

## FOREWORD

This License Commission Rules and Regulations Manual ("Manual") is provided to assist businesses and other interested parties in understanding the basic rules and regulations with regard to common victualler (commonly known as a restaurant), liquor, car dealer, video game, and billiard licensing in the City of Springfield, to which all licensees are required to adhere to. In addition this Manual contains adopted Regulations of the Mayor of the City of Springfield as the exclusive entertainment licensing authority for the City of Springfield. This "Manual" is not inclusive of all applicable laws and regulations and should be used in conjunction with the Massachusetts General Laws ("M.G.L."), Code of Massachusetts Regulations ("CMR"), the Alcoholic Beverage Control Commission's ("ABCC") Rules and Regulations, and The City of Springfield's Ordinances ("Ordinance"). Accordingly licensees are obligated to comply with the provisions of this Manual in addition to the foregoing legal framework.

## SECTION 1: DEFINITIONS

As used throughout this "Manual" the words set out in this section shall, unless the context otherwise requires, have the following meanings:

**"ABCC"** the Massachusetts Alcoholic Beverages Control Commission;

**"Abutter"** the owner(s) of property touching an applicant's premises, and owner(s) of land directly opposite on the way or private street or way;

**"Accessory Sign"** a sign directing attention to a business, commodity, service, or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained

**"Alcohol"** - per M.G.L. c.138 §1 shall mean all alcohol other than denatured alcohol or alcohol described in section three hundred and three A of chapter ninety-four of the Massachusetts General Laws.

**"Alcoholic beverages"** - per M.G.L. c.138 §1 shall mean any liquid intended for human consumption as a beverage and containing one half of one per cent or more of alcohol by volume at sixty degrees Fahrenheit.

**"Auto Dealership Class I License"** any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles.<sup>1</sup>

**"Auto Dealership Class II License"** a person whose principal business is the buying or selling of second hand motor vehicles, a person who purchases and displays second hand motor vehicles for resale in retail transactions, and any other person who displays second hand motor vehicles not owned by him pursuant to an agreement in which he receives compensation, whether solely for displaying the vehicles, upon the sale of each vehicle, or otherwise, may be granted a used car dealer's license.<sup>2</sup>

**"Auto Dealership Class III License"** a person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding and selling the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts may be granted a motor vehicle junk license.<sup>3</sup>

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<sup>1</sup> M.G.L. c. 140, §SS(b)

<sup>2</sup> M.G.L. c. 140, §SS(c)

<sup>3</sup> M.G.L. c. 140, §SS(d)

**"Bar"** a platform, counter, table, tabletop, surface, devise, or mechanism which may be used, designed, arranged, or constructed for the purpose of selling, serving, dispensing, distributing, delivering, and/or furnishing alcoholic beverages in open containers, or glasses for consumption on a licensed premises;

**"Bazaar"** a place maintained by the sponsoring organization for disposal by means of chance of one or both of the following types of prizes: (1) merchandise, of any value, (2) cash awards, not to exceed two hundred fifty dollars each as defined in M.G.L. Chapter 271, Section 7A;

**"Beer"** - an alcoholic drink made from yeast-fermented malt flavored with hops; shall be synonymous with "malt beverage".

**"Business Day"** Monday to Friday, inclusive, except for state and federal holidays;

**"BYOB" or "Bring Your Own Brew"** Bringing alcoholic beverages into an establishment by a patron for consumption on the premises by the patron;

**"Caterer's License"** refers to a M.G.L. Chapter 138, Section 12 On-Premise license where a caterer is allowed to sell alcoholic beverages at private events, provided the alcohol is never served at the caterer's principal place of business or for no more than five hours during a catered event;

**"Closing Time"** the time fixed by the licensing authority for the daily cessation of service, sale, delivery, and consumption of alcoholic beverages, as stated on the license. At closing, the licensed premises must be closed, door(s) locked, and no patrons present on the licensed premises;

**"Club"** a holder of a restaurant license under M.G.L. c.138, s. 12, who has been granted written permission by the Local Licensing Authorities and subject to the approval of the ABCC, to sell alcoholic beverages or only wines and malt beverages to its members only, and also, subject to regulations made by the local licensing authorities, to guests introduced by members, and to no others;

**"CMR"** Code of Massachusetts Regulations Title 204 Alcoholic Beverages Control Commission as may be amended;

**"Common Victualler"** the keeper of a public restaurant or public eating house where the food sold is consumed on the licensed premises and the keeper of a food service business where food is sold, served, dispensed, distributed, or delivered to the public, irrespective of whether or not it is consumed on the premises;

**"Commission"** refers to the License Commission of the City of Springfield. The License Commission's primary functions are issuance of licenses for the sale of alcoholic beverages and the conduct of hearings on violations of liquor laws. There are five (5) license commissioners. Four of the commissioners are appointed by the Mayor and confirmed by the City Council f o r

terms that are concurrent with the Mayor's term of office. The fifth commissioner is nominated by a caucus of neighborhood councils, appointed by the Mayor, and confirmed by the City Council. The fifth commissioner's term runs until a replacement is nominated by the caucus.

**"Completed Application"** means that all required paperwork has been fully completed and all applicable fees have been submitted to the Licensing Department;

**"Consumer"** refers to a buyer, other than for purposes of resale of a motor vehicle, any person to whom such motor vehicle is transferred during the period of any express or statutory warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce its obligations.

**"Cost"** net cost appearing on the invoice for said alcoholic beverages;

**"Dealer"** refers to a salesperson, sales manager or other agent or employee of a motor vehicle dealer, who is authorized to represent or act for the dealer in connection with acceptance, rejection or modification of motor vehicle purchase contracts.

**"Defect"** means any defect by design, construction or performance of a motor vehicle that impairs the use or safety of the used motor vehicle;

**"General On-Premises"** license authorizes the sale of alcoholic beverages without the sale of food.

**"Hotel"** a building or part of a building owned or leased and operated by a person(s) holding a duly issued and valid license as an inn holder, under the provisions of chapter one hundred and forty and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for its guests, including travelers and strangers and its other patrons and customers, and in addition meeting and complying with all the requirements imposed upon inn holders under said chapter one hundred and forty;

**"Inn holder"** pursuant to M.G.L. chapter 140, section 6 an inn holder's license may be issued to an applicant therefor if at the time of his application he has upon his premises the necessary implements and facilities for cooking, preparing and serving food for strangers and travelers, and, in the case of an applicant for an inn holder's license, also has the rooms, beds and bedding required by law.

**"Late Night Entertainment License"** holders of an alcohol pouring license such as a restaurant, tavern, hotel, club or general-on-premises license as defined by M.G.L. c. 138, section 12 and an entertainment license who have been granted by the entertainment licensing authority a special late night entertainment permit to offer entertainment after 1:00 a.m. to 2:00 a.m.;

**"License Commission"** the duly appointed City of Springfield Board of License Commissioners;

**"Licensee"** any person, club, partnership, corporation or other entity licensed to hold any of the following licenses:

- M.G.L. c. 138 to sell alcoholic beverages
- Class I, Class II and/or Class III Auto Dealer;
- Common Victualler Restaurant;
- Bring Your Own Brew establishment;
- M.G.L. c.140, §§181 and 183A for entertainment license;
- M.G.L. c. 140 §177A for auto amusement; and
- M.G.L. c. 140 §177 to operate billiards, pool tables or bowling alley.

**"Licensed Premises"** the physical area licensed for a particular use by the Local Licensing Authorities and as described on the Licensees license;

**"Licensing Department"** the City of Springfield License Commission Office located at 36 Court Street, Second Floor, Springfield, MA 01103;

**"Liquor or cordial"** - all alcoholic beverages manufactured or produced by m1xmg or redistilling or redistilling neutral spirits, brandy, gin, or other distilled spirits with or over fruits, flowers, plants or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolations, or maceration of such materials and containing no less than two and one-half percent sugar by weight;

**"Liquor Liability Insurance"** holders of an alcohol pouring license such as a restaurant, tavern, hotel, club and general-on-premises license as defined by M.G.L. c. 138, section 12 must provide proof of coverage under a liquor legal liability insurance policy for bodily injury or death for a minimum amount of \$250,000 on account of injury to or death of 1 person, and \$500,000 on account of any 1 accident resulting in injury to or death of more than 1 person. Proof of the insurance coverage required by this section shall be made by filing a certificate of insurance in a form acceptable to the local licensing authority. The insurance shall be subject to sections 5 and 6 of chapter 175A of the General Laws;

**"Local Licensing Authorities"** the licensing boards and commissions established in the City of Springfield and the Mayor as the exclusive entertainment licensing authority;

**"Manager of Record"** the individual approved by the License Commission who is responsible for the establishment, even when the individual is not on the licensed premises;

**"Malt beverages"** - all alcoholic beverages manufactured or produced by the process of brewing or fermentation of malt, with or without cereal grains or fermentable sugars, or of hops, and containing not more than twelve per cent of alcohol by weight.

**"Motor Vehicle"** any motor vehicle defined in M.G.L. c. 90, s 1, sold or replaced by a dealer or manufacturer, except that it shall not include auto homes, vehicles built primarily for off-road use or any vehicle used primarily for business purposes;

**"Off-Premise License"** commonly referred to as a "Package Store License" may be used in various types of businesses, including, but not limited to, package stores, supermarkets, and convenience stores, provided the alcoholic beverage is not consumed on the licensed premises;

**"On-Premise License"** commonly referred to as a "pouring license" are granted to restaurants, hotels, clubs, taverns, and war veterans clubs selling alcoholic beverages to travelers, strangers, patrons, and other customers twenty-one years old or older. Alcoholic beverages are only served in the dining room, or other areas deemed reasonable and proper by the License Commission;

**"Private seller"** any person who is not a Dealer and offers to sell or sells a used motor vehicle to a consumer;

**"Purchase price"** the total of all payments made for the purchase of the vehicle;

**"Raffle"** pursuant to M.G.L. chapter 271, section 7A an arrangement for raising money by the sale of tickets, certain among which, as determined by chance after the sale, entitle the holders to prizes. Permits for raffles are issued by the Springfield Police Department;

**"Responsible Individual"** a person who is responsible for the orderly and safe conduct of an event. The individual is responsible for the proper sale, service, delivery, dispensing, and consumption of all alcoholic beverages at an event permitted under a special alcoholic beverages license;

**"Restaurant"** space, in a suitable building, leased, rented or owned by any person, club, partnership, corporation or other entity holding a duly issued and valid license as a common victualler under the provisions of said chapter one hundred and forty, and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons and customers, and in addition meeting and complying with all the requirements imposed upon common victuallers under said chapter one hundred and forty. No advertising matter, screen, curtain or other obstruction which, in the opinion of the licensing authorities, prevents a clear view of the interior of a restaurant shall be maintained in or on any window or door thereof after the said authorities have ordered the removal of such obstruction and have afforded the licensee thereof a reasonable opportunity to remove the same;

**"Sign"** refers to any name, identification, description, display, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public, and which directs attention to a product, place, activity, person, institution or business;

**"Special License"** commonly referred to as a "One-Day License" is granted to an individual over the age of twenty-one who is conducting an activity or enterprise for profit and plans to provide the sale of wine and/or malt beverages for a given event, or can be granted to an individual at least twenty-one years of age acting on the behalf of a nonprofit organization providing the sale of all alcoholic beverages for a given event;

**"Tavern"** an establishment where alcoholic beverages may be sold, as authorized by M.G.L. chapter 138, section 1, with or without food, to be served to and drunk by patrons in plain view of other patrons, all entrances to which shall open directly from a public way. The business conducted therein shall be open to public view from the sidewalk level and the establishment shall be properly lighted. No window facing a public way shall be obstructed by any screen or other object extending more than five feet (5') above the level of the sidewalk on which the establishment abuts, but in no event shall any screen or obstruction prevent a clear view of the interior of said tavern.

**"Tax Collector"** or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the "tax collector," shall annually, and may periodically consistent with the rules and regulations of the various departments, boards, commissions, or divisions, furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges and has a past due balance, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

**"Used Motor Vehicle"** refers to any vehicle driven more than the limited use necessary in moving or road testing a new vehicle prior to delivery to a consumer.

**"Wine"** - all fermented alcoholic beverages made from fruits, flowers, herbs or vegetables and containing not more than twenty-four per cent of alcohol by volume at sixty degrees Fahrenheit, except cider containing not more than three per cent, or containing more than six per cent, of alcohol by weight at sixty degrees Fahrenheit.



