

**City of Fitchburg**  
**Updated**  
**June 5, 2020**

**Regulations and Guidelines of the**  
**Fitchburg Board of License Commissioners**

## ***Regulations and Guidelines of the License Board of Fitchburg, MA***

### **1. License Board Functions:**

1.1 The Fitchburg License Board is responsible for the issuance of licenses, and promulgation of rules and regulations, respecting the sale of alcoholic beverages for consumption or sale; operation of automatic amusement devices such as pin-ball machines, pool tables and video games; operation of lodging houses. The License Board recognizes Chapter 134 of the City Code as the regulation for soliciting/canvassing.

1.2 The Board is also responsible for the issuance of Taxi company licenses, driver permits and the establishment of regulations for taxi and livery vehicles.

1.3 The Code of the City of Fitchburg 120-13 sets forth the License Board as the licensing authority.

1.4 A copy of the rules and regulations of the License Board of the City of Fitchburg are available in the office of the City Clerk, for a fee. The regulations will also be posted on the City of Fitchburg Web site [www.fitchburgma.gov](http://www.fitchburgma.gov) under the License Board heading.

1.5 The License Board recognizes the Fitchburg Police Department Officers as agents of the License Board with the authority to enforce all regulations of the License Board.

1.6 The Board strives to issue licenses that will be an asset to the community and to ensure that all rules and regulations pertaining to licenses are complied with in order to protect the safety and health of the public. The Fitchburg License Board encourages licensees to be informed and responsible. Our goal is to help prevent problems before they happen.

**1A. License Board Fees – revised December 1, 2015**

<b>All Alcoholic Common Victualler</b>	\$1200
<b>All Alcoholic General On Premise</b>	\$1200
<b>All Alcoholic Club</b>	\$1200
<b>All Alcoholic Package Store</b>	\$1600
<b>All Alcoholic Inn/Hotel</b>	\$1200
<b>Wine &amp; Malt Common Victualler</b>	\$750
<b>Wine &amp; Malt General On Premise</b>	\$750
<b>Wine &amp; Malt Package Store</b>	\$850
<b>Wine &amp; Malt Club</b>	\$750
<b>Druggist</b>	\$850
<b>One Day All Alcohol</b>	\$100
<b>One Day Wine &amp; Malt</b>	\$50
<b>Common Victualler</b>	\$50
<b>Entertainment (includes dancing)</b>	\$25
<b>Automatic Amusement Device</b>	\$100
<b>Jukebox</b>	\$50
<b>Filing fee for MGL Chapter 138</b>	
<b>Section 12 (on-premise) and Section</b>	
<b>15 (off-premise) license applications</b>	\$100
<b>Taxi Business License</b>	\$250
<b>Modification of existing taxi business</b>	\$50
<b>Taxi Vehicle License</b>	\$50
<b>Taxi Vehicle Lic. replacing vehicle</b>	
<b>previously. lic. in same calendar year</b>	\$20
<b>Taxi Driver Permit (Good for 2 yrs.)</b>	\$25

## **2. Meetings:**

2.1 The Fitchburg License Board meets the first and third Monday of the month at 6:00 P.M unless otherwise ordered by a vote of the Board in order to accommodate holidays or other scheduling conflicts. A schedule of meetings is available in the office of the City Clerk. All meetings of the Fitchburg License Board are open to the public. This does not mean that the public participates in all aspects of the meeting. It simply means that the meeting itself, including all discussions and votes, is open for public view. The meetings may be recorded at the discretion of the Board.

(Revised January 4, 2017)

2.2 Public hearings are held on various issues such as license issuance, transfers, entertainment permits and violations of rules and laws. To speak at a public hearing you must be recognized by the chairperson, state your name and address and speak only on the public hearing issue for no more than two (2) minutes. The chairperson has the authority to limit the number of speakers during a public hearing. Before a vote is taken, the chairperson will ask for anyone "in favor" or "in opposition" to stand and be recognized.

2.3 The License Board may request the presence and participation of the City Solicitor for the City of Fitchburg at meetings and public hearings.

### **2.4 Executive Session:**

The only time a Board meeting can be closed to the public is when the Board votes for Executive Session in order to discuss sensitive matters in private, such as CORI reports. Any votes by the Board must be taken in open session.

## **3. Liquor Licenses: GENERAL PROVISIONS APPLICABLE TO ALL LICENSEE AND/OR LICENSES**

3.1 These rules and regulations are for the sale of alcoholic, wine and malt beverages governed by the provisions of Chapter 138 of the Massachusetts General Laws, as amended, for common victualers licensed under Chapter 140 of the Massachusetts General Laws, as amended and for said licensees granted entertainment licenses under Chapter 140 of the Massachusetts General Laws as amended. A significant objective of the regulations is the prevention of violations.

3.2 The License Board Chairman has the sole authority to make corrections to and/or direct a resolution for any problem created by a typographical error on an application and/or license provided that no substantive change is made to the original application or license by such action that would otherwise require a meeting and vote of a quorum of the Board under the provisions of the Open Meeting Law. (New as of September 24, 2012)

3.3 The License Board of the City of Fitchburg recognizes M.G.L. Chapters 138 and 140 as the standards by which liquor licenses are regulated, and expect all license holders in the City of Fitchburg to become familiar with M.G.L. Chapters 138 and 140. License holders must also be familiar with the local rules and regulations adopted by the Fitchburg License Board and the Rules and Regulations promulgated by the Alcoholic Beverage Control Commission.

