

**BOARD OF SELECTMEN
TOWN OF TEWKSBURY
TOWN HALL
1009 MAIN ST
TEWKSBURY, MASSACHUSETTS 01876**

LIQUOR LICENSE CHANGE OF MANAGER

Massachusetts General Laws, Chapter 138 governs alcoholic beverage licenses.

Applications for Liquor License transactions must be completed on the Alcoholic Beverages Control Commission website at <http://www.mass.gov/abcc/>

****The Alcoholic Beverages Control Commission does not accept any handwritten documents****

Please submit *all* of the required information to the Board of Selectmen's Office, Town Hall, 2nd Floor, 1009 Main Street, Tewksbury, MA 01876 *before* your public hearing is scheduled:

Completed ABCC application and online payment receipt

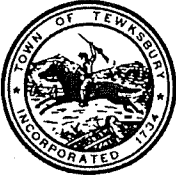
Certificate of Tax Compliance – Current license holder must provide Certificate of Tax Compliance approved by the Town of Tewksbury Treasurer/Collector, 11 Town Hall Avenue, 978-640-4340

Certificate of Good Standing obtained by the Department of Revenue:

<https://www.mass.gov/how-to/request-a-certificate-of-good-standing-tax-compliance-or-a-corporate-tax-lien-waiver>

\$50.00 Transaction Fee made payable to the Town of Tewksbury

**PLEASE BE ADVISED, THE TOWN DOES NOT PROVIDE LEGAL ADVICE. CONSULT WITH
YOUR LEGAL COUNSEL PRIOR TO SUBMITTAL.**



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CERTIFICATE OF TAX COMPLIANCE

LIQUOR LICENSE TRANSACTIONS

MUST BE COMPLETED BY THE CURRENT LICENSE HOLDER

This form must be completed by the **CURRENT LICENSE HOLDER** and approved by Tewksbury Treasurer/Collector or designee that as of the date below the current license holder does not owe any Personal Property taxes, Real Estate taxes, or water and sewer charges to the Town of Tewksbury.

Name of Current License Holder: _____

Name of Establishment: _____

Doing Business as (if applicable): _____

Establishment Street Address: _____

The above applicant does not owe any taxes to the Town of Tewksbury as of this date:

Treasurer/Collector's Office

Date: _____

ARTICLE XI ALCOHOLIC BEVERAGE LICENSE POLICIES AND REGULATIONS

11.1 Administration of Liquor Licenses

The adoption of uniform policies and guidelines is desirable for the administration of liquor licenses; therefore, the Selectmen as the Local Licensing Authority for alcoholic beverage licenses, under M.G.L. c. 138, does hereby adopt the following policies and guidelines:

- a. The Town Manager is the designated Licensing Agent of the Selectmen. The Licensing Agent has the authority to accept and reject applications that do not meet the minimum requirements of the Alcoholic Beverages Control Commission (ABCC) and/or the Town.
- b. Applications regarding premises not actually in existence at the time of the application will not be approved unless and until a building permit has been issued by the Town and the applicant has filed with the application a plan showing the actual dimensions of the premises which are to be constructed on which the license is to be exercised. If construction of the premises is not completed at the time the license is approved, the license may be approved on the condition that construction shall be completed and as-built plans shall be filed prior to the issuance of the license.
- c. Approvals of applications by the Selectmen are valid for six months from the date of approval by the ABCC. If such time expires before the license is issued, due to the applicant's failure to meet all of the conditions imposed by the Selectmen, the license will not be issued and the applicant must reapply and be reheard by the Selectmen. Prior to the expiration of the six month approval period, the applicant may petition the Selectmen for an extension of the approval period not to exceed two months. The extension may be granted for good cause. No more than one extension may be granted.
- d. The Town, like other Massachusetts municipalities, is granted under M.G.L. c. 138, a certain number of wine-and- malt-beverages-only pouring licenses and a certain number of all-alcohol pouring licenses based on population. In the event a municipality has issued its maximum allowable wine-and-malt-beverages pouring licenses, the local licensing authority has the discretion to issue additional wine-and-malt-beverages pouring licenses, provided that an all-alcohol pouring license is retired for each such wine-and-malt-beverage pouring license issued. The Selectmen will consider applications for the issuance of wine-and-malt-beverages pouring licenses under these circumstances on a case by case basis. The Selectmen may issue the same if determined to be in the best interests of the Town.

