

**LICENSING COMMISSION  
CITY OF SOMERVILLE**

**RULES AND REGULATIONS**



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Mayor**

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## **INTRODUCTION**

The Licensing Commission of the City of Somerville has prepared the following compendium of its rules and regulations for the benefit of all licensees, members of the Somerville Police and Fire Departments, and the general public.

The booklet is divided into seven sections, with a table of contents for easy reference. Copies of the booklet are to be kept at each licensed premises and are to be available for reference at all times.

The Commission also requires that all licensees and their employees be familiar with the rules contained herein as well as the obligations mandated by them.

In issuing this booklet, the Commission is making these rules clear and accessible. This will encourage an understanding throughout the community of the Commission's role and function.

The Commission encourages licensees to be informed and responsible. Our goal always is to help prevent problems. However, when there are alleged violations, our intention is to deal with them swiftly and fairly. We wish you the best of success.

The Licensing Commission of the City of Somerville

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**City of Somerville**

**Office of the  
LICENSING COMMISSION**

**ADOPTED  
RULES AND REGULATIONS**

**SECTION 1.00. General Rules for Alcoholic Beverages Licensees, Common Victuallers, Inholders and Other Licensees of the Commission**

**1.01. Definitions**

a. Whenever the word “licensee” is used herein it shall mean an individual licensee and each member of a partnership licensee and each officer, director, manager and stock-holder of a corporate licensee and any agent of a licensee including those employees who work on the licensed premises.

**1.02. Availability of Rules and Regulations**

a. All licensees of the Licensing Commission of the City of Somerville shall ensure that a copy of the Rules and Regulations of the Commission 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 Commission.

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 of the organization operating under the license read the Rules and Regulations of the Licensing Commission and comply with all rules and regulations.

**1.03. Posting and Signs, and Notice of Application**

a. Licenses issued by the Commission 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 Commission.

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 Section 1.04 (Admissions to the Premises).

d. The posting or presentation of any photographs, signs, posters, drawings or other matter that is of an improper, objectionable or obscene 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.

e. In addition to any requirement for notice provided under applicable state or local laws, upon filing an application with the Licensing Commission for any of the following:

- (1) transfer of a license;
- (2) issuance or transfer of stock in a corporation in an amount equivalent or greater than a majority of the stock;
- (3) new license;
- (4) 2:00 a.m. closing license;
- (5) change of hours; or
- (6) change of location;

the Licensing Commission shall provide the applicant with a form, prescribed by the Licensing Commission, to be completed and conspicuously posted by the applicant, at the expense of the applicant, at the location of the subject premises in a place clearly visible to the public from outside of the premises providing notice to members of the public that an application has been made. This section shall apply only to the licensing of the sale of alcoholic beverages. Any such applicant shall file written certification, on a form prescribed by the Licensing Commission, not more than 5 days after the date of filing its application with the Licensing Commission, that notice of the application has been posted in accordance with these regulations and that the applicant shall maintain the posting, including replacing any missing or damaged posting, until the Licensing Commission approves or denies the application, or the applicant withdraws the application, whichever occurs first. (amend 11/19/12)

#### **1.04. 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, ancestry, sexual orientation or any other group protected by law 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 section 12 of the General Laws, Chapter 138, may make rules regulating the admission of minors to the premises when such rules are not inconsistent with other rules and regulations stated herein; 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 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 non-admissibility of sneakers or other soft athletic shoes or open shoes such as sandals.

c. No licensee may issue special admissions passes or "V.I.P." 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 pass-holders and must have such list available if requested by the Commission;
- (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 minimum charge for the purchase of alcoholic beverages or minimum alcoholic beverages drinking requirement shall be imposed upon any customer of a section 12 (MGL Chapter 138) licensee.

e. A licensee who charges a minimum charge for the purchase of food and/or non-alcoholic beverages shall include a specific statement in the posting (per Section 1.04d) stating that there is no minimum charge for alcoholic beverages. Such minimum charge for food and/or non-alcoholic beverages shall not be collected in advance of gaining entrance to the premises. No licensee shall impose a minimum charge for food and/or non-

alcoholic beverages upon any customer who incurs charges for alcoholic beverages equal to or greater than the posted minimum charge for food and/or non-alcoholic beverages (204 CMR 2:16).

f. Licensees may and should 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.

g. Licensees shall not permit entrance to the premises by more persons than the number approved by the Commission for the capacity of the premises minus the number of employees working in the public areas at the time; provided, however, that at premises where the Commission has approved a capacity which is less than the capacity figure approved by the Inspectional Services Dept., the licensee need not deduct the number of employees from the capacity figure set by the Commission so long as the total number of individuals does not exceed said capacity figure approved by the Inspectional Services Department.

h. Licensees who permit persons to wait in line for a table or a seat or for entrance to the premises must obey the following rules:

- (1) Persons who wait inside the premises must be kept in an orderly line and must not be permitted to block fire aisles or exits. The number of such persons waiting inside the premises may not exceed the number of persons allowed as standees;
- (2) Persons who are permitted to wait in line outside the premises must be supervised by an employee of the licensed premises. Such employee must stand outside with the line during all times when the line exceeds ten persons 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 shall be rebuttably presumed to be inviting a public nuisance and will be subject to disciplinary proceedings for same. It is recommended that licensees in residential areas discourage lines of more than ten persons.

i. Licensees are not permitted to lock the front door of the premises until the last patron has exited from the premises.

j. 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 official closing hour posted on the license or prior to the official opening hour posted on the license.