3.4 The definitions to words contained within these rules and regulations shall be consistent with those defined within Chapter 138 and 140 of the Massachusetts General Laws as amended, unless the context of these rules otherwise require.

3.5 Every license is, after a public hearing, subject to suspension, modification of laws of operation, revocation or forfeiture for breach of any of the Rules and Regulations of the Board, Rules and Regulations promulgated by the Alcoholic Beverage Control Commission, the General Laws of the Commonwealth of Massachusetts pertaining to the conduct of business. Every establishment with a liquor license must have a current certificate of inspection signed by the Building Inspector and the Chief of the Fire Department. The license holder is responsible for contacting the Building Department to schedule an appointment for inspection before the certificate expires.

(Revised May 18, 2009)

3.6 License holders must submit an application to the local license board for approval of a DBA or corporate name change. The liquor license, certificate of inspection, liquor liability insurance and other permits issued through the license board must have the same name as the approved corporate/DBA name. All signs, advertising and promotional material must use the approved corporate/DBA name. A vote of the Board of Directors of the Corporation must be submitted for a corporate/DBA name change.

3.6 All employees engaged in the sale or serving of alcoholic beverages and/or beer and wine (Sec. 12 & 15) must, within six (6) weeks of initial employment, have attended and successfully completed a TIPS (Training for Intervention Procedures by Servers of Alcohol) or a substantially equivalent alcohol server safety program, the content and standards of which have been accepted by the Commission. All managers must complete a course before a change of manager is approved by the Alcoholic Beverage Control Commission. At least one person successfully trained in a server safety program must be on duty at all times an establishment is open.

*(Revised April 4, 2011)*

3.7 Each license holder shall keep a current and accurate list of the names of all employees including name, address, date of birth, date of hire and position. The license holder shall also maintain either the original or a copy of the certificate of training for each employee engaged in the sale or serving of alcoholic beverages and/or beer and wine. All lists, certificates and ID's shall be made available for inspection at anytime upon the request by the authorized agents of the license Commission and the police department.

*(Revised February 19, 2014)*

3.8 Whenever a Liquor License is returned to the City of Fitchburg in a category not over subscribed, the License Board will have the discretion to hold said license or hold a public hearing on all applications for said license. The public hearing will be advertised in the same manner as other notifications such as license transfers. The License Board will make the determination which application best suits the City of Fitchburg.

When a license, in the Fitchburg License Board's control, is approved for use, a restriction will be placed on that license that it must be returned to the Board's control if it is no longer used. If a business with a restricted license is sold, the license will revert back to the License Board's control. The new business owners may submit an application through the above procedures.

*(This paragraph approved May 10, 2010)*

3.9 Police officers working paid details at liquor establishments will not check ID's to determine if a patron has reached the legal drinking age or as a screening for admission into establishments. The police officer is there to help maintain peace and decorum. The licensee is responsible for checking ID's and maintaining peace and decorum.

The Chief of police shall have the right and authority to order any licensee to engage as many detail police officers as shall, in the chiefs' judgment, be necessary to maintain law and order upon the premise of the license, including the parking lot. [The licensee is referred to the specific requirements covered in section 3.14 about the notification of events of more than 250 patrons] The purpose of this notification requirement is to provide advanced information to the chief about expected large groups where alcohol is to be served within the premises, so that an evaluation of the event can be made as to the need of the police detail assignment. Should the chief assign a police detail under these regulations, and the licensee disagrees, the licensee may appear before the License Commission Board, which shall review and establish appropriate public safety measures for such events.

The Board shall have the right and authority to order any licensee to engage as many police detail officers from the police department which in the Board's judgment is necessary to maintain law and order upon the licensed premise and the areas immediately adjacent to or serving the licensed premises, including parking lots.

Licensees are prohibited from hiring private armed security guards/officers as a means to circumvent the need for police detail officers. This is to ensure the safety of all patrons and all members of the community.

*(Revised February 19, 2014)*

3.9.1 The Manager of Record for every licensed liquor establishment is required, absent specific criteria or conditions on the license to the contrary, to be on premise and working in the role of Manager during peak business hours and for at least 60% of the establishment's operating hours, not to exceed forty hours per week. The Board reserves the right to set such specific criteria or conditions on the license relative to the Manager of Record requirements. The Manager of Record and all individuals performing in the role of an assistant to the manager shall have, in the opinion of the Board, a personal and professional character and background in the community that is conducive to running an establishment in compliance with all MA statutes and State and local regulations pertaining to the sale of alcoholic beverages.

· Definition of assistant to the manager: Staff who include but may not be limited to persons responsible for the operation of the licensed premises and management of the staff in the absence of the Manager of Record.  
*(Revised September 23, 2015)*

3.10 The License Board reserves the right to change, add or amend to the foregoing regulations after notice and public hearing.

3.11 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.

3.12 Compliance Checks (Revised March 2, 2009):

These guidelines are intended to provide the basic framework, which will be used when conducting underage drinking compliance checks on licensed premises.

