

**YARMOUTH BOARD OF SELECTMEN
ACTING AS YARMOUTH LICENSING AUTHORITY
RULES AND REGULATIONS
CHAPTER 155
OF THE YARMOUTH TOWN CODE**

AUTHORITY-Chapter 138 of the Massachusetts General Laws (“MGL or General Laws”) allows the Local Licensing Authorities to adopt reasonable rules and regulations governing alcoholic beverages within a community, which are not in conflict with any section of the Massachusetts General Laws. Upon adoption of these Rules and Regulations, licensees are still responsible for adhering to all Massachusetts General Laws regarding the service of alcohol regardless of whether the section of the General Law is referenced in these rules and regulations.

APPLICATIONS-The Local Licensing Authority requires that an applicant for a liquor license under MGL Chapter 138, Section 12 or 15, to submit an application on a form approved by the Massachusetts Alcoholic Beverage Commission (ABCC). In addition, the applicant shall also submit information as required on the local license application checklist, attached to these Rules and Regulations. The applicant shall further submit to a site plan review to insure compliance with applicable building, health and safety codes.

SECTION ONE: GENERAL RULES FOR ALCOHOLIC BEVERAGE POURING LICENSES, COMMON VICTUALERS, INNHOLDER AND OTHER LICENSES AUTHORIZED BY THE LICENSING AUTHORITY.

1.01 Availability of Rules and Regulations

- a. All licensees of the Licensing Authority for the Town of Yarmouth (“Licensing Authority”) shall ensure that a copy of the Rules and Regulations is kept on the premises at all times and is immediately available for inspection upon request by a member of the Licensing Authority, an agent of the Licensing Authority, or any police officer.
- b. The Rules and Regulations need not be posted, but must be readily available to a requesting party.
- c. The licensee is responsible for ensuring that all employees who work in the public areas of the premises read the Rules and Regulations within fourteen (14) days of hire and annually thereafter, and comply with all applicable rules and laws. Licensees shall record the date of each employee review of the Rules and Regulations and keep the record for one year after the review.
- d. No business requiring a license from the Licensing Authority shall operate without a valid license posted as required in Section 1.02.

1.02 Posting and Signs

- a. Licenses issued by the Licensing Authority must be posted in a conspicuous place easily visible to the public where they can be read without difficulty and without recourse to or the assistance of employees at the premises.
- b. All other licenses, permits, and certificates affecting the licensed premises must be posted conspicuously; provided, however, that no such document shall be posted in such a way as to cover over any part of the license issued by the Licensing Authority.

1.03 Admissions to the Premises

- a. No licensee shall permit any rule, policy, or action, expressed or implied, which discriminates on account of race, color, religious creed, national origin, gender, physical or mental disability, or ancestry, or on any other basis prohibited by law regarding the admission or treatment of persons from the general public or employees at the licensed premises. Licensees may make rules regulating the admission of minors to the premises when such rules are not inconsistent with these Rules and Regulations ; provided further that private club licensees may not discriminate, as aforesaid, with regard to guests at the licensed premises or with regard to whom may be invited to the premises as a guest.
- b. Any special admission passes or "V.I.P." cards must meet the following criteria:
 - (1) The special pass or card must state the calendar year in which the card is valid.
 - (2) The special pass or card shall not entitle the pass holder to free alcoholic beverages or any discounts on alcoholic beverages.

Nothing in section 1.03 subsection B is meant to prevent license holders from offering dinner clubs or other promotions which are allowed by Massachusetts General Laws and/or the Massachusetts Alcoholic Beverage Control Commission.

- c. Licensees may require a person to pay a minimum cover charge if a sign is conspicuously posted at the entrance of the establishment stating the amount of the charge.
- d. In accordance with MGL Chapter 138, Section 12, no minimum charge for alcoholic beverages or minimum consumption of alcoholic beverages shall be imposed upon any customer.
- e. A licensee may impose a minimum charge for the purpose of food and/or non-alcoholic beverages if there is a posting, which includes a specific statement stating that there is no minimum, charge for alcoholic beverages (M. G. L. Chapter 138, Section 12

subsection 1.03C). Such minimum charge for food and/ or non-alcoholic beverages shall not be collected in advance before 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 CMR2:16).