## **1.05. Hours of Operation**

a. Licensees may have persons, including employees, on the premises only during the following hours:

- (1) The hours on the license, except that patrons who are already on the premises prior to the official closing hour may remain on the premises and consume food and beverage served before the official closing hour for up to one-half hour after the official closing hour; provided, however, that no new patrons are admitted after the official closing hour and that no beverages are served after the official closing hour and that no food is served after the official closing hour. No employee or owner shall serve any alcoholic beverages before the official opening hour or after the official closing hour, provided, however, that any alcoholic beverages served prior to the official closing hour must be consumed no later than one-half hour after the official closing hour;
- (2) Personnel may be on the premises after the official closing hour and prior to the official opening hour but only if they are actively engaged in cleaning, making 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;
- (3) Licensees must ensure that their patrons leave the premises in an orderly manner. Licensees who have a clientele that regularly fails to leave the area in a quiet and orderly manner must take appropriate steps which may include a police detail to supervise the leave-taking of the patrons at closing time. Said police detail shall be in addition to, and not instead of, the licensees own personnel;

(4) In the event of an emergency that requires other than the owner and the employees on the premises after the official closing hour or prior to the official opening hour, the licensee must call the Somerville Police Dept. (617 625-1212) and explain the nature of the emergency and supply the number and names of all persons then on the premises.

b. All tables and bars must be cleared of all glasses, bottles, and containers of alcoholic beverages within one hour after the official closing hour.

c. Licensees may apply to the Licensing Commission to sell alcoholic beverages between the hours of 10:00 a.m. and 12:00 noon on Sundays, the last Monday in May, and on Christmas day or on the day following when said day occurs on Sunday. Said applications shall be treated by the Licensing Commission as a standard change of hours and therefore shall not require advertising. (amend 4/22/13)

## **1.06. Physical Premises**

a. No licenses shall be issued or shall be considered in good standing unless licensed premises comply with all statutory requirements, including all applicable building codes, and fire, health, safety, trash, and other government regulations and laws.

b. The licensed premises shall conform to the floor plan approved by the Commission 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 Commission and the prior approval of the Commission. The floor plan shall be drawn to scale. It shall include the location and dimensions of all equipment, fixtures and furniture and otherwise be satisfactory to the Licensing Commission.

c. All premises covered by the license shall be kept in a clean and sanitary condition at all times:

(1) No service of alcoholic beverages shall be made to any person in a Hotel, Restaurant, Tavern or Club in a glass or any other container which has not been thoroughly cleansed and properly sterilized prior to such service. Hotels, Restaurants, Taverns and Clubs, licensed to sell alcoholic beverages, shall be provided with an adequate supply of running hot and cold water and soap and towels, at all times readily accessible, to thoroughly cleanse the hands of persons employed in such licensed premises. All glasses, dishes, silverware and other utensils used in such licensed places for service of food or alcoholic beverages shall be thoroughly cleansed after service to each patron and subjected for at least five minutes to the germicidal action of clean water heated to and maintained at a minimum of 160 degrees Fahrenheit. Equally effective methods of germicidal action by the use of heat, hot water, steam or mechanical devices may be substituted. After being cleansed and sterilized glasses, dishes, silverware and other utensils shall be packed or stored or arranged in such manner as not to become contaminated before again being used;

(2) Hotels, Restaurants, Taverns and Clubs shall have adequate and suitable toilet facilities which shall be conveniently located and properly lighted;

(3) All pipes, coils, hoses, faucets and other appliances used in the drawing of draught beer shall be maintained in accordance with ABCC regulations.

d. By permission of the Somerville Licensing Commission, doors and windows may only be kept in an open position between the hours of 8:00 a.m. and 9:00 p.m. Monday through Saturday, and on Sundays between the hours of 12:01 p.m. and 9:00 p.m. Permission to have doors and windows in an open position at the licensed premises is a privilege granted by the Commission and may be modified, suspended, or withdrawn due to any violations that may occur at said premises.

e. No outside area may be used as a waiting area or other gathering place for patrons without prior approval by the Commission.

f. The premises shall be lighted in all public areas in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents of the Commission to make observations at the premises without the need to identify themselves or the need to seek assistance.



g. The capacity set for the premises by the Inspectional Services Dept. constitutes the maximum potential capacity for the premises; however, the actual capacity of the premises may not exceed the amount approved by the Commission as outlined in Section 1.04(h).

h. Licensees are not permitted to invite the members of the general public to private areas of the premises which are approved by the Commission for storage or for an office or for a kitchen or for a music or video projection room or for any similar non-public use. Only owners and employees of the licensed premises may be in these areas.

i. All areas of the licensed premises that are intended for use by members of the general public shall be readily accessible to all patrons of the licensed establishment by way of clearly marked doorways or passageways by which patrons may travel unimpeded by doors, equipment, furniture or other materials. Without the express approval of the Licensing Commission, the licensee shall not establish areas of the licensed premises that are intended for public use but which are, by design or appearance, separate premises not readily accessible from one to the other from the interior of the structure.

j. Unless otherwise provided by the Licensing Commission, licensees are permitted to keep windows in an open position during the hours of operations. Permission to have windows in an open position at the licensed premises is a privilege granted by the Commission and may be modified, suspended, or revoked for any violations of any condition or restrictions of the license, or any violations of applicable law, regulation, or ordinance, or for other good cause, as determined by the Commission. (amend 7/15/13, amend 8/18/14)

k. Unless otherwise provided by the Licensing Commission, doors shall remain closed, except for entrance and exit of the premises. Licensees who wish to seek to keep their doors open shall make a request in writing to the Commission. Any permission to have doors in an open position at the licensed premises is a privilege granted by the Commission and may be modified, suspended, or revoked for any violations of any condition or restrictions of the license, or any violations of applicable law, regulation, or ordinance, or for other good cause, as determined by the Commission. (amend 7/15/13, amend 8/18/14)

l. The provisions of this Section shall not apply to theatres. (amend 7/15/13, amend 8/18/14)