1. Notification that a compliance check will be taking place will be made in the media prior to the start date.
2. The underage person taking part in the compliance check should reasonably look their age. Efforts to make them appear older should be avoided.
3. A photo of the underage person should be taken and attached to the information requested in #6.
4. The underage person should carry their own personal driver's license or MA State liquor ID when taking part in the compliance checks.
5. The underage person should not carry any money with them other than that given by the law enforcement officer supervising them.
6. The underage person shall sign a release form prior to starting participation in this program. The underage person and a law enforcement officer should also sign and date a copy of these guidelines.
7. Unless circumstances warrant, the underage person shall be given a B.A.C. test at the beginning and at the conclusion of the investigation. They should be informed of this prior to beginning the investigation.
8. The underage person shall enter the licensed premises under observation by a law enforcement officer.
9. The underage person shall attempt to purchase an alcoholic beverage. They should attempt to purchase the same thing at each location.
10. At no time shall the underage person attempt to misrepresent their age.
11. If asked for identification, the underage person should provide their true license.
12. If served at any on-premise establishment, the underage person shall remain on the licensed premise for a period of time instructed by the law enforcement officer. They should then exit the licensed premise leaving the alcoholic beverage. If served at an off-premise establishment, the underage person shall carry the alcoholic beverage out to the law enforcement officer.
13. At no time, under any circumstances, shall the underage person consume any alcoholic beverage.
14. The safety and welfare of all underage participants will be of the utmost importance to the law enforcement personnel. Underage persons shall not be exposed to any unusual, unnecessary or unreasonable risk.
15. The underage person will not wear, exhibit or carry any law enforcement identification or falsely represent themselves as an employee of any law enforcement unit while participating in this program. They shall not under any circumstances carry a weapon.
16. The law enforcement personnel should only enter the premises to observe on an as needed basis when circumstances warrant.
17. Notice to licensees of alleged violations will be given upon conclusion of the compliance check. Official notification of date, time and place of hearing.

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Underage Operative Signature

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Date

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Law Enforcement Officer Signature

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Date



**BOARD OF LICENSE COMMISSIONERS**  
**City Clerk's Office 166 Boulder Drive**  
**Fitchburg MA 01420**  
**(978) 829-1820**

**PERMISSION OF PARENT/GUARDIAN**

I, \_\_\_\_\_, am the parent/guardian of \_\_\_\_\_.

I have discussed his/her participation in an investigation into illegal sales of alcoholic beverages to an underage person with him/her, and have reviewed the release that he/she is executing as part of this matter.

I give my permission for \_\_\_\_\_ to execute that release and to participate in an investigation undertaken by the Fitchburg Police Department under the supervision of that office.

Parent/Guardian (Signature) \_\_\_\_\_

Date \_\_\_\_\_

Parent/Guardian Signature (Print Name) \_\_\_\_\_

Witness (Signature) \_\_\_\_\_

Date \_\_\_\_\_

Witness (Print Name) \_\_\_\_\_

Date \_\_\_\_\_



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**UNDERAGE BUYER RELEASE FORM**

I, \_\_\_\_\_ reside at \_\_\_\_\_ and am \_\_\_\_\_

\_\_\_\_\_ years of age. I hereby release and discharge the Fitchburg Police Department, the Fitchburg License Commission and the City of Fitchburg, its agents and insurers from all claims, demands, damages, actions or suits of any kind or nature, on account of any injury or damage to my person or property resulting from or arising out of my participation in any investigation undertaken by the Fitchburg Police Department or Fitchburg License Commission.

I hereby state that I have discussed this release and my volunteer association with the Fitchburg Police Department and the Fitchburg License Commission with parent(s)/guardian(s), and that he/she/they have given permission on the attached form indicating that I have their permission to participate in this investigation.

I understand that I may be required to offer testimony in court or other legal proceedings as part of my participation in investigations conducted by the Fitchburg Police Department or Fitchburg License Commission and will fully comply with any notice or subpoena I may receive.

Signed under pains and penalties of perjury.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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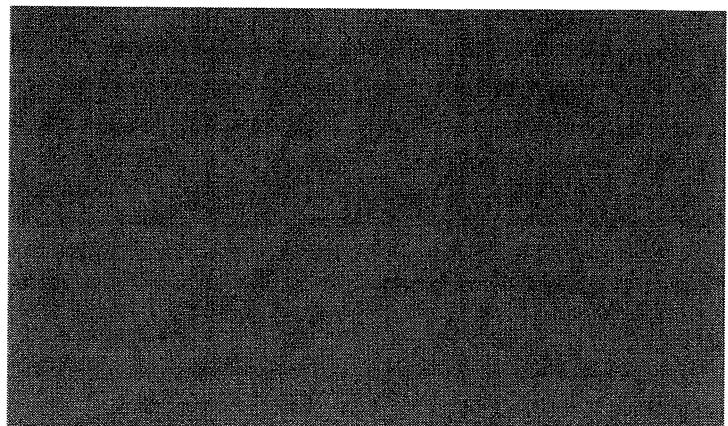
## Minimum Purchase Law Compliance Check Activity Report

**Underage Operative Name &  
Age**

**Police Officer/Investigator**

**City**

**Day and Date**



Time	Establishment	Violation (Sale/No Sale)	Action (Circle below)	Premis Type
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Name

**Time IN:** Yes / No Hearing / Citation On Prem

Address

**Time OUT:** Closed / Not Attempted None Off Prem

Time	Establishment	Violation (Sale/No Sale)	Action (Circle below)	Premis Type
------	---------------	-----------------------------	--------------------------	----------------