- f. Licensees shall refuse admission to intoxicated persons with the exception of providing a place to wait and a non-alcoholic beverage while awaiting the arrival of police or, where the intoxicated person is cooperative, while adequate arrangements can be made for the safety of the intoxicated person and the public. This paragraph shall apply to Innkeeper (Hotel) licensees only in areas where the licensee is currently serving alcohol and in areas where the licensee allows alcohol sold on premises to be consumed, but shall not apply to individual guest rooms for overnight accommodation.
- g. Licensees shall not permit entrance to the premises by more persons than the number approved by the Building Commissioner for the capacity of the premises. It is the responsibility of the licensee to meet with the Building Commissioner to accurately define the parameters of individual rooms with the establishment.
- 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 not be permitted to block fire aisles or exits. No more than 10% of the occupancy load determined under the Massachusetts State Building Code Section 606 shall be assigned to standing space in any place of assembly licensed to sell alcoholic beverages.
 2. Persons who are permitted to wait in line outside the premises must be supervised by an employee of the licensed premises.

1.04 Hours of Operation

- a. Employees and/or patrons are only permitted on the premises during the hours of operation of the licensee with the following exceptions:
 1. Patrons already on the premises may remain for up to one-half hour after closing time. **NO ADDITIONAL PATRONS MAY BE ALLOWED INTO THE PREMISES AFTER CLOSING.**
 2. The owner, manager, and employees may be on the premises after hours for purposes of cleaning, making repairs, or providing or preparing food.
- b. Alcoholic beverage licensees in the Town of Yarmouth are normally licensed until 1:00 A.M.
- c. Any licensee who serves after 1:00 A.M. or allows any person to consume alcoholic beverages on the premises after 1:15 A.M. shall be subject to the penalties

provided in MGL Chapter 138.

- d. It is the responsibility of the licensee to remove all glasses, bottles, or other containers used for or containing alcoholic beverages from all tables, bars, counters, patrons and public area no later than 1:15 A.M.
- e. All patrons must be off the licensed premises no later than 1:30 A.M.
- f. The Yarmouth Board of Selectmen has authorized the Town Administrator to grant licensees a ONE-HOUR EXTENSION for the purposes of selling alcoholic beverages on New Year's Eve only. This extension is subject to MGL Chapter 138 and will only be granted to establishments that have no record of violations of overcrowding, excessive noise or other violations in the calendar year preceding the extension request. If the Town Administrator denies the extension, the Licensee may appeal to the full Licensing Authority.

1.05 Physical Premises

- a. No licenses shall issue or be considered to be in good standing unless the licensed premises comply with all statutory requirements, including but not limited to all applicable building, fire, safety, and health codes and requirements, as well as state and local tax obligations and other applicable governmental regulations and laws.
- b. The licensed premises shall conform to the floor plan approved by the Licensing Authority with regard to the structures and the walls at the premises, as well as the placement or location of tables, chairs, booths, bars, counters, barstools, dance floors or areas, railing partitions, and other barriers at the premises. Any permanent changes in the floor plan or any significant renovations may not be made without notice to and approval of the Licensing Authority per ABCC regulations.
- c. All premises covered by the license shall be kept in a clean and sanitary condition.
- d. No outside area may be used as a gathering place for patrons unless approved by the Licensing Authority.
- e. The premises shall be lighted in all public areas in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents and/or members of the Licensing Authority to make observations at the premises without the need to identify themselves or the need to seek assistance.
- f. The capacity set for the premises by the Building Department constitutes the maximum permissible capacity of the premises.