## **1.07. 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 made known to the Commission and the terms of such agreements or contracts must be made known to the Commission. The Commission reserves the right to disapprove of such arrangements when 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 Commission. 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 person properly approved of by the Commission and the salaried employees of such persons. The foregoing Rule 1.07.c. does not prohibit the use of revenue for payment of inventory and other operating expenses, or for donation of revenue to 501(c)(3) organizations that is prominently advertised in the establishment. (amend 7/15/19)

d. No licensee shall permit any person to work at the licensed premises or to hold him or herself 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 Commission. Rule 1.07.d. does not prohibit profit-sharing programs for which all employees are eligible. If a licensee has a profit-sharing program, a written copy of the program rules must be made available to the Commission or its agents upon request. (amend 7/15/19)

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 Commission and the receipt of the Commission's prior approval.

f. No licensee shall lease out any part of the premises or any part of the business without the approval of the Commission. No licensee shall lease out the food or beverage service without the prior approval of the Commission.

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 prior approval of the Commission.

h. Alcoholic beverages licensees and marijuana licensees may not pledge the stock in the licensed business or the license itself without the prior approval of the Commission. (6/15/20)

i. Alcoholic beverages licensees and marijuana licensees may not take a loan secured by any equipment at the premises or secured by any direct or indirect interest in the licensed business without the prior approval of the Commission. This includes kitchen equipment, video or audio equipment, lighting equipment, furniture, or any other type of equipment. (6/15/20)

j. Alcoholic beverages licensees and marijuana licensees shall not contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed. (6/15/20)

k. Alcoholic beverages licensees must not change the manager of the licensed premises until the Commission and the Alcoholic Beverages Control Commission have approved such change.

l. Any alcoholic beverage licensee or marijuana licensee intending to close its place of business for a short or long term must receive prior approval from the Commission and, therefore, must notify the Commission in writing before such closing and state the reason for such closing. (6/15/20)

m. Assignment of the stock of corporate alcoholic beverages 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 Commission 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. Alcoholic beverages licensees shall not enter into any agreement or understanding which sets a minimum requirement for gross sales of food and beverages at the premises.

o. 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 Commission or unless written permission is first obtained from the Commission. 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, or on the Internet is prohibited unless permission is first obtained from the Commission.

p. Licensees are responsible for maintaining a legal right to occupy the premises which is covered by the license. Failure to have a legal right to the named licensed premises will result in revocation or non-renewal of the license.

q. 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.

r. Licensees shall immediately notify the Commission of any proceedings brought against them or any proceedings brought by themselves under the Bankruptcy Laws. Licensees shall immediately notify the Commission of any court proceedings which may affect the status of the license.

## **1.08. 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.

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 excessive 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 general public;
- (6) sell, offer to sell or deliver malt beverages or mixed drinks by the pitcher except to two or more persons;
- (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, section 15, from offering free wine tastings; or to prohibit those licensed under Chapter 138, section 12, from offering room services to registered guests.

e. Licensees shall not permit alcoholic beverages to be brought onto the licensed premises for consumption 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 Commission'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 Commission with regard to the public rooms of the premises.

h. Any person holding an alcoholic beverages license under sections 12, 14, or 15 of General Laws Chapter 138 who, directly or through any agent, employee or other person, dilutes or changes 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 subject to disciplinary action by the Licensing Commission; except that cocktails and other mixed drinks may be prepared on premises so licensed for the sale of alcoholic beverages.

i. Whoever makes a sale or delivery of any alcoholic beverages or alcohol to any person under twenty-one years of age, either for his own use or for the use of his parent or any other person, or whoever, being a patron of an establishment licensed under section 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 twenty-one years of age or whoever procures any such beverages or alcohol for a person under twenty-one years of age in any establishment licensed under section 12, or procures any such beverage or alcohol for a person under twenty-one years of age who is not his child, ward or spouse in any establishment that is a package store, shall be subject to disciplinary action by the Licensing Commission.

j. Employees at premises which sell or serve alcoholic beverages for on-premises consumption or at package stores must be eighteen years of age except that such licensee may employ a person under the age of eighteen who does not directly handle, sell, mix or serve alcohol or alcoholic beverages.

k. Any licensee, or agent or employee thereof, under Chapter 138 who reasonably relies on a liquor purchase identification card or motor vehicle license issued pursuant to section eight of Chapter 90, or a valid passport or passport card issued by the United States government, or by the government, recognized by the United States government, of a foreign country, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any disciplinary action or any criminal liability for delivering or selling alcohol or alcoholic beverages to a person under twenty-one years of age. Such licensee shall be presumed to have used due care in making the sale, but such presumption shall be 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. (11/21/22)

l. Alcoholic beverages licensees are forbidden to make a sale or delivery of alcoholic beverages or alcohol to a person who is intoxicated.

m. Any establishment licensed to sell alcoholic beverages to be drunk on the premises shall post a copy of the penalties for driving under the influence set forth in section 24 of General Laws Chapter 90. Establishments licensed to sell alcoholic beverages not to be drunk on the premises shall post a copy of the penalties for operating a motor vehicle while drinking from an open container (MGL Chapter 90, Section 24I). Said copies are available at the Alcoholic Beverages Control Commission. (MGL Chapter 138, Section 34D).

n. The substitution of any alcoholic beverages of a kind or brand different from that ordered by a purchaser is prohibited unless it is done with the consent of the person or licensee making the purchase.

o. No false, deceptive or misleading statement shall be made or used, or shall be permitted to be made or used, by any licensee on any tap dispensing alcoholic beverages.

p. Sale of low alcoholic beverages to anyone under 21 years of age is prohibited.