Name

**Time IN:** Yes / No Hearing / Citation On Prem

Address

**Time OUT:** Closed / Not Attempted None Off Prem

Time	Establishment	Violation (Sale/No Sale)	Action (Circle below)	Premis Type
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Name

**Time IN:** Yes / No Hearing / Citation On Prem

Address

**Time OUT:**

Closed / Not Attempted      None

Off Prem

## **Minimum Purchase Law Compliance Check Results Tracking Form**

Underage Operative Name & Age \_\_\_\_\_

Police Officer/Investigator \_\_\_\_\_

City \_\_\_\_\_

Day and Date \_\_\_\_\_

### **Outlets Visited**

\_\_\_\_\_ Number of Liquor Stores Locations Visited (Off-Premise)

\_\_\_\_\_ Number of Liquor Stores Asked for ID

\_\_\_\_\_ Number of Liquor Stores Cited

\_\_\_\_\_ Number of Restaurants/Bars/Clubs Visited (On-Premise)

\_\_\_\_\_ Number of Restaurants/Bars/Clubs Asked for ID

\_\_\_\_\_ Number of Restaurants/Bars/Clubs Cited

\_\_\_\_\_ Total Number of Alcohol Outlets Surveyed

\_\_\_\_\_ Total Number of Violations Issued

Other Information or Comments, including dates for violation hearings:

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**City Clerk's Office 166 Boulder Drive**  
**Fitchburg MA 01420**  
**(978) 829-1820**

**Minimum Age Purchase Law Compliance Check Field Report**

Date: \_\_\_\_\_  
To: Chief of Police  
From: FPD Officer \_\_\_\_\_

**Establishment Investigated**

Name and Address: \_\_\_\_\_

Violation?: (YES) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: Chapter 138, section 3 Sale or delivery of an alcoholic beverage to a person under twenty-one years of age.  
(NO)

Compliance Check operation conducted with the following results being reported:

Time Entered \_\_\_\_\_ Time Exited \_\_\_\_\_

Was Identification requested: YES NO

Who requested Identification? \_\_\_\_\_

What type of Alcoholic Beverage? \_\_\_\_\_

Was Alcoholic Beverage purchased? YES NO Was any consumed? YES NO

How much did it cost? \_\_\_\_\_

Describe person who sold: \_\_\_\_\_

Name of person who sold: \_\_\_\_\_

Signed under the pains and penalties of perjury this \_\_\_\_\_  
(Date of compliance check)

Underage Buyer Signature and Printed Name

DOB: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Age: \_\_\_\_\_

Witnessed: \_\_\_\_\_  
Investigator/Officer

Witnessed: \_\_\_\_\_  
Investigator/Officer



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**NOTICE OF VIOLATION**

**LICENSEE NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

This is to notify you that on \_\_\_\_\_ at approximately \_\_\_\_\_

(Date)

(Time)

your establishment was investigated by the Fitchburg Police Department during which time it is alleged that you violated:

204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: Chapter 138, section 34, sale or delivery of an alcoholic beverage to a person under twenty-one years of age.

Under MGL, Chapter 30A, you have the right to a hearing on this matter before the License Commission regarding the alleged violation.

You will be notified via certified mail to appear for a hearing.

Service In Hand By: \_\_\_\_\_

Investigator/Officer

\_\_\_\_\_ Date

Received by: \_\_\_\_\_

Licensee Representative

\_\_\_\_\_ Date

3.13 Authority for Release of Information:

The following document shall be included in the application package for all liquor license transactions:

**AUTHORITY FOR RELEASE OF INFORMATION**

I, \_\_\_\_\_ do hereby authorize a review of and full disclosure of all records including driving records, or any part thereof, concerning myself, by and to the Board of License Commissioners for the City of Fitchburg, whether said records are public, private or confidential in nature,

The intent of this authorization is to provide full and free access for the specific purpose of providing pertinent data to the Board to determine my suitability to be granted a License or Permit. This information may include but not be limited to a C.O.R.I., Criminal or Civil claims or suits and credit reports.

I agree to indemnify and hold harmless the Board, its agents and employees from any action, claim, suit, demand or damages in relation to such matters. I further understand that the sources of confidential information cannot be revealed to me.

A photocopy, fax, or e-mail of this form will be valid as an original even though they do not contain an original writing of my signature.

**MUST BE SIGNED IN THE PRESENCE OF A NOTARY**

Signature \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ year \_\_\_\_\_

My commission expires \_\_\_\_\_ year \_\_\_\_\_

Notary: \_\_\_\_\_

3.14 All Licensees must comply with Chapter 304 of the Acts of 2004, An Act Relative to Fire Safety in the Commonwealth. Under this law, each Section 12 Licensee must obtain a valid Certificate of inspection signed by both the local building inspector and the fire chief for both the first issuance and the renewal of section 12 licensees. Effective June 1, 2011, all §12 licensees:

1. with an *Occupant Load* of 100 or more persons and
2. who are a
  - (a) "nightclub, dance hall, discotheque or bar" or who
  - (b) feature entertainment by a live band or recorded music generating above normal sound levels and have a specific area designated for dancing **must have trained Crowd Managers** in the licensed premises at all times that they are open to patrons. This requirement will impact many, but not all, §12 licensees.