## SECTION 2: ALCOHOLIC BEVERAGES LICENSES

### 2.1 On-Premise Licenses<sup>4</sup>

A. On-Premises licenses are commonly referred to as a "pouring license" and are granted to:

- Restaurants
- Hotels
- Clubs
- Taverns
- War veterans clubs
- General on premises

These pouring licenses, as defined herein, may sell alcoholic beverages to travelers, strangers, patrons, and other customers twenty-one years old or older, with the exception of clubs which may sell the same only to members and their guests. Alcoholic beverages are only served in the dining room, or other areas deemed reasonable and proper by the License Commission. Licensees are entitled to operate under state law until 11:00 p.m., the Local Licensing Authorities have discretion to extend operating hours to 2:00 a.m.

B. Establishments with M.G.L. c. 138, s 12 pouring licenses may not permit patrons to remove alcoholic beverages off of the licensed premises subject to the "cork" exceptions set forth in 204 CMR2.18.

C. No on-premises license shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drug law.

D. No license shall be issued or renewed under M.G.L. c. 138, s 12 until the applicant or licensee provides proof of coverage under a liquor liability insurance policy for bodily injury or death for a minimum amount of \$250,000 on account of injury to or death of one person, and \$500,000.00 on account of any one accident resulting in injury to or death of more than one person. Proof of insurance required by M.G.L. c. 138, s 12 shall be made by filing a certificate of insurance in a form acceptable to the Licensing Department. In the event of cancellation of the insurance policy, the licensee must inform the Licensing Department within three (3) business days.

E. No restaurant license shall be renewed unless and until the holder thereof satisfies the licensing authority that the licensee is in good faith operating a restaurant and the establishment is provided with proper equipment for the service of food to travelers and strangers.

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<sup>4</sup> M.G.L. c.138, §12

- F. The local licensing authority may at any time make an investigation on its own initiative as to the compliance with the licensing requirements.<sup>5</sup>
- G. On-Premise licenses are issued in a three step process: (1) Upon receipt of completed application, the License Commission approves the license application locally, (2) The application will then be forwarded by the local licensing authority to the ABCC for approval (3) If approved by the ABCC, the local licensing authority will issue the liquor license upon payment of the licensing fee.

## 2.2 Caterer's License<sup>6</sup>

Forty-eight (48) hours before any private event an individual/entity carrying a Caterer's License issued by the ABCC must:

1. Notify the Commissioner of the Springfield Police Department or his designee and the Licensing Department that the licensed caterer will be serving alcoholic beverages;
2. Provide a copy of the Caterer's License to the Commissioner of the Springfield Police Department or his designee and the Licensing Department;
3. Provide proof of insurance to the Commissioner of the Springfield Police Department or his designee and the Licensing Department;
4. Provide an emergency contact number for the licensee's manager to the Commissioner of Springfield Police Department or his designee and the Licensing Department.

The Caterer's License, under M.G.L. c. 138, s.12C, is a **state-issued** alcoholic beverages license; therefore the local License Commission does not have authority or responsibility to issue these licenses. For more information regarding the standards, requirements, and applications regarding Caterer's Licenses, please refer to the ABCC website: <http://www.mass.gov/abcc/pdf/typesofStateLicenses.pdf>.

## 2.3 Off-Premises Licenses<sup>7</sup>

Off-Premises licenses commonly referred to as a "Package Store License" may be used in various types of businesses, including, but not limited to, package stores, supermarkets, and convenience stores provided the alcoholic beverages are not consumed on the licensed premises.

- A. Package Store licenses are issued in a three step process: (1) Upon receipt of completed application, the License Commission approves the license application locally, (2) The application will then be forwarded by the local licensing authority to the ABCC for approval (3) If approved by the ABCC, the local licensing authority will issue the liquor license upon payment of the licensing fee.
- B. Hours of Operation (Holidays)<sup>8</sup>

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<sup>5</sup> M.G.L. c. 138, §12A

<sup>6</sup> M.G.L. c. 138, §12C

<sup>7</sup> M.G.L. c.138, §15

1. Retail package store licensees are permitted to make sales of alcoholic beverages between 8:00 A.M. and 11:00 P.M. Monday through Saturday, and between 8:00 A.M. and 11:30 P.M. on the day before a legal holiday if the holiday does not occur on a Sunday.
  2. The licensed holder of a package store license may have hours of operation on Sunday, as long as, the sales do not commence before 12 noon and conclude no later than 11:00 P.M. or 11:30 P.M. on the night before a legal holiday. The licensed holder of a package store license may, upon notification to the Commission, commence sales at 10:00A.M.
  3. No licensee shall sell or deliver any alcoholic beverages on Thanksgiving Day or Christmas, or the day following when Christmas occurs on a Sunday. No Licensee shall sell or deliver any alcoholic beverages prior to 12:00 p.m. on Memorial Day.
- C. No licensee under M.G.L. c. 138, s. 15 shall sell malt beverages at retail in a container having a capacity by volume of more than two gallons of liquid ("keg") except in compliance with the requirements of 204 CMR 9.00.
- D. No person, firm, corporation, association, or other combination of persons, directly or indirectly, or through any agent, employee or stockholder, officer or other person or any subsidiary whatsoever, shall be granted in the aggregate more than the number of package store licenses authorized by M.G.L. c. 138.

#### **2.4 One-Day Beer & Wine, or All Alcoholic Beverages Licenses<sup>9</sup>**

One-Day Licenses are granted to an individual over the age of twenty-one who is conducting an activity or enterprise for profit and plans to provide the sale of wine and/or malt beverages for a given event, or may be granted to an individual at least twenty-one years of age acting on the behalf of a nonprofit organization and plans to sell all alcoholic beverages at a given event. Applications are available in the City's Licensing Department, 36 Court Street, Room 305, Monday through Friday from 9:00 a.m. until 4:00 p.m.

- A. The hours during which sales of alcoholic beverages may be made by a One Day license shall be fixed by the Local Licensing Authorities, but no One Day licensee may sell or deliver any alcoholic beverages between the hours of 2 A.M. and 8 A.M.<sup>10</sup>
- B. No One Day licensee may sell any alcoholic beverages other than those purchased from a licensee under M.G.L. c. 138, § 18, 19, 19B, or 19C or from a holder of a special permit to sell alcoholic beverages issued under M.G.L. c. 138, § 22A.<sup>11</sup>

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• M.G.L. c. 138, §33

<sup>9</sup> M.G.L. c. 138, §14

<sup>10</sup> 700 CMR 7.03

<sup>11</sup> 700 CMR 7.05

C. Completed applications are returned to the City's Licensing Department, 36 Court Street, Room 305, Monday through Friday from 9:00 a.m. until 4:00 p.m. Once a completed application has been filed, the Local Licensing Authorities may investigate the granting of any One-Day license and the conduct of the business being done thereunder, and shall, after a hearing approve, modify, suspend, revoke or cancel such license if, in its opinion, circumstances warrant.<sup>12</sup>

D. All One-Day Liquor License applications must come before the License Commission for a hearing prior to final approval. In addition to all other requirements, all applicants for a One-Day license shall bring to the public hearing a legible, timely and complete:

i. Application for a One-Day License;

ii. A sketch of the proposed permitted premises of a reasonably precise nature acceptable to the Commission, which clearly delineates the location and manner that alcoholic beverages will be served, sold, delivered, and/or dispensed. The sketch must be clear and accurately identify the confined physical area within the proposed licensed premises where the alcoholic beverages will be served, sold, delivered, dispensed, and/or consumed, or otherwise contained, along with any other information on the sketch required to portray the proposed plan;

iii. Written indication of the manner by which service, sale, delivery, and/or dispensing of alcoholic beverages is to be controlled; and

iv. Written indication of the existence of and the number of police detail(s) and/or security measures as determined by the Commission.

E. All license holders shall participate in TIPS, SERVESAFE, or an equivalent course designed to train management, bartenders, and employees in the methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors.

F. An individual cannot apply for a One-Day License if they have submitted an application for an annual license for the same proposed Licensed Premises.

G. An applicant for a One-Day license **must** provide the Licensing Department with at least thirty (30) days notice of its intended event or said application will not be accepted.

H. These regulations do not limit or restrict the legal effect of all other regulations applicable to a One Day license under M.G.L. c. 138, s 14, to which the licensee or applicant must comply.

## 2.5 Applicable Laws and Regulations

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<sup>12</sup> 700 CMR7.07

All applicable provisions of Federal and State law, specifically, M.G.L. c. 138 and all regulations promulgated by the Alcoholic Beverages Control Commission including but not limited to 204 CMR 2.00 and 204 CMR 4.00 as may be amended are adopted herein, and shall constitute conditions upon all licenses issued by the License Commission. It is the Licensee's responsibility to be aware of these laws and regulations and to ensure that its agents and employees are educated on their provisions. Some of said laws and regulations are identified herein, in no way shall the licensee claim failure to comply with said laws and regulations based upon the fact that a law or regulation is not repeated at length herein. Said provisions may be enforced by the Local Licensing Authorities and/or their agents including but not limited to the Springfield Police Department. The license is subject to suspension, revocation, or cancellation for breach of any of its conditions, and all applicable codes, ordinances, statutes, Rules and Regulations, and orders of the Local Licensing Authorities.

## **2.6 Keeping of Rules, and Posting of License**

A. Licenses issued by the License Commission shall be posted in a conspicuous place, easily seen by the public where the license can be read without difficulty or assistance of employees. Licensees shall immediately and without questioning, discussion, or imposition of conditions produce said license(s) for inspection upon request by agents of the License Commission including but not limited to the Springfield Police Department.

B. All licensees shall ensure that a copy of these Rules and Regulations are kept on the licensed premises at all times in a manner so that they are immediately accessible as a reference for managers, employees, and agents of the License Commission including but not limited to the Springfield Police Department.

C. All other licenses, permits and certificates pertaining to the licensed premises shall be posted conspicuously, provided that no such document(s) shall be posted in such a way as to cover any part of the license(s) issued by the License Commission.

D. The licensee is responsible for ensuring that all managers, employees, and agents read, understand, and comply with these Rules and Regulations.

E. Failure by the licensee to post their license, keep copies of the Rules and Regulations, or comply with any of the provisions set forth in the Rules and Regulations shall constitute a violation under 204 CMR 2.05 (2) and 204 CMR 2.01(10).

## **2.7 Application Process<sup>13</sup>**

A. All license applications, including those for One-Day or Special Permits, will only be considered complete and eligible for consideration when all portions of the application have been completed and are in full compliance with the License Commission's procedural instructions.

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<sup>13</sup> 204 CMR 4.05

B. No application, including those for One-Day or Special Permits, shall be placed upon the License Commission's agenda for hearing until the application is deemed complete by the Director of Licensing, or the Licensing Department.

C. All applicants, including those for One-Day, shall be required to appear before the License Commission prior to issuance of a license. The proposed licensee and manager shall appear at said hearing and no surrogate or substitute shall appear without proper legal authority including but not limited to corporate vote or power of attorney which documents shall be notarized.

D. Application filing fees must be paid prior to processing of the application by the Licensing Department. This includes the payment of any fees due on an approved Special Permit by the Springfield City Council.

E. All non-refundable filing fees shall be paid by certified funds (bank check, money order or IOLTA account). No personal checks will be accepted.

F. The Licensing Department will not accept photocopies of applications. All applications must bear original signatures in blue ink.

G. An applicant for an alcohol license must be at least 21 years old.

H. If a special permit from the City Council is required for operation of the licensed premises the License Commission shall not consider an application prior to the issuance of said special permit.

## **2.8 Exceptions<sup>14</sup>**

Nothing contained herein shall be construed to prohibit licensees from offering, pursuant to 204 CMR 4.03, 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 M.G.L. c. 138, s. 15, from offering free wine tastings; or to prohibit those licensed under M.G.L. c.138, s. 12, from offering room services to registered guests.

## **2.9 Posting of Signs in Addition to Licenses**

Any establishment which sells alcoholic beverages to be drunk on the premises shall post a copy of the penalties set forth in M.G.L. c. 90, s. 24 (I) for driving under the influence. Any establishment which sells alcoholic beverages not to be drunk on the premises shall post a copy of the penalties set forth in M.G.L. c. 90, s. 24(1) for operating a motor vehicle while drinking an open container of alcohol. Said copies shall be posted conspicuously by the owner or person in charge of the establishment. Copies of these signs are distributed by the ABCC. The fine for failure to post these penalty signs is not more than (\$50.00) dollars, and the fine for unlawfully removing such signs is fifty (\$50.00) dollars.<sup>15</sup>

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<sup>14</sup> 204 CMR 4.04

<sup>15</sup> M.G.L. c. 138, §340

## **2.10 Advertising<sup>16</sup>**

- A. No licensee shall use, or permit to be used, any advertising matter which is false or untrue in any particular aspect. Any advertising matter which directly, or by ambiguity or omission tends to deceive or to create a misleading impression shall be deemed false or untrue.
- B. Only accessory signs or other printed matter advising any brand or kind of alcoholic beverages shall be displayed on the exterior of the licensed premises as set forth by the City Ordinances Article III, Section 118-9 Posting handbills and signs in public places is restricted.
- C. No printed signs, leaflets, or advertising material shall be distributed in a manner so as to violate City Ordinance Article I, Chapter 327, Section 13(I).
- D. No licensee shall make or permit to be made by its managers, principals, agents or employees, any false or misleading statement concerning any other licensee, its product, or the conduct of its business.
- E. The use of vehicles equipped with either radio or loud speakers for the advertising of alcoholic beverages is prohibited. The use of radio or loud speaker equipment in any licensed premises for the purpose of attracting attention to the sale of alcoholic beverages therein is also prohibited.