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

a. It shall be the 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, but are not limited to:

- (1) maintaining the front door in a closed position;
- (2) asking loiterers to disperse;
- (3) calling the police if loiterers refuse to disperse;
- (4) requesting a police detail or stationing an 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, but are not limited to:

- (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 the Commission's agents observe patrons leaving the premises with beer bottles, beer cans, or cups or glasses filled with liquids that smell like alcoholic beverages, it shall be presumed that the vessels contain alcoholic beverages. The foregoing Rule 1.09.d. shall not apply to Package Goods Store licensees.

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 Commission adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the licensed premises are located, or results in the licensed premises becoming the focal point for police attention, or is offensive to public decency, the licensee may be held in violation of the license and subject to proceedings for suspension, revocation or modification of the license.

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 or bicycle 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 Commission.

h. Licensees who use a delivery service (first-party or third) shall be responsible for ensuring that pickup and delivery are conducted in an orderly manner without undue noise, without undue blocking of traffic lanes or bicycle lanes, and without the violation of any laws or authorized parking programs.

## **1.10. Inspections & Investigations**

a. All licensed premises shall be subject to inspection by the Police Department of the City of Somerville and other duly authorized agents of the Licensing Commission.

b. Any owner, officer, employee or agent who hinders or delays a police officer or other authorized agent of the Commission 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, Chapter 138, shall be subject to disciplinary action by the Licensing Commission.

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 an authorized agent of the Commission. 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 agents of the Licensing Commission are present.

e. The Commission or its agents may, at any time, take samples for analysis from any beverages or alcohol kept on the premises licensed pursuant to the General Laws, Chapter 138, 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 Commission.

### **1.11. Entertainment at Premises Which Serve Food or Beverages to be Consumed on 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, section 183A. Such license must be held in the same name, by the same owners, and with the same manager as the food or beverage 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 Commission for an exemption from this rule based upon a written contract with 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 beverages 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 Commission.

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, section 183A, and confined to a particular dance floor area which has been approved by the Commission and which is not inconsistent 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 Commission 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 Commission or subsequent to the closing hour set by the Commission for the exercise of the food or beverage license or during any period when the food or beverage license has been suspended.

e. 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, section 177A.

f. Licensees shall not permit any games of chance 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 of chance may be played for money at certain fund raising activities for which the licensee holds other appropriate licenses.

g. Licensees who hold licenses under General Laws Chapter 138, section 12, to serve alcoholic beverages for on premises consumption, may petition the Commission for approval to allow dancing on Sundays between the hours of twelve midnight and one o'clock antemeridian or two o'clock antemeridian for the same hours for which the licensee is authorized to sell alcoholic beverages (MGL Chapter 138, Section 33).

h. Licensees must enable and utilize the closed captioning function on all public facing televisions during their hours of operation. Closed captioning must be enabled and utilized during their hours of operation regardless of the television being on mute. Closed captioning in languages other than English are not required. If closed captioning is enabled in a language other than English that serves the licensee's patrons, that will be considered in compliance with this requirement. Licensees are exempt from this requirement if their public-facing televisions do not have a closed-captioning function. Venues that are open to the public for the purpose of mass gathering for entertainment are also exempt from this requirement. These venues include but are not limited to theaters, cinemas, sports venues, and festivals. (9/25/23)

## **1.12. 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 non-offensive environment. Food and beverage licensees are not permitted to have, create, produce, or tolerate any environment at the premises which is intended to hold any person or any group of people up to ridicule or derision such that said person or said group of persons would not feel comfortable at the premises.

b. It is forbidden to employ or 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 employee or person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks or genitals of any other person.

e. It is forbidden to employ or permit any person in or on the licensed premises to wear or use any device or covering exposed to view which simulates the breasts, buttocks, pubic hair, 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 non-alcoholic 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.

h. It is forbidden to employ or permit any person in or on the licensed premises to show motion picture films, television-type cassettes, still pictures, or other photographic reproductions depicting any of the acts or any simulation of any of the acts hereinbefore listed.

## **1.13. 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, but are not limited to:

- (1) frequent monitoring of restrooms and other non-public 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 restrooms 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 illegal drug use or illegal drug sales or gambling or larceny from patrons or assaults and batteries or other problems associated with the premises.

b. There shall be no disorder, indecency, prostitution, illegal gambling, illegal drug use or illegal drug sales or illegal drug possession, or other illegal activity on the licensed premises or any premises connected therewith by an interior communication.

#### **1.14. Injuries to Persons at the Premises**

a. Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a patron unless to protect other patrons or themselves from being subjected to body blows or other harm 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 and persons who are injured in or on the licensed premises or whose injuries have occurred outside the premises but have been brought to the attention of the licensee.

#### **1.15. Other Causes for Revocation, Suspension, Modification, or a Reduction in Operating Hours for the Sale of Alcoholic Beverages**

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, revoked, or have their operating hours reduced for any of the following causes:

- (1) fraud, misrepresentation, false material statement, concealment or suppression of facts by the licensee in connection with an application for a license or permit or for renewal thereof or in connection with an application for the removal of the licensed premises or the alteration of the premises or in connection with any other petition affecting the rights of the licensee or in any interview or hearing held by the Commission in connection with such petition, request, or application affecting the rights of the licensee;
- (2) failure to operate the premises covered by the license;
- (3) 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 Commission;
- (4) 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;
- (5) giving or offering any money or any article of value or paying for or reimbursing or forgiving the debt for services provided to any employee or agent of the Commission either as a gratuity or for any service;
- (6) failure to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Commission or upon which any application or petition relating to the premises was granted by the Commission. 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 Commission and with any conditions of the license;



- (7) 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 Commission 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;
- (8) failure to properly comply with orders of suspension, modification, and reduction in operating hours.