Under this regulation, a Crowd Manager must ensure the premises are safe and must complete a *Fire and Building Safety Checklist* on the premises every day before opening to the public. This *Fire and Building Safety Checklist* was created by the Department of Fire Safety ("DFS"). Items on the *Checklist* include a routine safety check of existing fire alarms and fire protection systems, fire extinguishers, exits and exit signs, interior finish, means of egress, crowd control procedures and building occupancy limits. The original completed *Fire and Building Safety Checklist* must be kept on the premises for at least 1 year and is subject to inspection. Crowd Managers must complete a training course given by the State Fire Marshal and also must provide documentation that this training was successfully completed. The training is available online, 24 hours a day on the website of the Massachusetts Department of Fire Services ([www.mass.gov/dfs](http://www.mass.gov/dfs)). Simply click on the link "Crowd Manager" under "Online Services" on the right side of the homepage. DFS estimates that it takes approximately 30- 40 minutes to complete this online training and take a short test on the information included in the program. If an individual successfully answers 70% of the questions, he/she can obtain a Certificate of Successful Completion. If anyone does not correctly answer 70% of the questions, they will be directed to take the exam a second time; and if anyone fails a second time, they will be directed to re-take the training program.

Pursuant to this new requirement, one (1) Crowd Manager must be designated for every 250 occupants or portion thereof based upon the *Occupant Load* specified on the Certificate of Inspection. The DFS defines *Occupant Load* as the total number of employees, performers and patrons permitted in a "nightclub, dance hall, discothèque or bar" as shown on the Certificate of Inspection. It is NOT the number of people actually present in the building at any given time. An *Occupant Load* of 100-250 persons requires 1 Crowd Manager, an occupant load of 251-500 persons requires 2 Crowd Managers, and an occupant load of 501-750 persons requires 3 Crowd Managers. The Crowd Manager(s) must be in the licensed premises at all times the business is open to patrons.

Any qualifying §12 licensee's failure to designate and have the required Crowd Manager(s) present when open to the public is a violation of the law. Under Massachusetts General Laws chapter 138, §64, each license holder must comply with all laws of the Commonwealth, including this new law that can be found at 527 C.M.R.

10.13. Furthermore, the regulations of the Alcoholic Beverages Control Commission require that a licensee cannot permit any illegality to occur in or on the licensed premises.

Also, license holders subject to this new requirement may lose their alcoholic beverages license if they fail to obtain the required Certificate of Inspection. For example, a fire chief may not sign the Certificate of Inspection with any outstanding fire code violations, according to the DFS.

(Added February 19, 2014)

3.15 All licensees shall ensure that a copy of the rules and regulations of the local license board is kept on the premise at all times and is available for inspection upon the request by a member the license commission or the police department. These rules and regulations are to be kept in the office of the manager or in/near the main cash register of the establishment. The licensee is responsible for ensuring that all employees who work in the on the premises read the rules and regulations and comply with all rules and laws.

(Added February 19, 2014)

3.16 It shall be the responsibility of the licensee to ensure that procedures are in place, be it by posting a doorman or otherwise, to allow police and authorized agents of the board, immediate entrance into the premise at anytime employees and staff are on the premises. Any delay in providing such access shall be cause for action against the licensee.

(Added February 19, 2014)

3.17 In the event that a disturbance or breach of the peace occurs on the licensed premise, its exterior or involving any of their patrons or physical injury to any person, the licensee or responsible person shall promptly notify the

police department and shall take any and all reasonable steps to assist such injured person and shall cooperate with the police investigation.

(Added February 19, 2014)

3.18 The Licensee is responsible for notifying the Commission should the Licensee be found in violation of any Building or Health Codes or any local, state, federal laws, ordinances or restrictions.

(Added February 19, 2014)

#### **4. Responsibilities of the Chairperson of License Board:**

4.1 The Chair shall have the following duties and responsibilities:

Preside at all meetings of the Board, maintain order in the meeting room by recognizing speakers, calling for votes, and presiding over the discussion of agenda items and generally being guided by Robert's Rules of Order, except as modified herein.

Sign official documents when necessary;

Call special meetings of the Board in accordance with the Open Meeting Law;

Review and set meeting agendas with the City Clerk;

Represent the Board at prearranged meetings, conferences, ABCC hearings and other gatherings and report results to the other Board members. The Chair will notify other members in advance, when possible, of prearranged meetings with licensees and others.

#### **5. Action Guidelines for License Violations**

5.1 The following are guidelines The Fitchburg License Board will consult to determine consequences of violations of M.G.L. Chapters 138 and 140 and the rules and regulations of the Fitchburg License Board and the ABCC. These are only guidelines and the Board reserves the right to use discretion in applying them to specific situations.

5.2 When the Board is made aware of a violation at a licensed liquor establishment, the license holder will be summons to a public hearing. The summons notice will include the date of the hearing, a description of the violation, the law or regulation violated, the names of the people involved, or a police report number, if appropriate. Note: only the Fitchburg Police department can release copies of police reports. The summons notice will inform the licensee that they have a right to be represented by an attorney and that there may be action taken against their license. The licensee will be allowed to present a defense of the allegation including presenting witnesses. They will have an opportunity to question witnesses presented by the Board. The License Board may request the City Solicitor to be present and assist in questioning witnesses. Members of the public may be allowed to speak at the hearing after being recognized by the Chairman.