1.06 Business Arrangements of Licensees

- a. The licensee must provide the Licensing Authority with the following information:
 1. Name(s) of Manager(s).
 2. Name(s) of any Assistant Manager(s) who the licensee should reasonably anticipate will be in a position of authority in the Manager's absence and/or will be responsible for closing for the night.
 3. Name of Landlord(s) and/or owners of building.

- b. The Chair of the Licensing Board may object to an Assistant Manager identified under Section 1.06 (a) above as unsuitable or unqualified, in which case the licensee may withdraw the Assistant Manager objected to and name another Assistant Manager; or, the licensee may request a hearing before the Licensing Authority for reconsideration of the Licensing Chair's objection.
- c. No licensee shall lease out any part of the premises or any part of the business without first notifying the Chairman of the Licensing Authority via the Town Administrator's office.
- d. No licensee shall lease out the beverage service without the approval of the Licensing Authority.
- e. The manager of record shall be present at the licensed premises on a regular basis sufficiently to fulfill his/her statutory duty under M.G.L. c. 138 Section 26 to maintain full authority and control of the premises and of the conduct of all business therein relative to alcoholic beverages.

1.07 Alcoholic Beverage Sales and Laws

- a. No alcoholic beverages shall be sold for less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage.
- b. All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.
- c. No licensee or employees 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 public;
 4. Sell, offer to sell, or deliver to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the public;
 5. Sell, offer to sell, or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
 6. Sell, offer to sell, or deliver malt beverages or mixed drinks by the pitcher to any less than two persons at any one time, the capacity of such pitchers not to exceed 60 ounces
 7. Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price;
 8. Encourage or permit, on the licensed premises, any game or contest, which

involves drinking or the awarding of alcoholic drinks as prizes.

- d. Nothing contained in the preceding section shall be construed to prohibit licensees from offering free food or entertainment at any time provided that the licensee is duly licensed to provide the entertainment or food being offered and that the entertainment or food license is in full force and effect; 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 MGL Chapter 138, section 15 from offering free wine tasting; or to prohibit those licensed under MGL Chapter 138, section 12, from offering room service to registered guests.
- e. 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 provided to them by another patron or otherwise.
- f. Licenses under MGL Chapter 138 for the sale or service of alcoholic beverages shall not be issued to an establishment which offers adult entertainment. Adult entertainment shall be defined as the entertainment referenced in MGL Chapter 140, Section 183A, Paragraph 3, which describes the exposing to public view any portions of certain body areas.

1.08 Environs of Licensed Premises

- a. Barring unforeseen circumstances, an approved manager or assistant manager shall be present whenever the premise is open for business.
- b. Consumption of alcohol by employees or managers when on duty at the licensed premises, or being under the influence of alcohol when on duty at the licensed premises, is prohibited . Employees may taste alcoholic beverages during scheduled training.
- c. 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.
- d. Licensees shall maintain compliance with all health and safety laws for the areas outside and contiguous to the licensed premises.
- e. The licensee is responsible for activities that occur on the property including any and all parking lots.
- f. Licensees shall immediately report to police any incident involving:
 1. Unlawful or unwanted physical contact between two or more persons; or,
 2. Threats of harm to a person or property;

A timely report to police will be considered a mitigating factor in any underlying violation. This paragraph shall apply to Innkeeper (Hotel) licensees only in areas

where the licensee is currently serving alcohol and in areas where the licensee allows alcohol sold on premises to be consumed, but shall not apply to individual guest rooms for overnight accommodation.

- g.** Licensees shall immediately report intoxicated persons on the licensed premises to police unless the intoxicated person is cooperative and other arrangements can be made to reasonably assure the safety of the intoxicated person and the public. A timely report to police will be considered a mitigating factor in any underlying violation. This paragraph shall apply to Innkeeper (Hotel) licensees only in areas where the licensee is currently serving alcohol; and in areas where the licensee allows alcohol sold on premises to be consumed, but shall not apply to individual guest rooms for overnight accommodation.