11.2 Liquor Law Violations

When, after hearing, the Selectmen determine that a violation of the liquor laws of the Commonwealth of Massachusetts has occurred, or a licensee has failed to comply with the conditions of the license or these policies and regulations, the Selectmen shall consider the appropriate disciplinary action. In determining the appropriate disciplinary action to be taken, the Selectmen shall consider the following:

- a. The written record of the licensee on file within the Office of the Town Manager during the preceding thirty-six calendar months and any prior infractions during this period.
- b. The particular merits of the case presented at the hearing inclusive of such factors as intent, culpability of the parties, and such other factors as the Selectmen may deem relevant.
- c. Cooperation of the licensee with the Town Manager, Police Department, Town Inspectors, and other Town officials in the conduct of its business.
- d. Such recommendations as the Town Manager may present.

11.3 First Offense

In general, in matters of first offense, the Selectmen shall consider the issuance of a letter of reprimand to the licensee, a copy of which shall be placed on file in the licensee's record or issue a suspension of the license for a period of one to seven days.

11.4 Second Offense

In matters of a second offense within the period of thirty-six calendar months, the Selectmen shall consider the issuance of a suspension for a period of one to fourteen consecutive calendar days.

11.5 Third Offense

In matters of a third or subsequent offense within thirty-six calendar months, the Selectmen shall consider a second suspension for a period of two to thirty consecutive calendar days and/or revocation of the license.

11.6 General Guidelines Regarding Infractions

All of the above are general guidelines for the Selectmen in its deliberations regarding infractions found against the licensee. Each case shall be considered upon its individual merits. The Selectmen reserve the right to impose penalties in excess of the above if deemed appropriate.

11.7 Last Drink Policy

Background:

The Report identifies establishments where defendants convicted of operating a motor vehicle while under the influence of intoxication liquors state they were served alcohol before being arrested. M.G.L. c. 90, § 24J, requires courts to ask defendants convicted of operating a motor vehicle while under the influence of intoxicating liquors whether they were served alcohol at any licensed establishment before the violation and the name and location of any such establishment.

The Attorney General provides this information to the Town in view of the public safety issue that operating a motor vehicle while under the influence presents.

The information in the Report does not constitute an accusation of criminal or negligent conduct by any establishment and is not a substitute for such establishments' license monitoring and enforcement practices. [The Attorney General has not conducted an independent review of the information contained in the Report and notes that Section 24J does not require that defendants' statements regarding such establishments be made under oath.]

Policy:

The Selectmen will review the Report which identifies such establishments located within the Town. The Town Manager shall send a letter to such establishments, informing them that they are identified in the Report and to remind them of the following requirements of their licenses:

- a. Licensees shall insure careful selection of its manager and of qualified employees of the licensed business, including servers, clerks, and persons who are engaged with the public in any capacity.
- b. Licensees shall provide frequent training of employees in all matters relating to the sale and service of alcoholic beverages.
- c. The Selectmen strongly advise licensees to require their managers and all employees who serve or sell alcoholic beverages, as they are hired, to participate in a State-recognized alcohol training program such as a TIPS or like alcoholic server training.

11.8 Liquor Licenses – General

The following applies to all liquor licenses:

- a. Liquor licenses are issued under authority of M.G.L. c. 138. Any new application for a license to sell alcoholic beverages, or for a change in an existing license, must be accompanied by the appropriate application fee.
- b. Every liquor license application which requires a public hearing with newspaper publication or notice to abutters and all applications for change of manager shall go before the Selectmen for hearing in conformity with the General Laws.
- c. If approved, the application generally shall be transmitted to the ABCC for its approval. If disapproved the applicant may appeal to the ABCC under the provisions of M.G.L. c. 138.
- d. The Selectmen, under the authority granted by M.G.L. c. 138, shall set the hours of operation for any on premise establishment. Once the operating hours are granted to any licensee, a change in these hours can be made only after a public hearing before the Selectmen.

- e. Any licensee intending to close the licensed premises must notify the Selectmen in writing ten days before such closing and shall state in the notice the reason for such closing and the estimated length of such closing. Any licensee intending to close for more than sixty days must appear before the Selectmen to discuss the status of the license. Any licensee who closes and does not reopen or relocate, unless otherwise agreed, within one hundred eighty days shall be subject to the Selectmen's convening a show cause hearing to cancel the license.
- f. No licensee shall conduct business under any corporate or trade name other than that under which it is licensed.

11.9 Manager

The Manager of the licensed premises is the principal representative of the licensee with full authority and control of the licensed premises and of the conduct of all business therein relative to alcoholic beverages as provided in M.G.L. c. 138, § 26.

Except as otherwise provided in the Massachusetts General Laws or approved by the Selectmen, the Manager must be a full time employee or a corporate officer of the licensee and must be engaged exclusively in the management of the licensed business.

The Manager shall be on the licensed premises regularly in the course of business, consistent with the permitted hours of operation. When the Manager is not upon the premises, a method of contacting the Manager promptly must be arranged so that the Manager can be reached at all times by the person designated to be in charge of the premises. The Manager shall designate an Assistant Manager to be responsible in his or her absence. However, the Manager will continue to be responsible for the operation of the licensed premises whether or not on the premises.