## **2.11 Sales**

Licensees shall comply with the provisions of 204 CMR 2.04 as amended with respect to the sale of alcoholic beverages.

## **2.12 Cover Charge**

- A. Licensees shall comply with the provisions of 204 CMR 2.16 as amended with respect to cover charges.
- B. Cover charge sales shall not be considered food sales when making calculations for the issuance of a Special Late Night Entertainment Permit and/or Special Event Permit or in determining the exemption thereof.

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<sup>16</sup> 204 CMR 2.03

### **2.13 Physical Premises**

A. The License Commission requires that all applicants for M.G.L. c. 138, s. 12 alcoholic beverages licenses submit a valid certificate of inspection, as provided for by the state building code, issued by a local inspector, as defined in chapter 143, and signed by the Commissioner of the Springfield Fire Department. The License Commission also requires every M.G.L. c. 138, s. 12 license holder to submit a valid certificate of inspection annually with their renewal package.<sup>17</sup>

B. Licensees shall comply with the provisions of 204 CMR 2.05 (8) as amended with respect to sanitizing glassware, dishes, silverware and utensils.

### **2.14 Required Records<sup>18</sup>**

A. Licensees shall comply with the provisions of 204 CMR 4.02 as amended with respect to record keeping.

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. Said schedule shall be produced at the request of the License Commission or its agents including but not limited to the Springfield Police Department.

C. All licensees shall maintain a current list of all employees including their contact information and shall make said list available upon request to any agent of the License Commission without undue delay.

D. The licensee shall allow any person designated by the License Commission including but not limited to Officers of the Springfield Police Department to enter, to inspect, to view any exhibition, show, or amusement device or the records thereof.

E. The licensee shall obtain all leases and permits as required to occupy said location lawfully and maintain such records while the licensee hold a license issued by the License Commission.

F. If the licensee is operating the licensed premises in part with the issuance of a Special Permit from the City Council the licensee shall be required to pay for and possess a physical copy thereof in order to operate the licensed premises lawfully.

G. The licensee shall conform to the applicable provisions of the Springfield Zoning Code and the Commonwealth's building code, and obtain a Certificate of Occupancy and Certificate of Inspection from the Springfield Code Enforcement Department/Building Division and Springfield Fire Department if so required by law.

H. The licensee shall obtain and post all necessary permits and licenses required by the City of Springfield Health Department.

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<sup>17</sup>Chapter 304 of the Acts of 2004, Section 2

<sup>18</sup>4.00 CMR 4.02

I. All establishments must maintain, in an accessible place, a roster or certificate of TIPS (or equivalent) trained personnel, for the most recent three (3) year period, which shall be maintained for each employee and shall be available for inspection by the local licensing authority, or any authorized agent thereof, upon demand at all times.

J. The Licensee must maintain records of any sublease or permission for a third party to make use of the Licensed Premises.

## **2.15 Transfer of the Privilege of a License**

The Licensee may not sublet or allow a third party to use the licensed premises for the conduct of licensed business, i.e. licensees shall not transfer the privilege of the license without prior approval of the License Commission.

## **2.16 Safety**

A. As required by the Springfield Fire Commissioner, the licensee shall maintain unobstructed means of egress and means of access, and shall remove all combustible materials from the licensed premises.

B. The licensee shall not allow any person to obstruct aisles, passageways, landings, or stairways.

C. At no time shall the exits to the licensed premises be blocked or locked so that the interior access to the outside is prevented.

D. In the case of a fire, the licensee shall allow the Fire Department, to exercise exclusive control and direction of the licensee's employees and the means and apparatus for extinguishing the fire.

E. Licensees shall comply with all other applicable laws with respect to fire and public safety.

F. The licensee through its owner(s), manager(s), or employee(s) shall follow instructions as issued by the Springfield Police and/or the Springfield Fire Department with respect to patron and employee security and safety.

G. The licensee through its owner(s), manager(s), or employee(s) shall contact the Springfield Police Department via telephone when any incident involving patron or employee security or safety occurs on the licensed premises. Any owner, manager, employee placing such a call shall identify himself/herself as being associated with the licensed premises at the time of placing such call. This requirement exists regardless of the presence of extra detail police at the licensed premises. Calls made by licensees or their agents must be made to the main number of the Springfield Police Department or 911, calls to individual officers or their personal phones will be insufficient for compliance with this provision.

H. The licensee shall comply with all posted occupancy limits for the licensed premises and have policies and procedures for maintaining crowd control and ensuring occupancy limits are not exceeded.

I. If a Licensee has a security plan on file with the Licensing Department that provides that the establishment shall maintain security cameras and/or recording equipment (“the system”) on the premises, the Licensee is required to ensure that the system remains in good working order. If the system is not in working order, the Licensee shall notify the Director of Licensing immediately, and in no event more than 24 hours after the system ceases to be in good working order. If the

system is not working for more than seven calendar days, an Informational Hearing before the License Commission will be scheduled. At the Informational Hearing, the Licensee will be required to provide details to the License Commission regarding when the system will become operable. Failure to repair or replace the system within 14 days shall result in a violation hearing. The recording device and all cameras shall be tested daily and a log of the tests performed shall be kept. The log shall contain date, time, and signature of tester<sup>1</sup>.

## **2.17 Conduct**

A. Pursuant to 204 CMR 2.05 (2) no licensee for the sale of alcoholic beverages shall permit any disorder, disturbance, or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible therefor, whether present or not. Violations of the Rules and Regulations promulgated herein shall constitute permitting an illegality on the licensed premises. Violations of the rules and regulations promulgated by the Mayor as entertainment licensing authority for the City of Springfield shall constitute permitting an illegality on the licensed premises and may constitute violations of an alcohol license.

B. No manager or employee shall consume any alcoholic beverages on the licensed premises while on duty or after the official closing hours of the licensee.

C. All containers from which alcohol is or can be served shall be removed from the bar top, countertop, tables and or public areas of the licensed premises no less than fifteen (15) minutes following the end of alcohol service.

D. Licensees with a restaurant license shall make food available for serving at all hours during which the licensed premises is open for business.

E. All employees shall vacate the licensed premises thirty (30) minutes after the close of business unless such employees are cleaning, making renovations, making emergency repairs to or providing security for such premises or preparing food for the day's business or opening or closing the business in an orderly manner as identified in M.G.L. c. 138, §12.

F. No licensee shall change the name of the business which it operates without prior approval of the License Commission.

G. No licensee shall transfer the privilege of operating the licensed premises without prior approval of the License Commission.

H. 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 rest rooms and other nonpublic areas of the licensed premises for signs of drug activity or other illegalities;
2. Paying attention to activities on the licensed 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 the licensed premises;
3. Monitoring the activities of persons who talk about weapons or who appear to be

hiding a weapon;

4. 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;

5. Hiring security personnel to deal with chronic unlawful activity at the licensed premises, such as, disturbances, prostitution, gambling, or larceny, or other problems with the licensed premises.

I. There shall be no disorder, indecency, prostitution, lewdness, drug use, assignation or illegal gambling on the licensed premises. No device or electronic equipment shall be utilized by any licensee, its employee(s), or its agent(s) for the purpose of signaling employees that agents of the licensing authority are present on the licensed premises.

J. Any police complaints or reports on file shall continue in force until disposed of by the License Commissions.

K. No licensee shall change its manager of record without prior approval of the License Commission. Licensees shall be required to submit an application for new manager of record as soon as practicable upon notice that the existing manager of record will cease employment in said capacity.

L. Licensees shall contact the Springfield Police Department immediately upon becoming aware of a disturbance upon the licensed premises regardless of whether extra duty police are employed by the licensee at the time of the disturbance.

O. Licensee's employees shall follow police instructions and comply with requests for police assistance.

P. All licensed retail establishments, including holders of Special Licenses must purchase their alcoholic beverages from a licensed Massachusetts wholesaler, manufacturer, winery shipment licensee, farmer brewery, farmer distillery or holder of a Special Permit issued by the ABCC.

Q. If the establishment holds a liquor license, then no individuals may carry onto the premises their own beer, wine or other alcoholic beverages for their own consumption.

R. If a licensed establishment does not hold a liquor license, then individuals may carry onto the premises their own beer, wine or other alcoholic beverages for their own consumption, provided the establishment does not offer any service to aid in storing or serving the alcohol. (i.e. glasses, corkscrews). See additional provisions/requirements set forth in Section 5.

S. Massachusetts state law prohibits the service of alcoholic beverages to an intoxicated person.

T. Any changes of a licensed manager, stockholder, officer, change in beneficial interest or the addition of a new partner or investor is not legal unless and until the new individual(s) is (are) approved by both the License Commission and the ABCC.

U. In any case in which a liquor liability insurance policy has been required or the limits of any such policy have been increased as a condition precedent to the modification, reinstatement or renewal of a license as provided in M.G.L. c. 138, §64A or §67, a licensee shall disclose to the insurer that such policy has been required or such policy limits have been increased, shall provide to the liquor liability insurer the mailing address of the licensing authority and shall direct the insurer to include the licensing authority as a recipient of any notice which the insurer is required to issue to the licensee pursuant to M.G.L. c. 175. In any case in which the insurer notifies the licensee and the licensing authorities that it intends to terminate the contract upon expiration of the requisite notice period, the licensee shall provide proof of reinstatement or new insurance to the licensing authorities within such period. If the licensee fails to provide such proof prior to receipt by the licensing authorities of a notice of cancellation from the insurer, the licensing authorities shall suspend such license until proof of insurance is delivered, or revoke such license, at their discretion.

V. The License Commission may require a licensee to apply for a new manager of record upon a finding by the License Commission that the current manager is incapable of operating the licensed premises in compliance with all applicable laws and regulations.

### **2.18 Server Training**

A. Anyone selling, serving, or delivering alcoholic beverages must be at least 18-years-old.

B. All liquor license holders, including but not limited to on and off premises, licensees holding all-alcohol, including seasonal or one-day licenses, beer and wine licenses, private club licenses or retail package store licenses shall participate in TIPS, SERVESAFE, or an equivalent course designed to train management, bartenders, and employees in the methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors.

C. All managers shall have successfully completed such a program prior to his/her appointment by the License Commission and such training and successful completion shall also be required for all bartenders, wait staff, sales clerks and employees prior to serving or selling any alcohol at all establishments with an alcoholic beverage license.

D. All such management personnel and employees shall be recertified every three (3) years. A copy of each employee's certification card showing that each individual has received certification within the prior three (3) years shall be maintained on the licensed premises and be available for inspection on the licensed premises at all times.

E. All other employees whose duties do not include the sale or service of alcoholic beverages shall receive, at minimum, in-house safe service training by a manager.

### **2.19 Admission Policies**

A. Any admission fee must be clearly and conspicuously posted. Patrons must be given receipts upon payment of the admission fee.

B. No licensee shall make any distinction, discrimination, or restriction on account of race;

color, religion, national origin, sex, age, disability, sexual orientation or ancestry relative to the admission or treatment of any person.

C. Licensees may not have a door policy for the admission of patrons consisting of VIP cards or give any special privileges to any particular member of the public unless and until such plan has been approved by the licensing authority and the plan as approved is posted at a place on the

premises where all members of the public may read it.

## **2.20 Noise**

Licensees shall abide by the "Noise Control Ordinance" of the City of Springfield contained in Part II, Chapter 259, Section I of the Revised Ordinances of the City of Springfield, 1986, as amended.

## **2.21 The Quota System**

The Massachusetts Liquor Control Act places a limit on the number of on-premises and off-premises licenses a city or town can issue based on the population of the community, as determined by the most recent federal census.