1.09 Training, Licensee Policy, and Recordkeeping

- a.** Within 14 days of hire, all managers, assistant managers, bartenders, and servers shall complete an approved alcoholic beverage serve training program, and meet the recertification requirements of each such program. While in-person training is preferred, the online version of an approved program will satisfy this requirement. Approved Programs are:
1. Training and Intervention Procedures for Servers of Alcohol (“TIPS”), Techniques of Alcohol Management (“TAMS”), ServSafe Alcohol, STOP and the Alcohol Intervention Methods (“AIM”) Programs.
 2. Other training programs which may be submitted to and approved by the Licensing Authority.
- b.** Licensees shall maintain a list of all employees with employee’s current age or date of birth, date of hire, and current valid certification of from an approved alcoholic beverage serve training program where required.
- c.** The following documents shall be kept in a separate book or binder readily available to the Local Licensing Authority and its agents:
- Employee list and certificates required by paragraph 1.09(b);
 - Written policy on responsible alcohol service or sale as required by paragraph 1.09(d); and,
 - Rules and Regulations with Employee review records as required by paragraph 1.01(a).

Licensees may use a single document to record employee review of the alcohol policy and the Rules and Regulations.

- d.** As of January 1, 2017, all licensees shall adopt a written policy on responsible alcohol service or sale. Licensees shall review the policy with all employees within 14 days of hire and annually thereafter, and maintain a record of policy reviews. The Licensing Authority will provide a Model Policy or licensee may submit a policy for approval by the Licensing Authority with license renewal application. Failure to either adopt the

Model Policy or to have a written policy which has been approved by the Yarmouth Board of Selectmen or its designee shall be a violation of these Rules and Regulations.

1.10 Temporary Closing of Annual Liquor License

- a. The Local Licensing Authority has authorized the Town Administrator to approve the temporary closing of an annual licensee under MGL Chapter 138, Section 12 . The request by the licensee shall include the exact date of anticipated closing, exact date of re- opening and a person for the Town of Yarmouth to contact in the event of an emergency.

1.11 Bi -Annual Compliance Seminar for Licensees

A Representative of each Section 12 licensee shall attend an Alcohol Compliance Seminar presented by the Yarmouth Police Department at least once every other calendar year. New licensees or transferees shall attend the next available Alcohol Compliance Seminar following issuance or transfer of license, and attend a Compliance Seminar every other calendar year thereafter. The attending Representative shall be one of the following: the Manager of record on the license, the licensee if a natural person, an officer or director of record with the local licensing authority or the Massachusetts Secretary of State's office of a licensee which is not a natural person, or a managing agent of the licensed entity.

SECTION TWO - ENTERTAINMENT

- a. No licensee shall provide entertainment of any kind unless the licensee holds an entertainment license issued pursuant to the General Laws, Chapter 140, Section 183A.
- b. The licensee must ensure that all noise from the entertainment is confined to the building.
- c. No dancing by patrons is permitted except upon proper licensing pursuant to General Laws, Chapter 140, Section 183A.
- d. Entertainment is restricted to the hours stated on the license.
- e. All electronic games must be licensed pursuant to the General Laws, Chapter 140, Section 177A.
- f. The premises shall be open at all times to inspection by any police officer of the town, a state police officer, agent of the Licensing Authority, ABCC Inspector, or member of the Town's Licensing Authority.
- g. No employee and/or private contractor of the Licensee shall conduct any "performance", or present any "matter" or "visual material" which displays and/or encourages "nudity" or "sexual conduct" or "sexual excitement" or is "obscene", as such terms are defined in General Laws Chapter 272, Section 31.