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

- a. When the Commission suspends the license or licenses of any licensee, it shall provide the licensee with an order of suspension for public display that must contain the words, "Closed per order of the Licensing Commission of the City of Somerville." 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 Commission, 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 Commission.
- 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.

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

- a. Licenses are granted to serve the public need and to that end licensees are expected to operate the licensed premises 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 marijuana establishment licenses, no marijuana establishment licensee may close its place of business except for a closing due to an act of God or an illness or some other business problem for which request has been made to the Commission and approval granted. In the case of alcoholic beverages licenses, the numbers of which are limited according to statute, no alcoholic beverages licensee may close its place of business for any reason other than the following:
  - (1) upon request to the Commission for closing in order to do renovations after approval by the Commission for such renovations and for a reasonable time of closing in order to perform the renovations;
  - (2) to comply with the Alcoholic Beverages Control Commission's Annual Calendar of Holidays and Sunday Package Store Openings;
  - (3) a closing of one or more days per week upon approval of the Commission 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 Commission and approval granted. (6/15/20)
- 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 Commission 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 will be granted by the Commission when 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 may 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.

## 1.18 Extension of Premises to Patio and Outdoor Areas

- a. Alcoholic beverages cannot be served outside a licensed establishment unless and until an application to extend the licensed premises has been approved. The licensee must offer full meal service in the outdoor area.
- b. It is essential that the licensee have control of the area in order to preclude service to underage persons, to intoxicated persons, etc. The premises must be enclosed by a fence, rope or other means to prevent patrons or members of the public from wandering in and out. The enclosure must be described in the approved plans.
- c. In accordance with the ABCC requirements, the outdoor area must be contiguous to the licensed premises and the licensee must have a view of the outside premises from the inside. Egress from the inside to the outside must be clearly established. There must be adequate exits in case of emergency.
- d. Seats, tables, barriers, signs, stands, etc. may only be located as depicted on the plans in the approved license, and shall include at least one *accessible* table or 10% of total outdoor seating in the license area, whichever is greater. Accessible tables should be distributed by size and location throughout the licensed area.
- e. All building entrances, crosswalks, adjacent sidewalks, and outdoor seating shall be connected by an *accessible* walkway in good repair. If for any reason an *accessible* walkway is not available, the licensed use will be suspended, and no outdoor seating may be used until the *accessible* walkway is restored.
- f. The City assumes no responsibility for any damage to private or public property and licensee expressly releases City from all liability, damage, and cost for any damage to private property within the licensed area. In addition, the licensee agrees to indemnify the City against any claims arising out of or in any way related to its failure to properly clear the public right of way as requested by the City. The licensee agrees to add the City as an additional insured party on its liability insurance.
- g. Upon notice by the Licensing Commission, Fire Department, Commissioner of Public Works, or the City Engineer, the Equipment in the public way must be removed if the public way needs to be accessed for a public purpose, including but not limited to snow removal, street repair, and utility work. The Licensee also agrees in the event of an emergency, the City may require removal of the Equipment without notice.
- h. Any violation of these rules and regulations may result in fines, suspension and revocation of the license, and other punitive actions as determined by the Licensing Commission.
- i. Licenses are not transferable.
- j. For Public Street Seating only:
  - (1) Licensee shall provide & maintain trash receptacle and/or provide bussing service during all hours of operation.
  - (2) Licensee shall post a conspicuous sign requiring patrons to not rearrange seating or relocate seating into the sidewalk or other *accessible* walks, routes, ramps or aisles.
  - (3) Licensee's operation in the licensed area may not begin earlier than 6:00 AM and may not extend beyond Midnight (12:00AM), inclusive of time to setup, breakdown and clean the area. Operation must not exceed the hours of the master license.
  - (4) Licensed areas in the public street shall only be authorized from April 1 to November 30. All seats, tables, barriers, signs, stands, etc. shall be removed from the public street by December 1.
  - (5) Parklet Seating shall include reflective tape or reflective markers to the traffic facing sides of the Parklet structure or railings.
  - (6) Parklet Seating platforms and other temporary structures shall include removable sections to access all utility manholes and access structures. Licensee shall remove sections when requested by City. At least 24 hours verbal notice will be provided. Emergencies may require shorter or immediate notification.

(7) Parklet Seating platforms and other temporary structures shall maintain a clear drainage path beneath the structure. Licensee shall clean beneath the structures on a monthly basis to clear debris and blockages from the drainage path.

k. For Dog Areas only:

- (1) Licensees shall prohibit animals, except service animals, from all outdoor seating areas unless their license explicitly allows dogs in such areas.
- (2) Licensees with a license that allows dogs shall ensure that every dog in the outdoor seating area is licensed and leashed, shall prohibit employees from touching or handling dogs, and shall provide bowls of water for the sole use of dogs.
- (3) Licensees with a license that allows dogs shall post a conspicuous sign to designate the outdoor dog area, and to prohibit dogs from sitting or standing on any furniture and from eating anything, including scraps, from plates, drinkware, or utensils. Dogs may not be seated on the laps of patrons at any time.

