.

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.

§ 502-8. 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 \$100.