- h. Rooms used for dining rooms and/or dancing shall be so lighted as to render it possible to see all individuals occupying the room.
- i. No license is required for televisions or radios.
- j. No license under MGL Chapter 140, Section 183A shall be issued to an establishment which holds an alcoholic beverage license under MGL Chapter 138 which has entertainment described in General Laws Chapter 140, Section 183A, paragraph 3. A holder of a license under said Chapter 138 may elect to surrender such license in order to obtain an adult entertainment license under Chapter 140, Section 181.
- k. No license under MGL Chapter 140, Section 181, shall be issued to any establishment which offers adult entertainment as described in Chapter 140, Section 183A, paragraph 3 unless the **Application for Adult Entertainment License** is provided to the Local Licensing Authority in writing in advance of the required public hearing.
- l. No license under MGL Chapter 136 for Sunday Entertainment shall be issued to any establishment which offers adult entertainment as defined in Chapter 140, Section 183A, paragraph 3.

Failure to comply with these regulations will be sufficient reason for the Licensing Authority to conduct a show-cause hearing for the purpose of determining whether the license should be modified, suspended, or revoked.

APPLICATION FOR ADULT ENTERTAINMENT LICENSES

1. Applicants shall submit their request for adult entertainment on an approved Town of Yarmouth Entertainment request form. All questions shall be answered or the application will be considered incomplete and not acceptable to the town.
2. The applicant shall submit separate information regarding:
 - a. Action to be taken to eliminate any unreasonable increase in pedestrian traffic in the area in which the premises are located.
 - b. How the manager will protect employees, patrons, and members of the public inside or outside the premises from disruptive conduct, from criminal activity, or from health, safety or fire hazards.
 - c. How the management will protect the public against increasing the incidence of disruptive conduct in the areas in which the premises are located?
 - d. How will the management prevent an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons leaving the premises?

- e. How will the management prevent an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the premises or an unreasonable increase in the number of vehicles to be parked in the area of the premises?
3. As authorized by MGL Chapter 140, Section 183A, it shall be the policy of the Local Licensing Authority “to prohibit minors from attending any public show of any description in which or at which any person appears in a manner or attire so as to expose to public view “various parts of the body as defined in said section in paragraph ten of this section”.

SECTION THREE - Effect of Non-Payment of Taxes

The Licensing Authority may deny, revoke or suspend any license or permit, including renewals and transfers thereof, of any party or his/her/its agent whose name appears on said list furnished to the licensing authority from the Town Collector of individuals delinquent on their taxes and/or water bills. Written notice is given to the party by the Tax Collector, as required by applicable provision of law, and the party must be given the opportunity for a hearing, to be held not earlier than fourteen (14) days after said notice.

See Yarmouth Code Chapter 95-1 through 05-5 for specific language on the effect of non-payment of taxes.

SECTION FOUR- Package Store Regulations

- (A) Employees are prohibited from consuming alcoholic beverages or being under the influence of alcohol while on duty.
- (B) No one under age of 21 is allowed to purchase or be provided alcohol beverages, or to carry alcohol beverages in a liquor store. Establishments caught selling to minors are subject to fines and can be closed.
- (C) Each establishment shall have a written policy pertaining to responsible sales and service of alcoholic beverages. Every license holder, manager, and employee shall be familiar with this policy. Every license holder, manager, and employee, shall review the policy, as well as these Rules and Regulations, periodically. A record of these reviews, as well as the policy, shall be available for inspection by the Licensing Authority or its agents.
- (D) It is the customer’s responsibility to prove age requirement in accordance with MGL Chapter 138, Section 34B.
- (E) The employee of the liquor store must make sure that the ID belongs to the customer and has not been tampered with or altered in any way.