## **1.19. Training Rules for Alcoholic Beverage Licensees**

- a. The Commission requires that upon issuance of an alcohol license or renewal thereof, the owner or manager of the licensee shall attend and initial training course with the Somerville Cares Prevention Program (SCAP), to be completed within 30 days of the issuance or renewal of an alcohol license. (amend 2/12/12)
- b. All agents and/or employees of alcoholic beverage licensees who sell or serve alcoholic beverages, checking identification or providing security, shall have successfully completed 21 Proof™ or Training for Intervention Procedures by Servers (TIPS), ServSafe (formerly BarCode), or equivalent training, which has been approved by the Commission. It shall be the responsibility of the licensee to ensure that each agent and/or employee shall receive such training within 60 days of the date each said agent and/or employee is hired by the license. All managers shall have completed such training within 60 days of employment. (amend 2/12/12)
- c. Each licensee shall maintain a detailed list of all employees listed in Section B above and either the original or a copy of the certificate of training for each such employee. Such employee list and certificates of training shall be made available for examination, during normal business hours, by the Chief of Police and his/her designee and any investigator or agent of the Licensing Commission or the Alcoholic Beverages Control Commission, and must be current and updated. (amend 2/12/12)

## **1.20. Terms and Conditions**

- a. The Licensing Commission reserves the right to add, delete, change, alter, or modify the rules and regulations contained herein after notice to the license holders.
- b. Licenses issued by the Licensing Commission are subject to suspension, modification, revocation, or forfeiture for breach of any of its rules and regulations of which the licensee has notice, or violation by the licensee of any provision of the relevant General Laws of the Commonwealth or relevant Ordinances of the City of Somerville or any rule or regulation of any city of Somerville agency, the Alcoholic Beverages Control Commission, or the Cannabis Control Commission. (6/15/20)
- c. If any of the provisions of these Rules and Regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of such Rules and Regulations, or the application of such other provisions, which can be given effect without the invalid provision or application thereof, and for this purpose the provisions of these Rules and Regulations are severable.

## **SECTION 2.00. Special Additional Rules For Common Victuallers**

### **2.01. Kitchen Facilities**

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

### **2.02. Alcoholic Beverages**

a. 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 Commission will, in its discretion, determine what is reasonable for this purpose and whether it is customary in the preparation of such specialty foods.

### **2.03. Food Service**

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

b. The holder of a common victualler's license, who also holds an alcoholic beverage license shall not open for business before 8:00 a.m. Monday through Saturday or 11:59 a.m. on Sundays without a Special Permit.

### **2.04. Applicable Rules**

a. Licensees under this section are subject to all applicable general rules for licensees set out in Section 1.00., with the exception of those parts that refer to the sale of alcoholic beverages.

## **SECTION 3.00. Special Additional Rules For Innholders**

### **3.01. Provisions for Strangers and Travelers**

- a. Every innholder shall at all times be provided with suitable food for strangers and travelers. Every innholder shall also have upon its premises suitable rooms, with beds and bedding, for the lodging of guests.
- b. An innholder who upon request refuses to receive and to make suitable provision for a stranger or traveler shall be subject to disciplinary action by the Licensing Commission.

### **3.02. Immorality on the Premises**

- a. 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 unlawful solicitation, unlawful bargaining or unlawful conduct, including prostitution, drugs or gambling, shall be subject to disciplinary action by the Licensing Commission.

### **3.03. Maintaining a Register**

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

### **3.04. Applicable Rules**

- a. Licensees under this section are subject to all applicable general rules for licensees set out in Section 1.00, with the exception of those parts that refer to the sale of alcoholic beverages, unless such innholder also holds such a license.

## **SECTION 4.00. Special Additional Rules For Non-Intoxicating Beverages**

### **4.01. Soft Drink Definition**

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

### **4.02. Sale of Soft Drink**

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

### **4.03. Responsibilities of License Holder**

a. The licensee is responsible for the proper management of the premises so that unlawful acts do not occur on the premises and so that the premises do 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 Commission a disciplinary hearing will be held and, as a result of evidence brought to the attention of the Commission at the hearing, the Commission may modify, suspend or revoke the license.

### **4.04. Inapplicability to Certain Persons**

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

### **4.05. Applicable Rules**

a. Licensees under this section are subject to all applicable general rules for licensees set out in Section 1.00, with the exception of those parts that refer to the sale of alcoholic beverages.

## **SECTION 5.00. Special Additional Rules For Package Store and Marijuana Retailer Licensees**

### **5.01. Records of Deliveries**

a. Package store and marijuana retailer 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 and marijuana products 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 Commission and its agents for inspection at any time in a form suitable for easy inspection. (amend 6/15/20)

### **5.02. Applicable Rules**

a. Licensees under this section are subject to all applicable rules for licensees set out in Section 1.00, with the exception of those parts that refer to: sales of alcoholic beverages for consumption on the premises; sales of food on the premises; entertainment on the premises; leaving the premises with alcoholic beverages.

b. Package store licensees who also hold common victualler licenses are subject to additional special rules for common victualler licensees in Section 2.00.

### **5.03. Off-Premises Sales**

a. Alcoholic beverages shall be transported or delivered for sale only upon orders actually received at the licensed business prior to the shipment thereof and must comply with Section 5.01.

### **5.04. Additional Rules for Marijuana Establishments**

a. Marijuana retailers may operate no earlier than 9 AM and no later than 11 PM Monday through Saturday, and no earlier than 10 AM and no later than 11 PM on Sunday. (6/5/23)

b. Prior to making the following changes, the Marijuana Establishment shall submit a request for such change to the Commission and pay the appropriate fee. No such change shall be permitted until approved by the Commission. Failure to obtain approval of such changes may result in a license being suspended, revoked, or deemed void.

(1) Location Change. Prior to changing its location, the Marijuana Establishments shall submit a request for such change to the Commission.

(2) Ownership or Control Change.

(a) Prior to any change in ownership, where an owner acquires or increases its ownership to 10% or more of the equity, the Marijuana Establishment shall submit a request for such change to the Commission.