A. Pursuant to M.G.L. c. 138, § 17 the local licensing authorities, may grant one license under the provisions of section twelve of chapter 138 for each population unit of one thousand or additional fraction thereof, and, in addition, one such license for each population unit of ten thousand or fraction thereof, over the first twenty-five thousand, but may, regardless of population, grant at least fourteen (14) licenses under said section twelve of chapter 138; and the local licensing authorities may also grant one license under the provisions of section fifteen of chapter 138 for each population unit of five thousand or additional fraction thereof, but may, regardless of population, grant at least two licenses under said section fifteen of chapter 138.

B. The License Commission may grant a license, outside the quota system, subject to ABCC approval, to any corporation whose members are war veterans which owns, hires and leases a building, or space in a building, for the use and accommodation of a post of any war veterans organization incorporated by the Congress of the United States, to sell to members of that post only, and, subject to the License Commission, to guests introduced to such members and to no others.

C. Each city or town may issue one off-premise all-alcoholic license for each unit of 5,000 persons (or fraction thereof) with a minimum of (2) two.

D. Seasonal on-premise licenses may be issued effective from April 1 to January 15 or any portion thereof and to the number that the License Commission deems to be in the public interest. Seasonal licenses are issued based on the quota set by the local licensing authority.

## **2.22 Appeals**

As set forth in M.G.L. c. 138, §67 if the License Commission denies an application or modifies, suspends, revokes or cancels a license, the applicant/licensee can appeal the decision within five (5) business days of receipt of the Local Commission's Statement of Reasons.

### **2.23 Happy Hour Regulation**

- A. The "Happy Hour" regulation as set forth in 204 CMR 4.03 prohibit any licensee or its employees, or agents from engaging in or permitting a number of practices and violations of said provisions shall constitute a violation of these Rules and Regulations.
- B. No licensee shall advise or promote in any way, within or without the licensed premises any of the practices prohibited under 204 CMR 4.03.
- C. Licensees may not legally offer an "open bar" to customers for a fixed price, or offer discounted prices for drinks during a limited time period.

### **2.24 Licenses for Premises Near Schools and Churches<sup>19</sup>**

A. Premises, except those of an inn holder and except such parts of buildings as are located ten [10] or more floors above street level, located within a radius of five hundred feet [500'] of a school or church shall not be licensed for the sale of alcoholic beverages unless the Local Licensing Authority determines in writing and after a hearing that the premises are not detrimental to the educational and spiritual activities of said school or church; but this provision shall not apply to the transfer of a license from premises located within said distance to other premises located therein, if it is transferred to a location not less remote from the nearest school or church than its former location.

B. In this section a church shall mean a church or synagogue building dedicated to divine worship and in regular use for the purpose, but not a chapel occupying a minor portion of a building primarily devoted to other uses, and a school shall mean an elementary or secondary school, public or private, giving not less than the minimum instruction and training required by M.G.L. c. 71 to children of compulsory school age. This section shall not apply to an extension of licensed premises provided said extension does not exceed fifty feet [50'].

### **2.25 Cancellation of License upon cessation of licensed business<sup>20</sup>**

The Licensing Authorities may, after hearing or reasonable opportunities therefor, cancel any license issued under M.G. L. c. 138 if the licensee ceases to conduct the licensed business as set forth in section 77 of said statute.

### **2.26 Application Process**

A. An applicant for a license must complete and submit all forms, with all applications fees, required by the Local Licensing Authorities and the ABCC to the Licensing Department. The Licensing Department and Local Licensing Authorities will review the application for completeness and upon determination of the same will approve the application for further hearing by the License Commission.

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<sup>19</sup> M.G. L. c. 138, §16C

<sup>20</sup> M.G. L. c. 138, §77

B. The applicant must inform the appropriate Neighborhood Council of its application and it is recommended that the applicant appear in front of the appropriate Neighborhood Council for a recommendation prior to the application being heard by the Planning Board. The Neighborhood Council's decision is taken into consideration; however it is not dispositive.

C. The Board of License Commissioners shall notify the Planning Board within three (3) days of the receipt date of an application. This shall apply to original licenses, transfer of licenses from one location to another, or application for a change in the description of the licensed premises.

D. The License Commission shall conduct a public hearing within thirty (30) days of receipt of a completed application or as soon as practicable thereafter. Written notice of such hearing shall be provided by the Licensing Department to the applicant to be published, at the applicant's expense, in a newspaper of general circulation in the City of Springfield at least ten (10) days prior to the date of hearing.

E. If the License Commission approves the application, it is sent to the ABCC in Boston for final approval. Upon ABCC approval, the fee for the liquor license is due. The fee is prorated based on the number of calendar days remaining in the year.

F. All applications for Special Licenses must be obtained from the Licensing Department or Law Department, located in Springfield City Hall.

G. Licensees must pay in full all taxes and fees owed to the City or to the Commonwealth prior to approval or renewal of any application. The tax collector may periodically consistent with the rules and regulations of the License Department, furnish a list of any person, corporation, or business enterprise that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges and has a past due balance, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board. The tax collector will review a licensee's tax compliance upon the filing of the following applications with the Licensing Department: new license applications, annual license renewal, application for change in manager; application for change of business name; application for change of corporate structure; and if the establishment is moving to a new location.

All applications regarding any liquor licenses are located on the ABCC website.

<http://www.mass.gov/abcc>

## **2.27 Abutters**

Within three (3) days after publication in the newspaper, the applicant shall send or cause to be sent to the mailing address of each abutter of the proposed licensed premises, notification of the date, place and time of the License Commission's public hearing.

## **2.28 Complaint Procedures**

A. Any person may file a complaint with the Board of License Commissioners concerning a license issued by said Board in the City of Springfield. Once a complaint is filed, the complainant agrees to cooperate with the Licensing Department by attending all meetings and hearings related to the complaint.

B. All complaints shall be in writing, on a form approved by the Board of License Commissioners. Complaint Forms are available at The Licensing Department, Room 305, City Hall, 36 Court Street, Springfield, Massachusetts. No complaint shall be accepted if it does not contain the full name, address and telephone number of the complaining party. Complaints may be filed with the Director of Licensing of the City of Springfield, or at the Police Department, 130 Pearl Street, Springfield, Massachusetts. If the complaint is filed at the Police Department, it shall be immediately forwarded to the Director of Licensing.

C. Upon receipt of a complaint, the Director of Licensing shall record the name of the licensee, the name of the complainant, the date of the complaint and the date of the incident complained of.

D. After the complaint is docketed with the Licensing Department, the Director of Licensing shall forward a copy of the complaint to the Police Commissioner, or his/her designee, with a request that the complaint be investigated and a report thereon be submitted to the Board of License Commissioners.

E. Upon receipt of the police department's report of the investigation, the Board of License Commissioners shall determine if a disciplinary hearing should be held concerning the licensee. If the Board determines that a disciplinary hearing should be held, the Director of Licensing shall notify the complainant in writing, by mail, postage prepaid, of the date, time and place of such hearing.

## **2.29 Hearing Process**

A. **Informational Hearing:** An Informational Hearing is held when the License Commission needs additional information about an event, security, or any other circumstance that requires further explanation. Licensees shall be notified in writing by the License Commission if an Informational Hearing is to be held. By conducting an Informational Hearing the License Commission does not waive and specifically reserves the right to issue a violation notice for the subject incident.

B. **Pre-Hearing Conference:** A pre-hearing conference is held between the licensee and the License Commission following a written violation notice issued by the License Commission to the Licensee for an incident. During this phase, the Commissioners set forth the violation(s) in question and the licensee has an opportunity to stipulate to the underlying charges and negotiate discipline for the violation with the License Commission. If the licensee is unable to reach an agreement with the License Commission for discipline the licensee may request a final hearing on the underlying violation(s) which shall be taken de novo. The Local Licensing Authorities

reserve the right to expedite any matter which it/they/he/she deems to be an immediate threat to public safety by scheduling a violation for final hearing forthwith and denying the licensee the opportunity for a pre-hearing conference.

C. Final Hearing: A final hearing is scheduled when a licensee denies the violation(s) set forth by the Board of License Commissioners in the pre-conference hearing, or when the licensee continues a pre-conference hearing on more than two (2) separate occasions, or when the licensee fails to notify the licensing department in writing of a request for continuance prior to the scheduled pre-conference hearing date. Additionally the License Commission and its agents reserve the right to expedite any matter which it/they/he/she deems to be an immediate threat to public safety by scheduling a violation for final hearing forthwith and denying the licensee the opportunity for a pre-hearing conference.

At a final hearing the License Commission will be presented with the facts supporting the underlying violation(s) which may include but not be limited to video evidence, police reports, witnesses or any other evidence supporting the underlying violation. The licensee shall have the opportunity to cross examine witnesses, and provide its own evidence in defense of the underlying violation(s) which shall include but not be limited to documentation, video evidence and witnesses. The Board of License Commissioners reserves the right to question all witnesses and parties and, if necessary, take under advisement all facts and vote either to render their decision, or continue the hearing to a subsequent meeting. At the conclusion of the presentation of all evidence, the Board of License Commissioners will render a final written decision.

D. Continuances: Absent documented emergency circumstances, the licensee must request a continuance in writing prior to the scheduled hearing date. Said writing shall state the next hearing date the licensee is available. After two (2) continuances, the hearing process moves to a final hearing. Failure to appear at the hearing without a written request for continuance will result in a waiver of pre-hearing conference and the matter may then be scheduled for a final hearing at the License Commission's discretion.

### **2.30 Renewal Process**

Fees for the annual renewal of all licenses must be paid in full by certified funds (bank check, money order, or IOLTA account) prior to the Licensing Department's issuance of any renewal license. Licensees must pay in full all taxes and fees owed to the City or to the Commonwealth prior to the license's annual renewal. Renewal packets, containing all pertinent information and application, shall be mailed via first class mail or electronic mail no later than the last week of October. In the event that Licensee has not received a renewal packet, it is incumbent upon the Licensee to contact the License Commission office to obtain the materials. Failure to submit a renewal application, by the last business day prior to November 30<sup>111</sup> of every year, shall result in the Licensee having to reapply for a new license.

### **2.31 Violations**

Upon written notification to the Licensing Department, from the Police Commissioner or other source, that an illegality has allegedly occurred on a licensed premises, the Board of License Commissioners will consider whether or not a violation hearing should be held.

If it is determined a violation hearing should be held, the Board of License Commissioners shall send written violation notice via United States Postal Service to the licensee setting forth the alleged violation(s) with any available police reports and a hearing date.

### **2.32 Offenses**

A. In matters of a first-offense, the License Commission shall issue a 5 days license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.

B. In matters of a second-offense within a twenty-four (24) months period, the License Commission shall authorize a 10 days liquor license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.

C. In the matters of a third or subsequent offense within a thirty-six (36) months period, the License Commission shall authorize a 15 days liquor license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.

D. In the matters of a fourth or subsequent offense within a thirty-six (36) months period, the License Commission shall authorize a 30 days liquor license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.

E. In the matters of a fifth or subsequent offense within a thirty-six (36) months period, the License Commission shall authorize revocation of the liquor license.

For purposes of the determination of the suspension and/or abeyance period, the period shall commence upon the License Commission's finding, after hearing, that a violation occurred. If a subsequent violation occurs during the suspension and/or abeyance period, Licensee shall serve any period remaining in abeyance on the violation previously adjudicated and will face an additional penalty for the new violation occurring during the abeyance period.

F. The License Commission shall have the authority to disregard the foregoing suspension periods and issue a more severe penalty, including but not limited to revocation of a license for a first offense, upon a determination after hearing on a particular violation(s) that a licensee constitutes a threat to public health and safety based upon said violation(s).

G. The License Commission may use its discretion in determining whether the facts surrounding a violation warrant a letter of warning to be added to the licensee's file, a suspension to serve or

suspension to be held in abeyance.