##### **First Offense:**

1. License suspension for 1-3 days (Suspension or part of suspension may be held in abeyance for predetermined timeframe pending no further violations)

##### **Second Offense within 24 calendar months:** either or both actions may be taken

1. License suspension for 1-10 days plus any days held in abeyance
2. Change of operating hours
3. Restrictions placed on license for occupancy numbers
4. Suspension or restrictions placed on entertainment permit

##### **Third Offense within 24 calendar months:** multiple actions may be taken

1. License suspension for 3-21 days plus any days held in abeyance
2. Change of operating hours
3. Restrictions placed on license for occupancy numbers
4. Suspension or restrictions placed on entertainment permit

##### **Fourth Offense within 24 calendar months:** multiple actions may be taken

1. License suspension for 10-31 days plus any days held in abeyance
2. Change of operating hours
3. Restrictions placed on license for occupancy numbers
4. Suspension or restrictions placed on entertainment permit
5. Restrictions placed on license for occupancy numbers
6. Suspension or restrictions placed on entertainment permit

### **5.3 Revocation of license**

Depending on the severity or number of offenses, the Board may use 36 calendar months for determining the number of offenses.

(Revised June 20, 2011)

These rules supersede any prior rules issued by the License Commission and shall remain in effect until canceled or modified.

Effective 01/01/07 (Amended 2/19/2014)

### **6. On Premise "Pouring" Licenses - CH. 138 Section 12**

6.1 Premises licensed under the provisions of Chapter 138 Section 12 of the General Laws, can be open to the public Monday through Saturday, 8:00 a.m. to 11:00 p.m., and from 12:00 p.m. to 11:00 p.m. on Sundays. A late closing permit can be issued, at the discretion of the Board, for the hours between 11:00 p.m. and 2:00 a.m. and must be displayed with the license.

6.2 Any use of any coin operated amusement device for gambling purposes shall result in the suspension and/or revocation of the alcoholic beverage license as well as the license granted for the use of said device.

6.3 Any licensee intending to close his place of business must notify the Board, in writing, before such closing, and state the reason and length of such closing. If the closing is due to unforeseen circumstances or an emergency, the licensee must notify the Board as soon as possible.

6.4 Whenever the Board suspends the liquor license of any licensee, the Board shall provide the licensee with a sign containing the words, "Liquor License suspended by order of the Licensing Board for the City of Fitchburg". The sign shall be attached in a conspicuous place on the inside, visible from the outside of the licensed premises, and remain in place during the entire period of such suspension.

6.5 No renovations or changes to the premises may be made without prior approval of the License Board.

6.6 The main entrance to the licensed premises must remain unlocked until all patrons have left the premises at closing time. Clubs are exempt from this regulation. All licensed establishments must allow immediate access to License Board members, Police and all agents of the License Board while patrons or employees are on the premise. Employees and management must cooperate while the police investigate disturbance calls. All doors to establishments must remain closed during normal business hours.

6.7 All patrons must be off the licensed premises before the closing time stated on the license or late closing permit.

6.8 Licensees and their employees may remain upon the premises after closing for the purpose of cleaning, making emergency repairs, providing security for such premises, preparing food for the next day's business or closing the business in an orderly manner. No alcoholic beverages are to be served or consumed after closing hours.

6.9 Employees and management are prohibited from consuming alcohol while on duty.

6.10 In every premise licensed to sell alcoholic beverages in which entertainment known as nude dancing is conducted, there shall be at least a two foot space or separation between dancers and patrons. There will be no touching or physical contact between dancers and patrons.

6.11 Establishments licensed under Ch.138 Sec. 12 shall place a portable sidewalk barrier on the outside of their establishment to maintain a minimum three foot unobstructed pedestrian walkway on the public sidewalk. The license Board may exempt licensees from this requirement due to individual circumstances.

6.12 All establishments will stop serving alcohol at least thirty (30) minutes before closing time.

6.13 Licensees shall refuse entrance to the premises any person who appears to be intoxicated or unruly; and shall evict a patron, except that in such case the licensee should call the police and should offer assistance to an intoxicated person when possible.

(Added February 19, 2014)

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

- Persons who wait inside the premise shall be kept in an orderly line and must not be permitted to block fire aisles or exits. The number of such persons waiting inside the premises shall not exceed the number of persons allowed as standees.
- Persons who are allowed to wait in line outside the premise shall be supervised by an employee of the licensed premise. Such employee shall stand outside with the line during all times when the line exceeds ten (10) persons and shall announce no further admissions to the premises if persons in line are loud or disorderly or if the line is blocking the sidewalk or it is of size the could reasonably be expected to cause noise or other problems for residents of the area or for passersby. To the extent that lines in front of licensed premises become the subject of public complaints, the licensee shall have been deemed to be inviting a nuisance and shall be subject to disciplinary proceedings for the same. It is recommended that the licensees in residential areas discourage lines of more than ten (10) persons

(Added February 19, 2014)

6.15 Licensees shall act reasonably and diligently to disburse loiterers or patrons who attempt to congregate in front of or at the licensed premise. Failure of the licensee to keep persons from congregating at the licensed premises may lead to disciplinary action against the licensee for allowing a public nuisance. Action to be taken by the licensee shall include:

- Maintaining the front door in a closed position;
- Asking loiterers to disburse;
- Promptly notifying the police if loiterers refuse to disburse;
- Hiring a doorman, unarmed security guard or stationing an employee at the front door to disburse loiterers;
- Refusing to allow patrons to walk in and out of premises at short intervals;
- Licensees are required to monitor patrons outside the premise with an employee should they allow their patrons to walk in and out for the purpose of smoking;
- Maintaining order in lines of patrons waiting outside to get in;
- Announcing that no further patrons will be allowed into the premises if the lines become to long or disorderly or loud.