(b) Prior to any change in control, where an individual, corporation or entity shall be determined to be in a position to control the decision-making of a Marijuana Establishment, the Marijuana Establishment shall submit a request for such change to the Commission. This occurs if the individual, corporation or entity possesses:

1. actual control of more than 50% of the voting equity or has the power to appoint more than 50% of the directors;

2. contract rights to control; or

3. right to veto significant events.

(3) Structural Change. Prior to any modification, remodeling, expansion, reduction or other physical, non-cosmetic alteration of the Marijuana Establishment, the establishment shall submit a request for such change to the Commission.

(4) Name Change. Prior to changing its name, the Marijuana Establishment shall submit a request for such change to the Commission. (6/15/20)

## **SECTION 6.00. Special Additional Rules For Private Clubs Licensed To Sell Alcoholic Beverages**

### **6.01. Who May Be Served**

- a. 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.

### **6.02. Inspections**

- a. Private clubs may be inspected by the police department and other agents of the Licensing Commission in the same manner and to the same extent as other food or beverage licensees pursuant to General Laws, Chapter 138, section 63.

### **6.03. Lists of Members and Employees**

- a. A current list of employees and members shall be available upon request of authorized agents of the Commission.

### **6.04. No Discrimination**

- a. No private club 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, ancestry, sexual orientation or any other group protected by law relative to the admission or treatment of any person.

### **6.05. Membership Lists**

- a. The names of all club members must be provided to the Commission 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 at renewal time the membership list should be brought to a current status and with additional names of noncharter members. Names of members may be submitted in a sealed envelope and will be kept in a confidential file by the Commission.

### **6.06. Entrance to Private Clubs**

- a. 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.

### **6.07. Definition of "Guest"**

- a. 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 Commission's regulations unless an exemption from the restriction has been granted by the Commission (per Rule 6.06).

### **6.08. Fees and Surcharges**

- a. 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.

### **6.09. Applicable Rules**

- a. Licensees under this section are subject to all applicable general rules for licensees set out in Section 1.00.

## **SECTION 7.00. Special Additional Rules For Wine and Malt Beverage Only Licenses Issued After January 1, 2000**

- a. The following rules and regulations, in addition to all general regulations, apply to Wine and Malt Beverage Only Licenses issued after January 1, 2000.

### **7.01. Policy Statement Regarding the Issuance of Wine and Malt Beverage Only Licenses Issued After January 1, 2000**

- a. It is the policy of the Licensing Commission of the City of Somerville that the issuance of wine and malt beverage only licenses will be utilized so as to enhance the dining and entertainment experience of individuals patronizing Somerville restaurants and theatres, to advance diversity in ownership and cuisine, and to foster the economic development of business areas where restaurants are located. The Somerville Licensing Commission will consider when deciding upon a license application the foregoing factors and any other matter thought appropriate by the Commission including by way of description but not limitation, proximity to residential neighborhoods, traffic, parking, appropriateness of menu, appropriateness of venue and other aesthetic considerations including the physical layout of the interior of the establishment. Licenses will not be granted to: restaurants whose principal business activity is fast food, takeout or have any drive-through aspect. (amend 7/15/13)

### **7.02. Annual Fee**

- a. The annual fee shall be \$2,000.00. The payment must be made by certified check at the time the license is issued. The license fee may be prorated for applications filed after January 1, by vote of the Commission, but in no event will the same be less than \$500.00. The Commission reserves the right to adjust the license fee from year to year.

### **7.03. Service With Full Meal Only**

- a. Service of food is required in all areas where wine and malt beverages are to be served, and wine and malt beverages may only be served with a full meal ordered from the menu of the licensed premises. In no event may a patron be served a wine or malt beverage prior to having been seated and having ordered a full meal. Menus shall reflect the requirement that wine and malt beverages may only be ordered in conjunction with the consumption of a full meal. The foregoing rule shall not apply to theatres.

### **7.04. Determination of Full Meal**

- a. The Commission reserves the right to approve the menu and further define what constitutes a full meal consistent with its policy statement. Single servings of appetizers, soups, garden salads or desserts shall not be considered a full meal.

### **7.05. Dinnerware, Silverware and Glasses**

- a. In restaurant premises meals must be served on solid dinnerware with silverware accompanying the same. Wine and malt beverages may be consumed only from glasses. No paper, plastic or Styrofoam plates or cups or plastic cutlery is permitted.
- b. In theatre premises wine and malt beverages may be consumed in paper, plastic or Styrofoam cups.

### **7.06. Pitchers of Beer Prohibited**

- a. No pitchers of beer may be served.

### **7.07. Service by Wait Person at Table Only**

a. Service of wine and/or malt beverages shall be by a wait person, and only to patrons who are seated at tables. The foregoing shall not apply to theatres.

### **7.08. No Counter or Take-out Service**

a. Generally, no premises may be licensed where food service is provided over a counter be it for sitting down or takeout purposes. This prohibition shall not apply to premises where counter stools are permanently affixed to such counter, or to premises which the Commission determines has a bona fide cultural or ethnic need for providing counter service without fixed stools, such as a "sushi bar." The Commission retains the discretion to grant a license where ancillary unaffixed counter seating food service consists of 15% or less of the total seating capacity. This prohibition shall not apply to premises which also offer ancillary take-out service. All wine and malt beverages are to be consumed on the licensed premises. Consumption and/or sale of wine and malt beverages is prohibited with take-out meals. The foregoing rule shall not apply to theatres.