H. The License Commission will impose penalties for violations of all applicable regulations and laws as well as the following rules:

- \* Sales to Minors (sale of alcoholic beverages to person(s) under the age of 21, permitting person(s) under the age of 21 to consume, furnishing or causing to be furnished alcoholic beverages to person(s) under the age of 21);
- \* No Manager of record on the licensed premises;
- \* Failure to call Police for a disturbance on the licensed premises;
- \* Failure to assist Police after a request to do so by the Police;
- \* Sales of alcoholic beverages to intoxicated person(s);
- \* Sale and/or consumption of alcoholic beverages after closing time by the public, by employees of the licensee or friends of the licensee's employees;
- \* Alcohol service in impermissible areas of the licensed premises;
- \* Illegal solicitation of alcoholic beverages;
- \* Employees of the licensee accepting alcoholic drinks while on duty;
- \* Refilling alcoholic beverages containers (with different brand(s), with same brand, or in contaminated bottles);
- \* Substitution of brands of alcoholic beverages;
- \* Licensee or bartender working in the premises while intoxicated;
- \* Licensee or employee(s) of the licensee not permitting inspection of the premises or its records as permitted herein;
- \* Alcoholic beverage not permitted by license (sale/possession);
- \* Unlicensed possession of electronic/video games (slot machines, poker, 21, etc.);
- \* Reoccurring and/or aggravated offenses;
- \* Nudity;
- \* Narcotics (on the licensed premises, including but not limited to drug paraphernalia, possession of narcotics or possession of narcotics with the intent to sell);
- \* EBT Card Violations (allowing purchases of alcoholic beverages with EBT cards, selling or purchasing EBT cards at a discount);
- \* Keg registration violations;
- \* Misrepresenting material fact(s) on the initial application for a license, or on a renewal application;
- \* The licensed premises must at all times be kept clean, neat and sanitary with special attention being given to keeping windows clean;
- \* All booths which are closed or over four feet in height are prohibited;
- \* Licensees having facilities other than a bar to dispense food and beverages shall prohibit minors from being served at the bar;
- \* Licensees or heir managers or employees shall not be present on their licensed premises while in an intoxicated condition;
- \* Touching, caressing or fondling of the female breasts, or of the buttocks or genitals of another person; sexual intercourse, masturbation, sodomy or any sexual act prohibited by law in a public place or other undue familiarity, between the sexes shall be prohibited, discouraged and such offenders ejected from the premises if necessary. Any licensee or his employee who knowingly permits the use of licensed premises for

the purpose of promoting any of the above listed activities shall be subject to suspension or revocation of his license;

- \* Last call for service of alcoholic beverages or drink shall be 15 minutes before closing;
- \* Card playing, illegally gambling or illegally promoting a lottery shall not be allowed on the licensed premises. Card playing is permitted in a licensed Club if it is not for gaming purposes;
- \* Whenever any persons other than the licensee, or his employees who are not on duty, are within the licensed premises, all public entrances to said premises must be kept unlocked;
- \* Failure to comply with conditions of a license; and
- \* Violation of licensee's security plan.

## SECTION 3: AUTO DEALER LICENSES

### 3.1 License Classes

#### **Class I License (New Auto Dealers)**

##### Qualifications

- Be an agent of a new vehicle manufacturer or have a contract with a manufacturer to sell new vehicles;
- Sell used vehicles as an incidental or secondary part of the business;
- Have repair facilities on site that allow repairs to vehicles under warranty.

#### **Class II License (Used Auto Dealers)**

Allows for the buying and selling of used vehicles as a primary part of the business. Requires the licensee post a \$25,000.00 bond that will cover the dealer if suit is brought against the Dealer for a variety of reasons: failure to deliver title, selling stolen vehicles, failure to disclose actual mileage, or any attempts to cheat or misrepresent proper facts about the vehicle to its Buyer.

#### **Class III License (Junk Auto Dealers)**

Allows the buying and selling of cars and trucks for parts and salvage. Based on the City of Springfield zoning laws a licensee may have restrictions placed on what type of parts and salvage they are allowed to have based on applicable zoning restrictions.

### 3.2 Application Process

#### A. All Applicants for an Auto Dealer License must provide the following:

1. Zoning Application Form;
2. Articles of Organization;
3. Franchise Agreement(s) (if applying for a Class I Dealer License);
4. Purchase and Sale Agreement;
5. Lease Agreement (if applicable);
6. Workers' Compensation Insurance Affidavit;
7. Surety Bond in the amount of \$25,000.00 (if applying for a Class II License);
8. Affidavit (if applying for a Class II Wholesale License).

#### B. **New Class III licensees-** Upon completion of the application, the License Commission shall conduct a public hearing within thirty (30) days of receipt of a completed application or as soon as practicable thereafter. Written notice of such hearing shall be provided by the Licensing Department to the applicant to be sent, at the applicant's expense, Certified Return Receipt Requested to all abutters seven (7) days prior to said hearing. The applicant does not have to publish in the newspaper.

### **3.3 Business**

The licensee must have a separate business office on the premises, maintain a record book for used cars approved by the Registry of Motor Vehicles and consistent with state laws and regulations.

### **3.4 Used Vehicle Warranty**

No used motor vehicle shall be sold in the City of Springfield without complying with all applicable laws, including but not limited to M.G.L. c. 90, §7N Y., relative to used vehicle warranties and condition of said vehicle.

### **3.5 Notices for Consumers**

Pursuant to the Used Vehicle Warranty law licensees shall post notices, and provide certain written information to consumers.

### **3.6 The Federal Buyer's Guide**

The Federal Buyers Guide is a requirement of the Federal Trade Commission's Used Car Rule, 16 CFR part 455. The Dealer must post a Buyer's Guide on the vehicle before the Dealer "offers" a used vehicle for sale. A vehicle is offered for sale when the Dealer displays it for sale or lets the Customer inspect the vehicle for purposes of buying it, even if the vehicle is not fully prepared for delivery.

### **3.7 Copy of Warranty to Consumer**

At the time of sale, the Dealer must give the Consumer a copy of the Limited Used Vehicle Warranty. The Consumer should sign and date the Dealer's copy of the warranty, and their copy. The Dealer must keep a copy on file for at least twelve (12) months. If the Dealer does not give the Consumer a copy of the warranty at the time of sale, or gives the Consumer a copy that is incomplete or inaccurate, the warranty period will be unlimited until the Dealer gives the Consumer a complete and accurate copy. Then the warranty period will begin. The Consumer has rights to warranty repairs and to arbitration even when the Dealer does not give the consumer a written copy of the warranty.

Although the warranty is "limited," in the sense that it is limited to use and safety, and for a limited amount of time, it is not limited to certain parts of the vehicle, such as a drive train, and any warranty with such limits is not the correct and accurate warranty provided by the Used Vehicle Warranty Law.

### **3.8 Disclosure**

The Dealer cannot disclaim their obligations under this required state warranty. Advising the consumer about known defects does not excuse the dealer from their responsibility to repair problems under the warranty. The Dealer also cannot ask a customer to waive his/her rights

under the Used Vehicle Warranty Law. A statement or notice that the Consumer has waiving his/her rights under this law does not excuse the Dealer from their obligation to repair covered defects.

### **3.9 Implied Warranty of Merchantability<sup>21</sup>**

- A. The Dealer warrants that the car is safe and in running condition for at least a reasonable period of time, considering such factors as, price paid, the motor vehicle's age, make, model and mileage to help you determine what problems the Dealer should be required to fix.
- B. This implied warranty is automatic with every car sold by a Dealer, and the Dealer cannot waive the implied warranty of merchantability. This means that a Dealer cannot sell cars "as is," "with all faults," or with a "50/50" warranty.

### **3.10 Implied Warranty of Fitness for a Particular Purpose<sup>22</sup>**

Under this law, if the Dealer has reason to know of any particular purpose for which the vehicle is required and that the Buyer is relying on the Dealer's skill or judgment to select or furnish the vehicle, there is an implied warranty that the vehicle will be fit for that purpose.

### **3.11 Hearing Process**

A. **Informational Hearing:** An Informational Hearing is held when the License Commission needs additional information about an event or any other circumstance that requires further explanation. The license commission reserves the right to schedule the subject matter of an informational hearing for pre-hearing or final hearing upon issuance of a written violation notice to the licensee.

B. **Pre-Hearing Conference:** A pre-hearing conference is held between the licensee and the License Commission following a written violation notice issued by the License Commission to the Licensee for an incident or complaint which notice shall contain a copy of any complaint or report supporting the violation. A pre-hearing conference is held between the licensee, the complainant, and the License Commission. During this phase, the Commission sets forth the violation(s) in question and the licensee has an opportunity to stipulate to the underlying charges and negotiate discipline for the violation with the License Commission. If the licensee is unable to reach an agreement with the License Commission for discipline on the violation the licensee may request a final hearing on the underlying violation(s) which shall be taken de novo.

C. **Final Hearing:** A final hearing is scheduled when a licensee denies the violation(s) set forth by the Board of License Commissioners in the pre-conference hearing, or when the licensee continues a pre-conference hearing on more than two (2) separate occasions, or when the

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<sup>21</sup> M.G.L. c. 106, §2-314

<sup>22</sup> M.G.L. c. 106, §2-315

licensee fails to notify the licensing department in writing of a request for continuance prior to the scheduled pre-conference hearing date.

At a final hearing the License Commission will be presented with the facts supporting the underlying violation(s) by the claimant which may include but not be limited to witnesses, documents, or any other evidence supporting the underlying violation(s). The licensee shall have the opportunity to cross examine witnesses, and provide its own evidence in defense of the underlying violation(s) which shall include but not be limited to witnesses, documents, or any other evidence disputing the underlying violation. The Board of License Commissioners reserves the right to question all witnesses and parties and, if necessary, take under advisement all facts and vote either to render their decision, or continue the hearing to a subsequent meeting.

At the conclusion of the presentation of all evidence, the Board of License Commissioners will render a final written decision.

D. Continuances: Absent documented emergency circumstances, the licensee must request a continuance in writing prior to the scheduled hearing date. Said writing shall state the next hearing date the licensee is available. After two (2) continuances, the hearing process moves to a final hearing. Failure to appear at the hearing without a written request for continuance will result in a waiver of pre-hearing conference and the matter may then be scheduled for a final hearing at the License Commission's discretion.

### **3.12 Renewal Process**

Fees for the annual renewal of all licenses must be paid in full by certified funds (bank check, money order, or IOLTA account) prior to the Licensing Department's issuance of any renewal license. Licensees must pay in full all taxes and fees owed to the City or to the Commonwealth prior to the license's annual renewal. Renewal packets, containing all pertinent information and application, shall be mailed via first class mail or electronic mail no later than the last week of October. In the event that Licensee has not received a renewal packet, it is incumbent upon the Licensee to contact the License Commission office to obtain the materials. Failure to submit a renewal application, by the last business day prior to November 30<sup>th</sup> of every year, shall result in the Licensee having to reapply for a new license.

### **3.13 Violations**

Upon written notification to the Licensing Department, from a customer or citizen, or the Police Commissioner or other source, that a violation of law has allegedly occurred by a licensee, the Board of License Commissioners will consider whether or not a violation hearing should be held.

If it is determined a violation hearing should be held, the Board of License Commissioners shall send written notice via United States Postal Service to the applicant setting forth the alleged violation with copies of any complaints or reports evidencing the same.

### **3.14 Offenses**

- A. In matters of a first-offense, the License Commission shall issue a 10 days license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.
- B. In matters of a second-offense within a twenty-four (24) months period, the License Commission shall authorize a 20 days license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.
- C. In the matters of a third or subsequent offense within a thirty-six (36) months period, the License Commission shall authorize a 40 days license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.
- D. In the matters of a fourth or subsequent offense within a thirty-six (36) months period, the License Commission shall authorize a 60 days license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.
- E. In the matters of a fifth or subsequent offense within a thirty-six (36) months period, the License Commission shall authorize revocation of the license.
- F. The License Commission may use its discretion in determining whether the facts surrounding a violation warrant a suspension to serve or suspension to be held in abeyance.

## **SECTION 4: COMMON VICTUALLER LICENSES**

### **4.1 Common Victualler (Restaurant) Licenses (Non-Alcohol)**

Every food service establishment in the City of Springfield with capabilities of cooking, preparing and serving food on premises is required to have a Common Victualler License. A Common Victualler License is not required if the establishment does not offer any seating for patrons. In addition to a Common Victualler license, if the licensee offers video games, or entertainment of any kind including, but not limited to radio, jukebox, or television, the licensee is required to obtain an Entertainment License.

### **4.2 Application Process**

An applicant must bring a completed Common Victualler Application, Business Certificate [issued by the City Clerk], Health Inspection Certificate, Workers' Compensation Affidavit and application fee payment in order to be considered as a fully completed request for issuance of a license to the Licensing Department located in City Hall.

Upon receipt of a complete application, the applicant and/or the proposed location shall be screened for any outstanding taxes or fees owed to the City or the Commonwealth. No license shall be issued if the applicant and/or the proposed location fail the tax screening.

### **4.3 Renewal Process**

Failure to renew by November 30th of the preceding year, or failure to satisfy any tax delinquencies will result in the licensee paying the new application fee of \$125.00. Renewal packets, containing all pertinent information and application, shall be mailed via first class mail or electronic mail no later than the last week of October. In the event that Licensee has not received a renewal packet, it is incumbent upon the Licensee to contact the License Commission office to obtain the materials. Failure to submit a renewal application, by the last business day prior to November 30th of every year, shall result in the Licensee having to reapply for a new license.

### **4.4 Notice of Closing**

If the business ceases to operate, the licensee of a Common Victualler is required to notify and return the license to the Licensing Department within 48 hours of closing.