(Added February 19, 2014)

6.16 No advertising matter, screen, curtain or other obstruction which in the opinion of the board prevents a clear view of the interior of the premises shall be maintained in or on any window or door thereof after the board has ordered the removal of such obstruction. No booths, stalls or enclosures of any description are permitted which prevents the persons therein from being plainly observed by other persons on the premises.

All shades, curtains, blinds etc are not permitted to remain completely closed preventing a clear view of the interior of the premises at all hours when the premise is either open or closed for business.

(Added February 19, 2014)

6.17 Where a "Cover Charge" is required by an establishment, a sign will be conspicuously posted at every entrance in letters no less than one inch in height stating that a "Cover Charge" shall be charged and also stating the amount of the charge and the following statement in letters no less than one quarter inch in height stating the following: "Posting of this sign is required under MGL Ch. 140 s. 183D, ABCC Regulation 204-2.16 and Fitchburg Board of License Commissioners Regulation 11.7.

(Regulation added April 2, 2007)

6.18 These rules supersede any prior rules issued by the License Commission and shall remain in effect until canceled or modified.

Effective 01/01/07 (Amended 2/19/2014)

## **7. Off Premise "Package Store" Licenses – CH. 138 Section 15**

7.1 Supermarket/variety stores must submit a diagram showing the layout of proposed alcohol area for approval by the License Board. During hours the supermarket/variety is open but alcohol sales are prohibited, the licensee must cover displays and coolers to prevent alcohol sales. ex. early mornings, Sunday mornings

7.2 Each license holder shall maintain a detailed list on premise, including name, address, and contact number of all employees. The license holder shall also maintain either the original or a copy of the certificate of training for each employee engaged in the sale or serving of alcoholic beverages and/or beer and wine. Such employee list and certificates of training shall be made available during normal business hours to a police officer and any investigator or agent of the License Board or the Alcoholic Beverages Control Commission.

7.3 Use of drive-up windows to dispense alcohol is prohibited

7.4. These rules supersede any prior rules issued by the License Commission and shall remain in effect until canceled or modified.

Effective 01/01/07

**8. Special "One Day" Licenses** – CH. 138 Section 14, 204CMR 7.00

8.1 A complete application must be filed fourteen (14) days prior to the event for which the special license is being requested.

8.2 A hearing on the application shall be held by the License Commission at least two weeks prior to the event. A person who is familiar with how the liquor is to be served and purchased must attend the hearing to represent the applicant.

8.3 Liquor must be purchased through a wholesaler for one day liquor events. If all liquor is not used during event it must be returned to wholesaler. It is illegal to store the liquor on premises to be used for future events.

8.4 Licenses are issued by local licensing authorities and shall not be issued to any person (s), association, partnership or corporation already issued or in the process of being issued a license to sell alcoholic beverages as approved by the commission. A special license cannot cover any area that is included in the description of premise of a currently licensed establishment.

8.5 Liquor must be dispensed by someone who has attended and successfully completed a TIPS (Training for Intervention Procedures by Servers of Alcohol) or a substantially equivalent alcohol server safety program and familiar with the laws regarding the service of liquor.

8.6 The License Commission shall establish requirements for Police coverage of the licensed event on a case by case basis.

8.7 Failure to abide by these regulations, MGL Ch 138 or any provision of ABCC regulations pertaining to alcoholic beverages shall be grounds to deny, suspend or revoke any special license issued under MGL CH 138, s 14 and could prohibit future license approvals.

8.8 These rules supersede any prior rules issued by the License Commission and shall remain in effect until canceled or modified.

Effective 01/01/07

**9. Club License** – CH. 138 Section 12

9.1 The entrances to the premises shall be kept closed and locked. Admittance to the premises may be by key, card, electronic device or doorbell to be operated by a member of said club.

9.2 The names and addresses of all club members must be provided to the Board as part of the annual renewal application of each present Club licensee on an annual basis. New applicants for Club licenses must provide a list of charter members names and addresses and update the list annually at renewal time.

9.3 Only club members may be permitted to enter the licensed premises except under the following conditions:

9.3.1 Each guest will sign a register immediately upon entering the Club and will record the date, their name and residential address and the member's name they are the guest of. The guest register must be available for Board inspection for at least one year after the final entry.

9.3.2 Each guest must be escorted into the Club by a Club member who shall sign his or her name on the guest register next to the guest's name. The member must be present for the duration of the guest's visit. If the member

leaves, the guest must leave at the same time. If a guest is renting part of the club premises for a private party, the member must be present during the entire time of the party and the member is responsible for the actions of the party participants.

9.4 Any person who is not made a member of the Club for at least six (6) months, has not paid an annual membership fee and is not recorded in the Club's log of members is considered to be a "guest" for the purpose of these regulations.

9.5 All establishments will stop serving alcohol at least thirty (30) minutes before closing time.

9.6 These rules supersede any prior rules issued by the License Commission and shall remain in effect until canceled or modified.