### **7.09. One Year with No Disciplinary Actions**

a. No premises may be licensed unless the applicant is the licensee named in a Common Victualler's license for at least one full year prior to the issuance of the license, who, for that one year period has had no violation which resulted in disciplinary action, except for a warning, taken against them by the Commission. This one year violation shall run from the date the violation occurred. If the applicant has been subject to disciplinary action, he or she may apply for a license, however, a license shall not be issued until one year from the date of the violation subject to no further violations occurring during that period.

b. Effective May 1, 2001, an applicant shall not be required to have held a Common Victualler license in the City of Somerville for a one year period prior to applying for a wine and malt beverage only license. However, if the applicant has held a Common Victualler license in Somerville, or has held a Common Victualler license or any other type of pouring liquor license in any other locality for a one year period prior to filing their application, they must have had no type of disciplinary action taken against them with regard to their licenses for any type of activity on the premises.

### **7.10. Minimum and Maximum Seating Capacity**

a. No restaurant premises may be licensed unless the premises has a minimum seating capacity of 12 and a maximum seating capacity of not more than 60. Outside seasonal seating is excluded and not to be counted as part of the seating capacity requirements. (amend 3/19/12, 7/15/13)

### **7.11. Hours of Operation**

a. The requirement of §1.05 for hours of operation apply to wine and malt only beverage licenses except as follows, the hours which sales of wine and malt beverages may be served shall be fixed by the Commission either generally or specifically for each license issued hereunder but no licensee issued a license for the sale of wine and malt beverages to be drunk on premises shall be permitted to make such sales before 11:00 a.m. or after 11:00 p.m.

### **7.12. Non-Transferable**

a. A wine and malt only beverage license issued by the Commission after January 1, 2000 is a personal privilege and is not subject to separation from the licensee. The license is not sellable by the licensee or otherwise transferable from the licensee. Such licenses, upon being returned to the Commission, will be held by

the Commission for 14 days. After the 14 days it must be advertised to the general public and all applicants who qualify will then be considered. (amend 12/20/11)

### **7.13 Applicable Rules**

- a. Licensees under this section are subject to all applicable general rules for licensees set out in Section 1.00.

## **SECTION 8.00. Special Additional Rules For 2:00 AM Closing License for All Forms Alcoholic Beverages, 7-Day Restaurants**

a. The following rules and regulations, in addition to all general regulations, apply to All Forms Alcoholic Beverages, 7-Day Restaurants with 2:00 a.m. Closing License.

### **8.01. Policy Statement Regarding the Issuance of 2;00 AM Closing License for All Forms Alcoholic Beverages, 7-Day Restaurants**

a. It is the policy of the Licensing Commission of the City of Somerville that the issuance of 2:00 a.m. Closing License for All Forms Alcoholic Beverages, 7-Day Restaurants be utilized so as to enhance the dining and entertainment experience of individuals patronizing Somerville restaurants and theatres, to advance diversity in ownership and cuisine, and to foster the economic development of business areas where restaurants are located. The Commission will consider when deciding upon a license application the foregoing factors and any other matter thought appropriate by the Commission including by way of description but not limitation, proximity to residential neighborhoods, traffic, parking, appropriateness of menu, appropriateness of venue and other aesthetic considerations including the physical layout of the interior of the establishment. Licenses will not be granted to: restaurants whose principal business activity is fast food, takeout or have any drive-through aspect.

### **8.02. Annual Fee**

a. The annual fee shall be \$1000.00 more than All Forms Alcoholic Beverages 7-Day Restaurant licenses with an official closing hour of not later than 1:00 a.m. The payment must be made by certified check at the time the license issued. The license fee may be prorated for applications filed after January 1, by the vote of the Commission, but in no event will the same be less than \$1000.00. The Commission reserves the right to adjust the license fee from year to year.

### **8.03. Hours of Operation**

a. 2:00 a.m. Closing Licenses may only extend operating hours to 2:00 a.m. on 2 days each week, Friday evening/Saturday morning and Saturday evening/Sunday morning.

### **8.04. Posting Notice of Public Hearing**

- a. Notice of the public hearing must be published at least once in a designated local weekly newspaper not less than 10 days and not more than 30 days before the scheduled date of the hearing.
- b. The applicant shall provide written notice of public hearing not less than 10 days and not more than 30 days to all owners and occupants of abutting properties within 300 feet of the licensed premises. (Ordinance 2017-10)

### **8.05. Applicable Rules**

a. Licensees under this section are subject to all applicable general rules for licensees set out in Section 1.00.

## **SECTION 9.00. Guideline on Public Complaints**

- a. The Commission strives to ensure that all businesses and licensees are subject to fair, efficient, and impartial enforcement of licensing laws according to the Commission's jurisdiction.
  - (1) If you see an illegal activity concerning a business or licensee, call the Police Department.
  - (2) Members of the public may submit complaints or concerns to the Somerville Licensing Commission. The Commission may provide for a written complaint form which can be used by the public.
  - (3) Upon receipt of a written complaint from a member of the public by the Licensing Commission, a copy shall be distributed to all Licensing Commission members. A copy shall also be forwarded to the Licensing Investigator for investigation and recommendation as to whether any further action should be considered.
  - (4) The Licensing Investigator shall document his or her investigation and recommendation as to whether a hearing should be held before the Licensing Commission.
  - (5) The Licensing Investigator shall forward a copy of his or her report as to the investigation and recommendation to the Licensing Commission Office Staff. If the Licensing Investigator recommends further action is warranted, a copy shall also be forwarded to the Law Department for review.
  - (6) If action is taken by the Licensing Commission as a result of a complaint, the Commission shall notify the complainant in writing if contact information has been provided.
  - (7) These are intended as guidelines only. They are not mandatory. The Commission may deviate from these guidelines as they deem appropriate. The Commission may amend these guidelines by a majority vote. The guidelines shall be interpreted consistent with all applicable laws and regulations. (9/19/12)