Without limiting the scope of the previous subsections and without limiting the penalties which may be imposed on the licensee for violation of these regulations, the Manager shall be responsible for the following:

- a. Careful selection of qualified employees of the licensed business, including servers, clerks and persons who are engaged with the public in any capacity.
- b. Training of employees in all matters relating to the sale or service of alcoholic beverages. The Selectmen advise managers and all employees to participate in a State recognized alcohol training program.
- c. Failure of the Manager to comply with these Policies and Regulations or to properly discharge the duties of Manager may result in suspension or revocation of the license as may be appropriate to the circumstances.

11.10 Change of Manager

The Selectmen may impose a penalty for failure to file a timely application for change of Manager, which may include a penalty of suspension that may be up to one day of suspension for each day of non-compliance, unless the Selectmen find that there were circumstances which excused the non-compliance.

11.11 Additional Provisions

The following additional provisions apply to all owners and licensees:

- a. The Selectmen do not approve the pledge of stock in a licensee's corporation...
- b. A licensee shall immediately notify the Selectmen of any proceedings brought against it or any proceedings brought by it under the bankruptcy laws.
- c. Licensees shall immediately notify the Selectmen of any court or administrative proceedings which may affect the status of the license.
- d. No person may have a direct or indirect beneficial interest in any type of license without obtaining approval from the Selectmen and the ABCC.
- e. All alcoholic beverages sold pursuant to M.G.L. c. 138, § 12, must be opened and consumed on the premises unless removed in accordance with the provisions of Section 12. (Applicable to Section 12 Licenses.)
- f. Last call shall be no later than thirty minutes before the licensed closing hour. No alcoholic beverages may be served after last call. (Applicable to Section 12 Licenses.)
- g. All tables and bars must be cleared of all glasses, bottles, and containers of alcoholic beverages by the licensed closing hour, and all customers must be off the premises by the licensed closing hour. (Applicable to Section 12 Licenses.)
- h. Owners and employees must be off the premises no later than thirty minutes after the licensed closing hour, except that such owners and employees may be on the premises for the purpose of cleaning, making emergency repairs, providing security for such premises, or preparing food for the next day's business or opening or closing the business in an orderly manner. No employee or owner shall serve or consume any alcoholic beverage on the premises before the licensed opening hour or after the licensed closing hour. (Applicable to Section 12 Licenses.)
- i. No licensee shall keep for sale or store or sell alcoholic beverages in any part of the premises not specified on the license.
- j. No licensee shall make any distinction, discrimination or restriction on account of race, color, religious creed, national origin, sex, sexual preference or ancestry relative to the admission or treatment of customers.

- k. A license is subject to suspension, revocation, or forfeiture for breach of any of its conditions or regulations, or any law of the Commonwealth.
- l. All licenses and building certificates shall be displayed on the premises in a conspicuous manner where they may easily be seen and read.
- m. Any changes to an license must be approved by the Selectmen under the authority of M.G.L. c. 138, including but not limited to: transfer of license, change of manager, transfer of stock, new officers and/or directors of a corporation, change of stockholders in a closely held corporation, pledge of license, change of corporation name, change of d/b/a, change of premises including reduction or extension of the area of the licensed premises, or a change in the physical layout of the premises.
- n. Licensed premises shall be subject to inspection by the Police Department, Fire Department, Inspector of Buildings and/or any duly authorized agent of the Selectmen or ABCC.

11.12 Events with Alcohol in General

Alcohol served at events held outside of a private residence, but on the owners property is presumed to result in a sale of alcohol. As such, a Special License under M.G.L. c. 138, § 14, 4 shall be required for such events, unless such event falls within an exception stated herein. In the case of events held by private residents, outside of their private residence, the Town shall not require a Special License where:

- a. The event is by invitation only,
- b. Money is not exchanged for alcohol,
- c. Tickets are not sold,
- d. A donation is not required or solicited, or
- e. An entrance fee is not charged.

11.13 Special Licenses Issued Under M.G.L. c. 138, § 14

Businesses or charities which hold events where liquor is served are required to obtain a Special License unless evidence is provided to the Selectmen which rebuts the presumption of a sale. The Selectmen shall determine whether a Special License is required under M.G.L. c. 138, § 14, and applicable regulations. In making such a determination, the Selectmen shall consider such the evidence as the location of the event, the purpose of the event, who is invited to the event, what fees are charged for the event, and other relevant information. In addition:

- a. Charities which have wine donated must apply for a Charitable Wine Pouring or Charitable Wine Auction License.
- b. For events that require a Special License, all alcohol must be purchased from a licensed Massachusetts wholesaler, in compliance with M.G.L. c. 138, § 14, or a caterer licensed