

# **Liquor License Policies, Procedures, Regulations, and Application**

*Adopted by the Harvard Board of Selectmen 03/02/2010*

## *Introduction*

The town of Harvard has voted affirmatively to allow liquor licenses for the sale therein of alcoholic beverages by restaurants and function rooms having a seating capacity of not less than one-hundred persons, accepting the provisions of MGL c.138, § 11E.<sup>1</sup> A home rule petition<sup>2</sup> enables the Local Licensing Authority (LLA) to grant one license to the premise located at 1 Still River Road (aka The General Store) and up to two additional licenses elsewhere in Harvard for the sale of wine and malt beverages not to be consumed on the premises.

In issuing regulations, the Board of Selectmen, as the liquor licensing authority of the Town of Harvard, is setting forth the expectations of the citizens of Harvard as to the conduct of the Town's liquor license holders.

Under Massachusetts General Law, the LLA acts on behalf of the State (the Alcohol Beverage Control Commission (ABCC)) which authorizes the issuance of a liquor license. As the LLA, the Selectmen both follow the regulations set forth in the law and may add or amend requirements as long as it is within their powers to do so. The ultimate authority to issue the licenses resides with the ABCC. However, the LLA has a broad range of conditions that they can impose on a license holder, ranging from hours of operation, outdoor seating, trash, parking, signage and other items as appropriate. The board makes every effort to be consistent in their application of conditions with entities of a similar type.

The Town Administrator is the designated Licensing Agent of the Board of Selectmen (the LLA). The Licensing Agent has the authority to accept and reject applications that do not meet the minimum requirements of the ABCC and/or the Town of Harvard.

Applications regarding premises not actually in existence at the time of application will not be approved unless and until a building permit has been issued by the Town of Harvard and the applicant has filed with the application a plan showing the actual dimensions of the premises which are to be constructed on which the licensee is to be exercised. If construction of the premises is not completed at the time the license is approved, the license may be approved on the condition that construction shall be completed and as-built plans shall be filed prior to the issuance of the license.

Approvals of applications by the Licensing Board are valid for six months from the date of approval by the ABCC. If such time expires before the license is issued, due to the applicant's failure to meet all of the conditions imposed by the Local Licensing Board, the license will be declared invalid and not be issued, and the license fee will not be refunded. Applicants who wish to re-apply shall be considered "new applicants" and not as a renewal and be reheard by the Licensing Board.

Applications will only be accepted on Monday, due to newspaper deadlines regarding providing public notice.

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<sup>1</sup> "Shall licenses be granted in this city (or town) for the sale therein of alcoholic beverages by restaurants and function rooms having a seating capacity of not less than one hundred person?"

<sup>2</sup> Chapter 127 of the Acts of 2009

## *General License Types, Rules, and Regulations*

- a) **Types of Alcohol Licenses that can be granted by the Harvard Board of Selectmen via the ABCC:**
    - a. A “restaurant” license authorizes the sale of alcoholic beverages by an establishment licensed as a Common Victualler that has the equipment and capacity for serving food, and a seating capacity of not less than one-hundred persons.
    - b. An “off-premise” license is defined as a “package store license.”
  
  - b) **Additional licenses** that can be granted exclusively by the Harvard Board of Selectmen:
    - a. A “Carry In” license. The Commonwealth allows licensed food establishments, through local control, the ability to have patrons carry in alcoholic beverages for their consumption on premises. Effective 3.1.2011, the LLA permits holders of an entertainment license to also apply for a Carry In license.
    - b. As a result of Senate Bill 2582, S. 15F was added to Chapter 138 of the MGL, enabling ABCC licensed Farmer-Wineries to sell their products at Department of Agriculture-certified events. This license is restricted to off-premises wine.
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- i. **Knowledge of Rules and Regulations:** The licensee is responsible for ensuring that all employees who work in the public areas of the premises read the Rules and Regulations of the LLA, and comply with all rules and law.
  
  - ii. **Filing of Application:** All license applications must be accompanied by payment of the required filing fee and must be deemed complete by the Town Administrator, in order to be processed by the LLA.
  