- (F) No employee of a liquor store shall sell alcoholic beverages to intoxicated customers.
- (G) Licensees shall immediately report intoxicated persons entering or found on the premises to police unless the intoxicated person is cooperative and adequate arrangements can be made for the safety of the intoxicated person and the public.
- (H) It is illegal to sell alcoholic beverages to a person of legal age when the employee of the liquor store has knowledge that the customer is buying the alcoholic beverages for any underage person. This is known as a second party sale.
- (I) On premise consumption of alcohol is prohibited except as provided in MGL Chapter 138, Section 15.
- (J) Hours and days of the week that alcohol can be sold are stated on your license, which should be prominently displayed. There shall be no off-hour sales.
- (K) Training requirements: Within 14 days of hire, all persons who sell or serve alcoholic beverages shall be certified under an approved training program. The approved programs are;
 - a. TIPS, TAMS, AIM, and Masspack Beverage Alcohol Training (BATS) programs; or,
 - b. Other training programs which may be submitted to and approved by the Licensing Authority.
- (L) A Representative of each Section 15 (package store) licensee shall attend an Alcohol Compliance Seminar presented by the Yarmouth Police Department at least once every other calendar year. New licensees shall attend the next available Alcohol Compliance Seminar following issuance or transfer of license, and every other calendar year thereafter. The attending Representative shall be one of the following: the Manager of record on the license, the licensee if a natural person, an officer or director of record with the local licensing authority or the Massachusetts Secretary of State's office of a licensee which is not a natural person, or a managing agent of the licensed entity.

**SECTION FIVE: Applicants for Common Victualer Liquor Licenses
Under Chapter 138, Section 12.**

In the early 1990's the Board of Selectmen developed policies regarding the service of alcoholic beverages and the requirement of a common Victualer license to serve food as part of that license. For a licensee to initially receive and then maintain a common Victualer you must meet one of the following two criteria.

1. You must establish that your food service income is more than 40% of gross revenue. The manager must provide through the accounting officer or owner a statement indicating that the gross sales of food vs. the sales of alcohol show more than 40% of those revenues are from food service. The figures will be subject to verification by the Board of Selectmen.
2. The manager or owner shall also have the option of certifying that less than 20% of gross revenues of the particular licensed business are made up of alcohol sales.

You are required to submit a statement with your initial application indicating that you will be in compliance with either item 1 or item 2 above. Thereafter, you will be required as part of your annual renewal to submit a statement, along with your renewal application, certifying that one of the above criteria is still being met.

SECTION SIX: Outside Alcohol Service

The purpose of these regulations is to ensure that management will control alcoholic beverages which are served outside of an enclosed premise, and that noise and disturbance to the neighborhood of the establishment will be kept to a minimum. This Section Six shall not apply to golf courses duly licensed to sell alcoholic beverages on golf course grounds.

1. The applicant for outside service shall submit a sketch plan to the Board of Selectmen and to the Building Division showing the location of the proposed outside service. The proposal shall show the square footage of the area as the Building Division will need to calculate occupancy and possibly adjust the inside occupancy and to reflect building and health rules and regulations.
2. A space or buffer area must be provided between the parking area and the outside alcoholic service area.
3. With outside service noise is a factor. The applicant may not have outdoor entertainment in the area where alcoholic beverages or any activity is taking place. The applicant must state how he or she plans to minimize noise from the area where the activity is taking place. The applicant must state how he or she plans to minimize noise from the activity so it will not disturb neighbors.
4. The area must be posted so it is clear alcoholic beverages are not permitted outside of the confined licensed outside space.
5. If there is an entrance and exits off of the outside service area, the applicant

must show how he or she will control patrons entering and exiting the site with specific references to ID checking and the carrying of alcoholic beverages outside the licensed premises.

6. The premises must be enclosed by a fence, rope, or other means to prevent access from a public walkway.
7. The outdoor area must be contiguous to the licensed premises with either: (i) a clear view of the area from inside the premises; or, alternatively, (ii) the licensee shall commit to providing management personnel dedicated to the area.
8. The applicant must have a lease or documents for the right to occupy the outdoor area.
9. Preferred are outdoor areas where alcohol is served to patrons who are seated at tables and where food is also available.