### **4.5 License Conditions and Closing Time**

Pursuant to M.G.L. c. 140, §2 the License Commission may conduct hearings and impose conditions on any new common victualler licenses it issues, including hours of operation, when so doing is in the public good. The License Commission may promulgate rules and regulations and/or policies for those common victualler licensees offering BYOB (bring your own alcohol). See Section 5 regarding BYOB.

## **SECTION 5: BRING YOUR OWN BREW (BYOB) REGULATIONS<sup>23</sup>**

### **5.1 Purpose**

The purpose of these regulations is to allow patrons to bring alcoholic beverages into an establishment for their personal consumption in a manner that is compliant with M.G.L. c.138.

### **5.2 Authority**

All applicable provisions of Federal and State law, specifically, M.G.L. c. 138 and all regulations promulgated by the Alcoholic Beverages Control Commission including but not limited to 204 CMR 2.00 and 204 CMR 4.00 as may be amended are adopted herein, and shall constitute conditions upon all licenses issued by the License Commission. It is the Licensee's responsibility to be aware of these laws and regulations and to ensure that its agents and employees are educated on their provisions. Some of said laws and regulations are identified herein, in no way shall the licensee claim failure to comply with said laws and regulations based upon the fact that a law or regulation is not repeated at length herein. Said provisions may be enforced by the Local Licensing Authorities and/or their agents including, but not limited to, the Springfield Police Department. The license is subject to suspension, revocation, or cancellation for breach of any of its conditions, and all applicable codes, ordinances, statutes, Rules and Regulations, and orders of the Local Licensing Authorities.

### **5.3 Eligibility**

A BYOB license:

- a) Is only available for establishments that provide meals and that have been issued a Common Victualler's license.
- b) Shall only be issued to the owner in the name of the manager and shall not be transferred without prior approval of the licensing authority.
- c) Applies to malt beverage, wine and liquor patrons.
- d) Alcoholic beverages may only be consumed between the hours of operation listed on the Common Victualler's license by patrons seated at a table with a meal being served by the licensee. Buffet arrangements are acceptable provided that the food and beverages are consumed only at a dining table.

### **5.4 Application**

Licenses shall be renewed each year within the month of October, to coincide with the renewal of the Common Victualler license.

The annual fee is Twenty-Five (\$25.00) Dollars.

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<sup>23</sup> Bring Your Own Brew (BYOB) Regulations will take effect January 1, 2019.

An applicant must bring a completed BYOB Application along with a completed Common Victualler Application, Business Certificate [issued by the City Clerk], Health Inspection Certificate, Workers' Compensation Affidavit and application fee payment in order to be considered as a fully completed request for issuance of a license to the Licensing Department located in City Hall.

Upon receipt of a complete application, the applicant and/or the proposed location shall be screened for any outstanding taxes or fees owed to the City or the Commonwealth. No license shall be issued if the applicant and/or the proposed location fail tax certification. A license will only be issued if there are no outstanding taxes owed.

### **5.5 Renewal Process**

Failure to renew by November 30th of the preceding year, or failure to satisfy any tax delinquencies will result in the licensee paying the new application fee of Twenty-Five (\$25.00) Dollars in addition to the annual fee of Twenty-Five (\$25.00) Dollars. Renewal packets, containing all pertinent information and application, shall be mailed via first class mail or electronic mail no later than the last week of October. In the event that Licensee has not received a renewal packet, it is incumbent upon the Licensee to contact the License Commission office to obtain the materials. Failure to submit a renewal application, by the last business day prior to November 30th of every year, shall result in the Licensee having to reapply for a new license.

### **5.6 Notice of Closing**

If the business ceases to operate, the licensee of a BYOB and Common Victualler is required to notify and return the license to the Licensing Department within 48 hours of closing.

### **5.7 Exercising the BYOB license**

The BYOB licensee, employees, or establishment may not deliver alcoholic beverages or sell alcoholic beverages directly or indirectly.

- a) No alcoholic beverages may be purchased or provided from within the premises.
- b) The BYOB licensee may charge a corking fee that may not exceed Twenty-Five (\$25.00) Dollars per table.
- c) The BYOB licensee, employees, or establishment may not handle or serve alcoholic beverages: This includes storing, refrigerating, or pouring alcoholic beverages. This would be considered a delivery of alcohol and is illegal without an alcoholic beverages license. [This does not preclude the BYOB licensee from disposing of alcoholic beverages left on the premises by the patron.]
- d) Patrons may only bring malt beverages in containers no larger than 24oz, and may bring no more than a total of 64oz. per person.
- e) Patrons may only bring wine in containers no larger than 750 ml. and may bring no

more than a total of 750 ml. per person.

- f) Patrons may only bring liquor/cordials in containers no larger than 375 mL and may bring no more than a total of 375 mL per person.
- g) Patrons bringing in alcoholic beverages for their personal consumption must order food.
- h) Alcoholic beverages brought into the premises must be in previously unopened containers.
- i) Wait staff serving and bus staff clearing tables of patrons with carry-in alcoholic beverages must be 18 years of age or older.
- j) Patrons under the age of 21 shall not be allowed to consume carry-in alcoholic beverages. It shall be the responsibility of the licensee to ensure that patrons who consume alcoholic beverages on the premises are 21 years of age or older.
- k) The licensee, manager of record, and all employees must complete an on-line, insurance industry-approved safe service of alcohol training program, prior to issuance of a BYOB. Employees hired after the issuance of a BYOB permit must complete an in-person, insurance industry-approved safe service of alcohol training program prior to the beginning of their employment.
- l) Alcoholic beverages are not to be consumed on the premises by an intoxicated person.
- m) Patrons cannot leave the premises with an open container of alcohol in violation of M.G.L. c. 138, Any unconsumed alcoholic beverages must be left on the premises and disposed of immediately by the staff. However, in conjunction with M.G.L. c. 138 §12, any wine or malt beverage that is not finished may be taken home if properly resealed in accordance with regulations promulgated by the commission.
- n) Licensees must abide by all laws of M.G.L. c.138, the rules and regulations of the Alcoholic Beverages Control Commission and Board of License Commissioners, and the Rules and Regulations of the City of Springfield's License Commissioners.
- o) Licensees must allow inspection by members of the Springfield Police Department or other agent of the Board of License Commissioners.

Nothing in these regulations is construed to prevent the BYOB licensee from making rules for their establishment with regard to allowing BYOB, not in conflict with these regulations.

### **5.8 Keeping of Rules, and Posting of License**

A. Licenses issued by the License Commission shall be posted in a conspicuous place, easily seen by the public where the license can be read without difficulty or assistance of employees. Licensees shall immediately and without questioning, discussion, or imposition of conditions produce said license(s) for inspection upon request by agents of the License Commission including but not limited to the Springfield Police Department.

B. All licensees shall ensure that a copy of these Rules and Regulations are kept on the licensed premises at all times in a manner so that they are immediately accessible as a reference for

managers, employees, and agents of the License Commission including, but not limited to, the Springfield Police Department.

C. All other licenses, permits and certificates pertaining to the licensed premises shall be posted conspicuously, provided that no such document(s) shall be posted in such a way as to cover any part of the license(s) issued by the License Commission.

D. The licensee is responsible for ensuring that all managers, employees, and agents read, understand, and comply with these Rules and Regulations.

E. Failure by the licensee to post their license, keep copies of the Rules and Regulations, or comply with any of the provisions set forth in the Rules and Regulations shall constitute a violation under 204 CMR 2.05 (2) and 204 CMR 2.01(10).

### **5.9 Complaint Procedures**

A. Any person may file a complaint with the Board of License Commissioners concerning a license issued by said Board in the City of Springfield. Once a complaint is filed, the complainant agrees to cooperate with the Licensing Department by attending all meetings and hearings related to the complaint.

B. All complaints shall be in writing, on a form approved by the Board of License Commissioners. Complaint Forms are available at The Licensing Department, Room 305, City Hall, 36 Court Street, Springfield, Massachusetts. No complaint shall be accepted if it does not contain the full name, address and telephone number of the complaining party. Complaints may be filed with the Director of Licensing of the City of Springfield, or at the Police Department, 130 Pearl Street, Springfield, Massachusetts. If the complaint is filed at the Police Department, it shall be immediately forwarded to the Director of Licensing.

C. Upon receipt of a complaint, the Director of Licensing shall record the name of the licensee, the name of the complainant, the date of the complaint and the date of the incident complained of.

D. After the complaint is docketed with the Licensing Department, the Director of Licensing shall forward a copy of the complaint to the Police Commissioner, or his/her designee, with a request that the complaint be investigated and a report thereon be submitted to the Board of License Commissioners.

E. Upon receipt of the police department's report of the investigation, the Board of License Commissioners shall determine if a disciplinary hearing should be held concerning the licensee. If the Board determines that a disciplinary hearing should be held, the Director of Licensing shall notify the complainant in writing, by mail, postage prepaid, of the date, time and place of such hearing.

## 5.10 Hearing Process

H. Informational Hearing: An Informational Hearing is held when the License Commission needs additional information about an event, security, or any other circumstance that requires further explanation. Licensees shall be notified in writing by the License Commission if an Informational Hearing is to be held. By conducting an Informational Hearing the License Commission does not waive and specifically reserves the right to issue a violation notice for the subject incident.

I. Pre-Hearing Conference: A pre-hearing conference is held between the licensee and the License Commission following a written violation notice issued by the License Commission to the Licensee for an incident. During this phase, the Commissioners set forth the violation(s) in question and the licensee has an opportunity to stipulate to the underlying charges and negotiate discipline for the violation with the License Commission. If the licensee is unable to reach an agreement with the License Commission for discipline the licensee may request a final hearing on the underlying violation(s) which shall be taken de novo. The Local Licensing Authorities reserve the right to expedite any matter which it/they/he/she deems to be an immediate threat to public safety by scheduling a violation for final hearing forthwith and denying the licensee the opportunity for a pre-hearing conference.

J. Final Hearing: A final hearing is scheduled when a licensee denies the violation(s) set forth by the Board of License Commissioners in the pre-conference hearing, or when the licensee continues a pre-conference hearing on more than two (2) separate occasions, or when the licensee fails to notify the licensing department in writing of a request for continuance prior to the scheduled pre-conference hearing date. Additionally the License Commission and its agents reserve the right to expedite any matter which it/they/he/she deems to be an immediate threat to public safety by scheduling a violation for final hearing forthwith and denying the licensee the opportunity for a pre-hearing conference.

At a final hearing the License Commission will be presented with the facts supporting the underlying violation(s) which may include but not be limited to video evidence, police reports, witnesses or any other evidence supporting the underlying violation. The licensee shall have the opportunity to cross examine witnesses, and provide its own evidence in defense of the underlying violation(s) which shall include but not be limited to documentation, video evidence and witnesses. The Board of License Commissioners reserves the right to question all witnesses and parties and, if necessary, take under advisement all facts and vote either to render their decision, or continue the hearing to a subsequent meeting. At the conclusion of the presentation of all evidence, the Board of License Commissioners will render a final written decision.

K. Continuances: Absent documented emergency circumstances, the licensee must request a continuance in writing prior to the scheduled hearing date. Said writing shall state the next hearing date the licensee is available. After two (2) continuances, the hearing process moves to a final hearing. Failure to appear at the hearing without a written request for continuance will result in a waiver of pre-hearing conference and the matter may then be scheduled for a final hearing at the License Commission's discretion.

## 5.11 Violations

Upon written notification to the Licensing Department, from the Police Commissioner or other source, that an illegality has allegedly occurred on a licensed premises, the Board of License Commissioners will consider whether or not a violation hearing should be held.

If it is determined a violation hearing should be held, the Board of License Commissioners shall send written violation notice via United States Postal Service to the licensee setting forth the alleged violation(s) with any available police reports and a hearing date.

## 5.12 Offenses

A. In matters of a first-offense, the License Commission shall issue a 5 days license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.

B. In matters of a second-offense within a twenty-four (24) months period, the License Commission shall authorize a 10 days liquor license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.

C. In the matters of a third or subsequent offense within a thirty-six (36) months period, the License Commission shall authorize a 15 days liquor license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.

D. In the matters of a fourth or subsequent offense within a thirty-six (36) months period, the License Commission shall authorize a 30 days liquor license suspension. The License Commission shall then determine on a case by case basis whether said suspension should be held in abeyance or served.

L. In the matters of a fifth or subsequent offense within a thirty-six (36) months period, the License Commission shall authorize revocation of the liquor license.