  - iii. **Filing fees:** Annual license fees must be paid prior to the issuance of any new or existing license. The licensee must also be up to date on taxes. (MGL c.40, §57), and all appropriate permits must be current.
  
  - iv. **Posting and Signs of License:** Licenses issued by the LLA shall be posted in a conspicuous place easily viewed by the public where they can read without difficulty and without the assistance of employees at the premise.
  
  - v. **Cessation of Operation:** Any licensee intending to close a place of business, whether on a temporary or permanent basis, must notify the LLA.
  
  - vi. **Change of Manager:** Any licensee intending to change managers, whether on a temporary or permanent basis, must notify the LLA and follow the ABCC process.
  
  - vii. **Employees:** No manager or employees shall consume any alcoholic beverages while on duty.
  
  - viii. **Hours of Operation:** The hours of operation shall be restricted to those set by the LLA and stated on the face of the license.

- ix. **Inspection of the Premise:** The licensed premise shall be subject to inspection by the members of the LLA and its duly authorized agents, the Zoning Enforcement Officer, and Public Safety officers. It is the responsibility of the licensee to ensure that procedures are in place.
- x. **Illegal activity:** Licensees shall make all reasonable and diligent efforts to ensure that illegal activities not occur at the licensed premise.
- xi. **Carry-In:** The Town of Harvard, the local licensing authority, requires that any establishment and/or holder of an entertainment license wishing to have patrons bring in *only* beer and wine fill out the application form, and pay the filing fee.

### *Licensing Process*

For on-premises, off-premises, and one-day events. Process for Farmer-Wineries to attain local license to sell at Department of Agriculture-certified events (e.g., Harvard Farmer's Market) follows on page 5.

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#### *Step I*

1. All applications required by the ABCC
  2. Town of Harvard – Application for a new/renewal license
  3. Application for Workers Compensation
  4. Proof of Insurance
  5. Check made payable to the Town of Harvard (see rates and fee schedule)
  6. For on-premises license *only*: All employees serving alcohol go through a TIPS training and provide proof of TIPS training.
  7. For off-premises license *only*: All employees selling alcoholic beverages shall be trained to the satisfaction of the Chief of Police on requirements for age verification and proper age-verification methods.
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#### *Step II*

1. Once the required application materials and forms are deemed complete by the Town Administrator, the applicant must submit all completed forms and other required documentation to office of the Board of Selectmen.
  2. A hearing will be scheduled at a regular or special meeting of the Board. The applicant is required to provide proof that all abutters have been properly notified of the proceedings. Hearings typically address such issues as noise, trash, parking, traffic, overall operations of the facility and character of the applicant and manager. (Renewals, excepting one-day licenses, will not need a public hearing but will need selectmen approval at a regular meeting.)
  3. At the hearing, the Board of Selectmen will approve or disapprove the application.
  4. If approved, the Board of Selectmen will forward the application to the ABCC for final approval.
  5. If disapproved, the Board of Selectmen will notify the applicant in writing within five days of the denial including the reasons for the denial.
  6. The ABCC is a state agency that issues final approval or disapproval. Upon reaching a decision, the application is forwarded back to the Board of Selectmen.
  7. Upon ABCC approval, the Board of Selectmen will issue an approval letter explaining remaining fees, inspection approvals, and required certificates due before a license is issued.
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#### *Step III*

1. The Building Commissioner will then inspect the premises for compliance with all zoning, and building, and, if approved, will provide copies of all required permits to the Board of Selectmen via the Town Administrator.