SECTION SEVEN: Crowd Manager Requirement

Notwithstanding any limitations on applicability otherwise described in the State Board of Fire Prevention regulations, 527 C.M.R. 10.13(2) (d) (1), (2) and (3)(c) , any licensee that has a bar on the licensed premises and an occupancy load of 100 or more persons shall designate one or more persons as a Crowd Manager, at least one of whom shall be present during the operational hours of the establishment. The designated Crowd Manager(s) shall be trained in accordance with 527 C.M.R. 10.13(2)(d)(5) and perform the duties and have the qualifications and responsibilities described in 527 C.M.R. 10.13(2)(d) and (e), including, but not limited to, maintaining clear paths of egress, assuring that the facility does not exceed its occupant load limit, initiating a fire alarm if necessary, directing occupants to exits, and assuring general fire and life safety awareness of employees and occupants, including assuring that exit announcements are made in accordance with law. To the extent the requirements of 527 C.M.R. 10 may exceed this regulation, the provisions of 527 C.M.R. shall pertain.

SECTION EIGHT: Club Licenses

1. Section 12 Club licensees may allow guests to enter and may serve alcoholic beverages to guests under the following circumstances:
 - a. When the guest is accompanied by a club member at all times when on the Club premises; or,
 - b. When a function is sponsored by a club member and the attending guests are identified on a list submitted to the Club prior to the function and kept in the Club's records for 30 days after the function.
2. Where access to the premises of a Club licensee is controlled by a key, access card, or access code, the licensee shall provide one such key or access card and any access code to the Yarmouth Police Department to allow unrestricted access to the premises when open.

SECTION NINE: Violations and Sanctions

1. In imposing penalties for violations, the Licensing Authority will refer to the following progressive penalty guidelines:
 - 1st offense: Warning to 6-day closing.
 - 2nd offense: Warning to 10-day closing.
 - 3rd offense: 10-day to 30-day closing.
 - 4th offense: 30-day closing or revocation.
- a. ABCC violations shall be counted as prior offenses under these guidelines.
- b. Only violations occurring within the 7 years before the violation will be considered as prior offenses.
- c. In determining whether a prior violation should be counted against a current licensee, the Licensing Authority should consider whether the current licensee; its manager (s); stockholders in the case of a corporation: or, members in the case of an LLC, were affiliated with the licensee which was the subject of the prior violation or otherwise involved in the prior violation.
- d. The preceding schedule represents the minimum guidelines for action to be taken by the licensing authority for violations, and do not preclude the licensing authority from taking additional action.
- e. Nothing contained in these regulations, however, is meant to restrict the authority of the local licensing authority, pursuant to G.L. c. 138, Section 64, from imposing different penalties in a specific case where, in the opinion of the licensing authority, the circumstances warrant.
- f. Criteria for assessing penalty:
 1. Whether the licensee handled the situation in a manner which would tend to mitigate the violation or aggravate the violation;
 2. The severity of the offense and egregiousness of the facts found by the LLA;
 3. The culpability of the licensee and/or its manager(s), employee(s) and agent(s), including the extent to which it had established and followed procedures to prevent such violations;
 4. The nature and extent of any threat to public safety and to the public good;
 5. Any steps taken by the licensee to remedy the violation and to prevent any reoccurrence;
 6. Any other factors which the Licensing Authority shall find relevant and material
- g. Any revocation, suspension, modification or non-renewal of a license imposed by the licensing authority shall not take effect until the period for appeal to the ABCC has expired or, where an appeal has been filed, during the pendency of such appeal, provided however, that if the Licensing Authority finds that the licensee's continued operation presents an imminent threat to public safety it may impose such revocation, suspension, modification, or non-renewal immediately.

SECTION TEN: RECOMMENDED PRACTICES

The Board of Selectmen recommends that licensees follow the following practices recommended by the Yarmouth Restaurant Association Inc.:

- a. Train and retrain your staff, managers, students and community beyond the minimum requirements of these Rules and Regulations. Reinforce and Refresh training with informal discussions and training posters available from the hospitality industry.
- b. Keep good records, particularly an Alcohol Incident Report Log Book. Good documentation preserves factual information in the event of future litigation
- c. Purchase a current ID Checking Guide and train your staff to make accurate on-the-spot verification of driver's licenses and ID cards.
- d. Communicate with the public. Let community members know that you are a part of the solution.

Adopted by Board of Selectmen April 24, 2018