M. The License Commission shall have the authority to disregard the foregoing suspension periods and issue a more severe penalty, including but not limited to revocation of a license for a first offense, upon a determination after hearing on a particular violation(s) that a licensee constitutes a threat to public health and safety based upon said violation(s).

N. For purposes of the determination of the suspension and/or abeyance period, the period shall commence upon the License Commission's finding, after hearing, that a violation occurred. If a subsequent violation occurs during the suspension and/or abeyance period, Licensee shall serve any period remain in in abeyance on the violation previously adjudicated and will face an additional penalty for the new violation occurring during the abeyance period.

O. The License Commission may use its discretion in determining whether the facts surrounding

a violation warrant a letter of warning to be added to the licensee's file, a suspension to serve or suspension to be held in abeyance.

H. The License Commission will impose penalties for violations of all applicable regulations and laws as well as the following rules:

- \* Permitting person(s) under the age of 21 to consume, furnishing or causing to be furnished alcoholic beverages to person(s) under the age of 21;
- \* Charging the patron either directly or indirectly to consume alcoholic beverages on the premises;
- \* Licensee or employee(s) of the licensee handling or serving alcoholic beverages;
- \* No Manager of record on the licensed premises;
- \* Failure to call Police for a disturbance on the licensed premises;
- \* Failure to assist Police after a request to do so by the Police;
- \* Permitting the consumption of alcoholic beverages by an intoxicated person(s);
- \* Licensee or employee(s) of the licensee not permitting inspection of the premises or its records as permitted herein;
- \* Alcoholic beverage not permitted by license (sale/possession);
- \* Misrepresenting material fact(s) on the initial application for a license, or on a renewal application; and
- \* Failure to comply with conditions of a license.

### 5.13 Validity

If any section, paragraph, subdivision, clause, or provision of these regulations shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of these regulations shall be deemed valid and in effect.

These regulations shall take effect January 1, 2019.

## SECTION 6: RAFFLE REGULATIONS

A. No raffle or bazaar shall be promoted, operated or conducted by any person or organization, unless the same is sponsored and conducted exclusively by:

1. A veterans' organization chartered by the Congress of the United States or included in clause (12) of M.G.L. c. 40, §5;
2. A church or religious organization;
3. A fraternal or fraternal benefit society;
4. An educational or charitable organization;
5. A civic or service club or organization and;
6. Clubs or organizations organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any

member or shareholder.

B. Such organizations shall have been organized and actively functioning as a nonprofit organization in the Commonwealth for a period of not less than two (2) years before it may apply for a permit.

C. All funds derived from any raffle or bazaar shall be used exclusively for the purposes stated in the application of the sponsoring organization which purposes shall be limited to educational, charitable, religious, fraternal, civic purposes, or veterans' benefits.

D. Any organization conducting or operating a raffle or bazaar under M.G.L. c. 271, s 7A shall file a return with the state lottery commission, on a form prepared by it, within ten (10) days after the raffle or bazaar is held and shall pay therewith a tax of five (5%) per cent of the gross proceeds derived from such raffle or bazaar. All sums received by said commission from the tax imposed by section 7A as taxes, interest thereon, fees, penalties, forfeitures, costs of suits or fines, less all amounts are refunded thereon, together with any interest or costs paid on account of such refunds, shall be paid into the treasury of the Commonwealth.

E. If for any reason the raffle is not completed and a prize is not awarded on the scheduled drawing date, the sponsoring organization must take all steps necessary to notify ticket purchasers of that fact and return all money received from ticket purchasers within thirty (30) days.<sup>24</sup>

F. Raffle Permit Licenses are issued by the Springfield Police Department.

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<sup>24</sup> 940 CMR 12.00

## SECTION 7: ENTERTAINMENT REGULATIONS

The Mayor of the City of Springfield, as the entertainment license authority, hereby implements Rules and Regulations for Entertainment Licenses issued pursuant to M.G.L. 140, §§181 and 183A.

### 7.1 General Provisions

- a. The licensee shall keep the entertainment license at the location cited thereon, displayed for public view, and, shall make it immediately accessible to surrender it to any person designated by the Mayor or licensing enforcement agents of the City of Springfield calling therefore;
- b. The licensee, his agents, employees, principles and partners shall be liable to adhere to the terms and conditions of the license.
- c. A current list of all employees shall be available upon request of authorized agents of the Mayor or licensing enforcement agents of the City of Springfield.
- d. The Licensee shall allow any person designated by the Mayor including the Springfield Police Officers to enter, to inspect, to view any exhibition, show, or amusement device.
- e. When required as a condition of the entertainment license the licensee shall hire at his own expense a police detail. The licensee shall be responsible for ensuring it has written documentation evidencing it has requested all required extra details.
- f. The licensee shall obtain all leases and permits as required to occupy said location lawfully.
- g. The licensee shall conform to the applicable provisions of the Springfield Zoning Code and State building code, obtaining a Certificate of Occupancy and Certificate of Inspection from the Code Enforcement Department/Building Division and Springfield Fire Department if so required bylaw.
- h. Springfield Police Officers are authorized as agents of the Mayor, as license granting authority, to inspect places of public entertainment licensed or required to be licensed by said authority. Such officers may report to the Mayor such information as may be relevant to the standards and procedures outlined in this regulation.
- i. The license shall comply with all applicable state and local laws and regulations.
- j. Upon request, the licensee must make available a seating plan to any potential patron.
- k. The entertainment and dancing must be confined to the designated place provided for such purpose and approved by the licensing authority.

l. Unless properly licensed and zoned for adult entertainment, it is forbidden to employ or permit any persons 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, except with specific approval.

m. 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.

n. It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks, or genitals of any other persons.

o. It is forbidden to employ or permit any person to wear or use any device or covering exposed to view which simulates the breasts, buttocks, pubic hair, or genitals or any portion thereof.

p. It is forbidden to employ or permit any person in or on the licensed premises to perform any act or acts, or to simulate an act or acts of (i) sexual intercourse, masturbation, sodomy, flagellation or any sexual acts prohibited by law; or (ii) touching, caressing, or fondling of the breasts, buttocks, or genitals of another.

q. Unless properly zoned and licensed for adult entertainment, 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 any simulation of any of the acts described in paragraphs 3 through 7 above.

## **7.2 Public Safety Provisions**

a. As required by the Springfield Fire Commissioner, the licensee shall maintain unobstructed means of egress and means of access, and shall remove combustible materials.

b. The licensee shall not allow any person to obstruct aisles, passageways, landings, or stairways.

c. The licensee shall allow members of the Fire Department, in case of fire to exercise exclusive control and direction of his employees and of the means and apparatus for extinguishing the fire.

d. There shall be no disorder, indecency, prostitution, lewdness, assignation or illegal gambling on the licensed premises or any premises connected therein by an interior communication.

e. No device or electronic equipment shall be utilized by any licensed premises for the purpose of signaling employees that agents of the licensing authority are present.

f. Any police complaints and/or reports presently on file shall continue in force until disposed of by the licensing authority.

## **7.3 Admission Policies**

a. Any admission fee must be clearly and conspicuously posted. Patrons must be given receipts

upon payment of admission fee.

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

c. Licensees may not have a door policy for the admission of patrons consisting of VIP cards or give any special privileges to any particular member of the public unless and until such plan has been approved by the licensing authority and the plan as approved is posted at a place on the premises where all members of the public may read it.

#### **7.4 One-Day Entertainment Licenses**

One-Day Entertainment Licenses are granted to an individual over the age of eighteen who is conducting an activity or enterprise for profit or plans to provide entertainment on the behalf of a nonprofit organization. Applications must be obtained from the City's Licensing Department, 36 Court Street, Room 305, Monday through Friday from 9:00 a.m. until 4:00 p.m.

A. It is the responsibility of the applicant to complete and take the application to the Springfield Police Department and Springfield Fire Department for approval. After the Police and Fire Departments have signed the application, both forms must be returned to the Licensing Department no less than thirty (30) days prior to the scheduled event at Room 305 36 Court Street with a ten dollar (\$10.00) application fee. The applicant will then be contacted once final approval has been given by the Mayor.

B. Once a completed application has been filed, the Local Licensing Authorities may investigate the granting of any One-Day Entertainment license and the conduct of the business being done thereunder, and shall, after a hearing, modify suspend, revoke or cancel such license if, in its opinion, circumstances warrant.<sup>25</sup>

C. The Mayor has final authority over granting One-Day Entertainment Licenses in the City.

D. Use of any device for entertainment purposes which amplifies sound over ten (10) Watts shall require a One-Day Entertainment License.

E. In addition to all other requirements, all applicants for a One-Day Entertainment License shall bring to the public hearing a legibly, timely and complete:

1. Application for a One-Day Entertainment License;
2. A sketch of the proposed permitted premises, setting the bounds of where the event will take place, along with any other information on the sketch needed to portray the proposed plan;
3. Written indication of the existence of and the number of police detail(s) and/or security measures as determined by the Commission.

F. An application for an one-day entertainment license **must be picked up by the applicant** at the Licensing Department no later than twenty-one (21) days prior to the intended event.

### 7.5 Late Night Entertainment

Holders of an alcoholic beverage pouring license such as a restaurant, tavern, hotel, club or general-on-premises (M.G.L. c. 138, section 12) license and an entertainment license must obtain a Special Late Night Entertainment Permit in order to offer entertainment after 1:00 a.m., otherwise all entertainment under an entertainment license must cease by 1:00 a.m. Licensees may seek a Special Late Night Entertainment Permit by submitting an application obtained from the Licensing Department along with a written submission containing the following details:

- a. The type of entertainment to be offered;
- b. The maximum capacity of the premises as referenced in the Certificate of Occupancy;
- c. The condition and set up of the premises;
- d. Measures the licensee will take to prevent the over service of patrons consuming alcoholic beverages;
- e. Copy of security plan; and
- f. Security measures to be taken in order to prevent danger to public safety, health or order.

After reviewing the documentation submitted by the licensee, the Mayor or his agent may reject the licensee's request for a special permit to offer late night entertainment if the Mayor or his agent finds that increasing the entertainment hours would adversely affect public health, safety or order, in that the increase in entertainment hours cannot be conducted in a manner so as to:

1) prevent a public nuisance; and/or 2) (a) 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; (b) prevent an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the licensed premises; or (c) prevent an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the licensed premises or an unreasonable increase in the number of vehicles to be parked in the area of the licensed premises.

If the Mayor or his agent at his/her discretion requires the licensee to hire police detail(s) and/or fire detail(s) during the operation of late-night entertainment, the licensee shall be solely responsible for all costs of such detail(s).

This section shall not apply to licensees whose income from the sales of food is forty percent (40%) or greater of its gross receipts (e.g. family oriented restaurants). Any licensee claiming an exemption must apply for the same to the Licensing Department and support such a claim with a certification of food receipts by a certified public accountant. The Local Licensing Authorities may request any additional information it deems necessary to granting such an exemption. Cover charges shall not be considered food sales for purposes of determining the 40% exemption under this provision.

## **7.6 Special Events Permits ("18 & Over Night", "21 & Under Night")**

Holders of an alcoholic beverages pouring license such as a restaurant, tavern, hotel, club or general-on-premises (M.G.L. c. 138, s. 12) license and an entertainment license must provide the License Commission **at least two (2) weeks notice** of its request to offer an "18 & Over Night," "21 & Under Nights" or similar events. Licensees must seek a Special Event Permit by submitting a Special Late-Night Application to the Licensing Department along with a written submission containing the following details:

- a. The type of entertainment to be offered;
- b. The number of persons expected to attend;
- c. The age range of the persons expected to attend;
- d. The conditions and setup of the premises;
- e. The measures that the licensee will take to prevent persons under the age of 21 from consuming alcoholic beverages; and
- f. Security measures to be taken in order to prevent danger to public safety, health and order.

After reviewing the documentation submitted by the applicant the Local Licensing Authorities shall grant a license under M.G.L. c. 140, §183A unless they find that the license, taken alone or in combination with other licensed activities on the premises, would adversely affect the public health, safety or order, in that the concert, dance, exhibition, cabaret, or public show cannot be conducted in a manner so as to: (a) 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; (b) prevent an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the premises; or (c) 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.

If the Mayor or his designee at his/her discretion requires the licensee to hire a police detail(s) and/or fire detail(s) during the operation of a special event, the licensee shall be solely responsible for all costs of such detail(s).

This section shall not apply to licensees who, as a primary daily business activity, provide entertainment to children or families (e.g. Chuck E Cheese, Civic Center, etc.). This section shall not apply to licensees whose income from food sales is forty percent (40%) or greater of its gross receipts (e.g. family oriented restaurants).