Effective 01/01/07

#### **10. Entertainment Permits**

10.1 An application for an entertainment permit will include a specific description of the type of entertainment provided. Ex.: DJ with amplified sound system, acoustic guitar with no amplifier, three piece band with amplified sound system.

10.2 There will be no amplified music outdoors and no speakers from amplified music inside will be placed outdoors except with special permission from the Board on individual days.

10.3 Speakers inside the premise will be placed to face into the premise.

10.4 All entertainment shall be conducted so that no unreasonable noise shall be audible, under any circumstances, upon the sidewalk adjoining the licensed premises or upon any abutting premises. The Board will determine unreasonable noise.

10.5 A permit is necessary for both a raffle and a Las Vegas night event. Permits are issued by the clerk of the municipality in which the winning raffle number is going to be drawn or the event is going to be held. These events are regulated by MGL Chapter 271, Section 7A, "Conduct of Raffles and Bazaars."

10.6 Any form of entertainment such as a DJ with an amplified sound system, acoustic guitar with no amplifier, band with an amplified sound system or other form of entertainment that creates any amplified sound must be turned off and left off 30 Minutes prior to closing.

*(Amended April 23, 2014)*

10.7. These rules supersede any prior rules issued by the License Commission and shall remain in effect until canceled or modified.

*(Amended 2/19/2014)*

#### **11. Amusement Device Permits**

11.1 The maximum number of coin operated amusement devices on one premise is (5) five. A diagram showing the placement of amusement devices in a premise must be presented to the Board for approval.

The Board reserves the right to permit and license additional devices upon finding that the applicant intends to operate a pool hall or arcade. *(Revised April 7, 2014)*

11.2 Any use of any coin operated amusement device for gambling purposes shall result in the suspension and/or revocation of the alcoholic beverage license as well as the permit granted for the use of said device.

11.3 No coin operated amusement device will be delivered to a premise before a permit is approved by the Board. Use of devices without a permit could result in the denial of a permit.

11.4 The maximum number of pool tables on any premise is (2) two and must be approved for a permit before delivery and use. The Board reserves the right to permit and license additional devices upon finding that the applicant intends to operate a pool hall or arcade. *(Revised April 7, 2014)*

11.5 A diagram showing the placement of pool tables in a premise must be presented to the Board for approval. There must be a (4) four foot space on all sides of a pool table.

11.6 A diagram showing the placement of dart boards in a premise must be presented to the Board for approval. Each dart board must be located on a solid wall with a barrier, on each side of dart board, extending from said wall a minimum of (8) eight feet. The first (5) five feet of barrier will be (8) eight feet high and the last (3) three feet will be at least (4) four feet high.

11.7 All coin operated amusement devices, pool tables and dart boards are not allowed to be used and shall be turned off once last call has been given (30 Minutes prior to Closing).

(Added February 19, 2014)

11.8. These rules supersede any prior rules issued by the License Commission and shall remain in effect until canceled or modified.

Effective 01/01/07 (Amended 2/19/2014)

## **12. Regulation for Outdoor Seating for Liquor Licenses in The City of Fitchburg**

12.1 \*The liquor license holder is responsible for obtaining all necessary approvals from any other City Department as required by law when applying for an Alteration of Premise through the License Board. The application description will include the size of the outdoor area and the number of seating available. The License Board may place restrictions on the license based on comments and recommendations of other City Departments.

12.2 The outdoor seating area must be contiguous to the main liquor establishment. There must be an unobstructed view of the outside area from the bar or a door person must be in sight of the seating area.

12.3 The size of the outdoor area must be approved by the License Commission. A minimum (4) foot unobstructed walkway for pedestrian traffic must be provided using temporary barriers.

12.4 Tents or temporary structures, either fully or partially enclosed must be approved by the License Commission. Canopies with all sides open could be allowed if approved by the Building Department and License Commission. A permanent structure added to the licensee's establishment, must have three (3) sides open and be approved by the Building Department and License Commission.

12.5 To contain the consumption of alcohol within the outdoor seating area, a system of containment must be in use. No alcohol may be consumed outside of the contained area except inside the licensed establishment.

12.6 The license for outdoor area will be seasonal from April 1<sup>st</sup> through October 31<sup>st</sup>. All tables, chairs and accessories used in the outdoor seating area must be removed between November 1<sup>st</sup> and March 31<sup>st</sup>.

12.7 The hours of use will be no earlier than 10AM and no later than 1:30 AM. These hours of use, for each establishment, maybe reviewed and amended by the License Board for any reason.

12.8 Liquor License holders who are not in compliance with this regulation could forfeit the use of outdoor seating and may have their Liquor License modified, restricted or revoked.

12.9 These regulations may be modified for individual licensees at the discretion of the Board of License Commissioners.

*\*Rule 12.1 Temporarily Suspended on June 5, 2020 until November 1, 2020 or until earlier date if Rule 13.1 rescinded by Governor.*

**13. Special Temporary Extension of Licensed Premises**

13.0 License holders may request to temporarily extend their license premises to contiguous outdoor space by using the City of Fitchburg's Special Temporary Extension of Licensed Premises application. The Board, at its discretion, may request any additional information or supporting documentation necessary to review the request. Such review will be conducted administratively by the Board. The granting of any such request shall be on a temporary, non-precedent setting basis and shall not constitute an alteration of premises nor serve as the basis for a permanent change to the licensed premises.

Effective 06/05/2020