## **7.7 Violations/Hearings**

At his/her discretion the Mayor may conduct hearings for alleged violations of these regulations and/or any other state or local laws or regulations upon ten days written notice of said hearing to the licensee setting forth the alleged violations. The hearing notice shall contain copies of any documents in the City's possession regarding the subject incident including but not limited to police reports. The Mayor may designate a hearings officer to conduct hearings for alleged violations and these hearings may be conducted concurrently with the City of Springfield

License Commission for any alcohol license violations arising under the same incident. The Mayor, or his/her designated hearings officer for said hearing, shall consider any evidence or testimony submitted by the licensee in its defense along with any evidence or testimony submitted by the City supporting the alleged violation(s).

### **7.8 Adult Entertainment**

- a. Touching, caressing or fondling of the female breasts, or of the buttocks or genitals of another person; sexual intercourse, masturbation, sodomy or any sexual act prohibited by law in a public place or other undue familiarity, between the sexes shall be prohibited, discouraged and such offenders ejected from the premises if necessary. Any licensee or his employee who knowingly permits the use of licensed premises for the purpose of promoting any of the above listed activities shall be subject to suspension or revocation of its license;
- b. Each entertainer who appears on the premises for the purpose of entertaining shall have in his or her possession a proper identification card which lists his or her true name, legal address and age;
- c. The licensee shall maintain the names, address (local and permanent) and date of birth of those persons who are performing, proof of age and address of such performers shall be supplied to any person designated by the Mayor or licensing enforcement agents of the City of Springfield;
- d. Any violations of the applicable sections of M.G.L. c. 272 by a licensee may constitute grounds for suspension or revocation of its entertainment license;
- e. Massage therapy/services shall not be offered in a premises licensed for adult entertainment.

### **7.9 Business Operation Policies**

- a. Licensees shall not engage in any unfair or deceptive act or practices in the course of its business.
- b. The licensee shall conform to all applicable laws, especially the laws prohibiting certain employment of minors.
- c. No licensee shall contract bills for his licensed place under any corporate or trade name other than that under which he is licensed.
- d. Licensee shall immediately notify the Division of any court proceedings which may affect the status of this license.

## 7.10 Noise

Licensees shall abide by the Noise Control Ordinance of the City of Springfield contained in Title 7, Chapter 7.20 of the Revised Ordinances of the City of Springfield, 1986, as amended. Under 7.20.010 B "Unreasonable Noise" means any noise plainly audible at a distance of one hundred feet (100'); and in the case of an amplification device, the words "unreasonable noise" means any noise plainly audible at a distance of fifty feet (50').

## 7.11 Drug Prevention

- a. The Licensee must actively monitor the licensed premises, including a periodic scheduled inspection of the restrooms to prevent the utilization of the restrooms for drug use, sale or dissemination.
- b. The licensee must actively monitor secluded sections of the licensed premises to prevent illegal activity, particularly drug activity, from occurring.
- c. The licensee must regularly inform all employees of their affirmative duty to report all suspicious activity to management who shall make reports to the Springfield Police Department. Suspicious activity includes, but is not limited to, the following:
- d. The licensee shall seek to identify a frequent pattern of telephone use on the premises by certain patrons;
- e. The licensee shall seek to identify a frequent pattern of patrons trafficking to certain secluded areas of the premises, such as an isolated booth, or a back room;
- f. The licensee shall seek to identify a frequent pattern of particular patrons being approached by other patrons with evidence of money, envelopes, known drug paraphernalia or other suspicious items;
- g. The licensee shall seek to identify the presence on the premises of drug residue, or drug paraphernalia (e.g. vials, cellophane packets, cut straws, needles, roach clips, etc.)
- h. The Licensee must actively monitor the immediate area outside the licensed premises to prevent illegal drug traffickers from using the premises as a base for their operations. The licensee must report any suspicious activity to the Springfield Police Department. Suspicious activity includes, but is not limited to, the following:
  1. certain patron(s) frequently entering and exiting the premises more often than other patrons;
  2. certain patron(s) frequently being approached inside or outside the premises with evidence of money, envelopes and/or known drug paraphernalia;
  3. certain patron(s) frequently interacting with individuals in vehicles parked in front

of the premises.

i. The licensee should inform all employees that their illegal drug use and any other drug-related activity will not be tolerated, and the licensee should develop employee disciplinary measures to handle such illegal activity.

## **7.12 Application and License Review**

a. The standards for issuance of an entertainment license and hearing procedures are set forth in M.G.L. c. 140 sec 181 and 183A, as subsequently amended.

b. The Mayor reserves the right to change or add to the terms and conditions of a license, including times of operation, after notice to the licensee.

c. The Licensee shall indemnify and hold harmless the City of Springfield and its employees from any damage it may sustain, or be required to pay, by reason of said entertainment or by reason or any act of neglect of himself or his agents relating to such entertainment, or by reason of any violation of the terms and conditions of its license,

d. The license is subject to suspension, revocation, or forfeiture for breach any of its conditions, and all applicable codes, ordinances, statutes, and Rules and Regulations and orders of this licensing authority.

e. The entertainment license may be conditioned, revoked or suspended pursuant to the provisions, M.G.L c. 140 secs 181 and 183A, as subsequently amended, and applicable Rule and Regulations, orders and conditions of the Mayor.

f. Licensee must be in complete compliance with all applicable codes, ordinances, statutes, and rules and regulations of the Mayor.

g. An entertainment license is non-transferable. A licensee shall not sell, trade, gift or in any other fashion transmit a license to any other party.

## SECTION 8: AUTO AMUSMENT LICENSES

### 8.1 Licensing Fees

The annual fee for a license to keep and operate any amusement device licensed under the provision of MGL c. 140, § 177A, or any renewal thereof, shall be \$100 per machine. The fee for every change of premises shall be \$2.

### 8.2 Authority to Issue License/Definitions

In accordance with MGL c. 140, § 177A, the license commission may grant a license to operate an automatic amusement device, as defined therein, for hire, gain or reward, and, after written notice, hearing, and opportunity to be heard, may suspend or revoke such a license. The term "automatic amusement device" as used in this article shall be construed as meaning any mechanism whereby, upon the deposit therein of a coin or token, any apparatus is released or set in motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as "pinball machines," including free-play pinball machines.

### 8.3 Restrictions and Conditions

- a. The maximum number of automatic amusement devices allowed on any single business premises shall be four unless the license commission, after a duly noticed public hearing, has issued its written authorization for a greater number of such devices.
- b. No automatic amusement device shall be licensed which is designed to accept currency of a value greater than a United States \$5 bill.
- c. Based upon MGL c. 140, § 177A, the license commission shall not grant a license for any device that is intended for use as a gaming device nor for any automatic amusement device which may reasonably be considered to present a risk of misuse as a gaming device. Automatic amusement devices which may reasonably be considered to present a risk of misuse as gaming devices are those devices which simulate actual gaming devices, including so-called "video slots"; any game that involves no skill of the player; and any games which have a dual metering system accounting for money being placed into the machines, and allowing for points to be paid out on the machines; and any games which involve matching forms, shapes or random number combinations. State law also prohibits video slot machines or any essential pmi of which contain a video display of a drum or reel with insignia thereon, and which, when operated, may deal, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property, or any subassembly or essential part intended to be used in connection with any such machine or video device.

d. Automatic amusement devices shall be so installed on the premises described in the license as to be in open view at all times while in operation, and shall at all times be available for inspection by law enforcement officials, including members of the license commission. The registration number shall be prominently displayed on a seal or sticker issued by the licensing commission. Each seal or sticker shall be affixed to the automatic amusement device in a manner easily visible to authorities. The sticker shall include the following information: the registration number of the machine, the date of the license, and the name and address of the licensee as well as the machine's owner. Removal of the seal or sticker shall be prohibited until the license expires, is surrendered, or revoked. If a sticker is destroyed or lost, a replacement cost of \$10 shall be paid for the issuance of a new sticker. Unlicensed automatic amusement devices are prohibited.

#### **8.4 Enforcement, Violations and Penalties**

a. All licenses for automatic amusement devices granted by the license commission shall be subject to inspection by state and local law enforcement officials to ensure conformance with submitted application information and the requirements of this article and MGL c. 140, § 177A.

b. A violation of this article or MGL c. 140, § 177A, shall be grounds for revocation of any license issued by the City of Springfield and held by the violator, including a license to sell alcoholic beverages, and may otherwise be punished as allowed by law.

c. A fine of \$300 per day per machine may be imposed for each violation.

## **SECTION 9: BILLIARDS, POOL TABLE OR BOWLING ALLEY LICENSING**

### **9.1 Licensing Fees For Billiards and Pool Tables**

The annual fee for a license to keep and operate any billiards or pool tables licensed under the provision of MGL c. 140, § 177, or any renewal thereof, shall be \$100 for the first table and \$25 for each additional table. All applications and renewal must be no later than April 1st to be issued May 1st..

### **9.2 Licensing Fees For Bowling Alley**

The annual fee for a license to keep and operate a bowling alley licensed under the provision of MGL c. 140, § 177, or any renewal thereof, shall be \$100 for the year. All applications and renewal must be no later than May 1 st.

### **9.3 Authority to Issue License/Definitions**

In accordance with MGL c. 140, § 177, the license commission may grant a license to operate a billiards table, pool table of bowling alley for hire, gain or reward, and, after written notice, hearing, and opportunity to be heard, may suspend or revoke such a license.

### **9.4 Application Process**

- A. An applicant for a license must complete and submit all forms, with all applications fees, required by the Local Licensing Authorities. The Licensing Department will review the application for completeness and upon determination of the same will approve the application for further hearing by the License Commission.
- B. The License Commission shall conduct a public hearing within thirty (30) days of receipt of a completed application or as soon as practicable thereafter. Written notice of such hearing shall be provided by the Licensing Department to the applicant to be published, at the applicant's expense, in a newspaper of general circulation in the City of Springfield at least seven (7) days prior to the date of hearing.
- C. Licensees must pay in full all taxes and fees owed to the City or to the Commonwealth prior to approval or renewal of any application. The tax collector may periodically consistent with the rules and regulations of the License Department, furnish a list of any person, corporation, or business enterprise that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges and has a past due balance, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board. The tax collector will review a licensee's tax compliance upon the

filing of the following applications with the Licensing Department: new license applications, annual license renewal, application for change in manager; application for change of business name; and application for change of corporate structure.

### **9.5 Abutters**

Within seven (7) days after publication in the newspaper, the applicant shall send or cause to be sent to the mailing address of each abutter of the proposed licensed premises, notification of the date, place and time of the License Commission's public hearing. Proof of said notice to abutters, i.e. the green cards, must be submitted to the Commission at the time of hearing.

### **9.6 Restrictions and Conditions**

Pursuant to M.G.L. c. 140 sec 177, a licensee is to keep a billiard, pool or bowling alley for hire, gain or reward, upon such terms and conditions as they deem proper, to be used for amusement merely and not for the purpose of gaming for money or property.

### **9.7 Enforcement, Violations and Penalties**

A violation of this article or MGL c. 140, § 177, shall be grounds for a suspension or revocation of any license issued by the City of Springfield and held by the violator, including a license to sell alcoholic beverages, and may otherwise be punished as allowed by law,

### **SEVERABILITY**

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.

### **EFFECTIVE DATE**

The foregoing Rules and Regulations shall take effect on January 10, 2019.

**CERTIFICATE**

This is to certify that the foregoing is a true copy of the Rules and Regulations of the Board of License Commissioners of the City of Springfield, as amended\_\_\_\_\_

**BOARD OF LICENSE COMMISSIONERS**

\_\_\_\_\_  
Peter Sygnator, Chairman

\_\_\_\_\_  
Michael Siciliano

\_\_\_\_\_  
Ronald Senez

\_\_\_\_\_  
Rosa Espinoza

\_\_\_\_\_  
Andrew Cade

**CERTIFICATE**

This is to certify that the foregoing is a true copy of the City of Springfield Entertainment Licensing Rules and Regulations as adopted by the Mayor of the City of Springfield.

\_\_\_\_\_  
Domenic J. Sarno, Mayor

**CERTIFICATE**

This is to certify that the foregoing is a true copy of the Rules and Regulations of the Board of License Commissioners of the City of Springfield, as amended \_\_\_\_\_

**BOARD OF LICENSE COMMISSIONERS**

  
Peter Sygnator, Chairman

  
Michael Siciliano

  
Ronald Senz

  
Rosa Espinoza

  
Andrew Cade

**CERTIFICATE**

This is to certify that the foregoing is a true copy of the City of Springfield Entertainment Licensing Rules and Regulations as adopted by the Mayor of the City of Springfield.

  
Domenic J. Sarno, Mayor

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<sup>i</sup> Adopted by the Board of License Commissioners on December 11, 2021.