2. The Board of Health will likewise inspect the premises, forward a copy of the Title V Certificate of Compliance, and all public health related permits along with a letter indicating their final approval.
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#### *Step IV*

1. The Fire Department and Police Department will inspect the site, if approved, and will submit a letter confirming compliance with any conditions or regulations that apply to the premise to the Board of Selectmen, via the Town Administrator.
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#### *Step V*

1. The liquor license will be issued through the mail, unless arrangements are made otherwise by the applicant.
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*Process for Farmer-Winery license to sell at Harvard Farmers Market (or other MDAR-certified events) c. 138, S. 15F*

#### *Step I*

1. Completion of Sections 1 through 8 of 'Town of Harvard Liquor License Application.'
  2. Receipt of MDAR acceptance letter, first three pages of MDAR application indicating Farmer-Winery license #, contact information, map of premises, and hours certified by MDAR.
  3. Check for \$50 made payable to the Town of Harvard.
  4. For off-premises license *only*: All employees selling alcoholic beverages shall be trained to the satisfaction of the Chief of Police on requirements for age verification and proper age-verification methods.
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#### *Step II*

1. The applicant submits the MDAR forms, the 'Application by Farmer-Winery for license to sell at the Farmers' Market,' and check to the Office of the Town Administrator.
2. At the next regularly scheduled meeting, the Board of Selectmen will approve or disapprove the application.
3. If approved, the Board of Selectmen will forward the application to the ABCC..
4. If disapproved, the Board of Selectmen will notify the applicant in writing within five days of the denial including the reasons for the denial.

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### *Enforcement*

Any conditions the Selectmen impose on the license, once issued, will be the responsibility of the Zoning Enforcement Officer and/or Public safety officers to enforce any violation of these conditions. Upon report of a violation, a hearing is required before the Selectmen who can vote to suspend or revoke the license. Continued infractions will result in loss of license.

The LLA and any enforcement designees (the Police Department) may at any time make investigation on its own initiative as to the compliance with license requirements.

### *Disciplinary Remedies*

In general, in matters of the first offense, the Board shall consider the issuance of a letter of reprimand to the owner and his representative (if there is one), a copy of which shall be placed on file in the license record of the office of the Town Administrator.

In matters of a second offense within the period of 12 calendar months, the Board shall consider the issuance of a suspension for a period of 1-14 calendar days and shall state the period of suspension.

In matters of a third or subsequent offense within 12 months, the board shall consider a second suspension for a period of 1-30 calendar days and/or revocation of the license.

All of the above considerations shall serve as *guidelines* to the Board of Selectmen in their deliberations regarding charges brought against the establishment, owner, proprietor, or other operators concerning infractions of the liquor laws of the Commonwealth and the Town of Harvard. Each case shall be considered upon its individual merits.

# Town of Harvard Liquor License Application

Renewal of License

New License

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## Section 1: Contact Information

Name to Appear on License: \_\_\_\_\_

Business Name (d/b/a, if different): \_\_\_\_\_

Manager of Record: \_\_\_\_\_

Manager Address: \_\_\_\_\_

Address of Premise: \_\_\_\_\_

Phone Number of Premise: \_\_\_\_\_

FID: \_\_\_\_\_

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## Section 2: Type of License

General On-Premise       Package Store       Carry-In       Farm-winery at Ag Events

## Section 3: License Category

All Alcohol       Wine & Malt

## Section 4: License Class

Annual       One-Day

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## Section 5: Person (attorney, if applicable) who can be contacted concerning this application

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

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**Section 6: Description of Premise (if applicable)**

Seating Capacity: \_\_\_\_\_

Occupancy Number: \_\_\_\_\_

Hours of Operation: \_\_\_\_\_

**Section 7: Tax Attestation**

*I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state and local tax returns and paid all state and local taxes required under law. This license will not be issued unless the applicant signs this certification clause.*

Signature of Individual or Corporate Name (Mandatory)

Signature of Corporate Officer (Mandatory if Applicable)

Social Security Number (Voluntary) or  
Federal Identification Number

Date

Your Social Security Number will be furnished to the Department of Revenue to determine whether you have met tax filing or tax payment obligations. Licensees who fail to correct their non-filing or delinquency will be subject to license suspension or revocation. This requirement is made under the authority of the Massachusetts General Law Chapter 62C, Section 49A.

The Town of Harvard has adopted a by-law (MGL C 40, s.57) which states a license or permit may be denied, revoked, or suspended for non-payment of local tax betterments or assessments.

**Section 8: Fee Schedule**

- Filing Fee: \$50
- New* All Alcohol On-Premise: \$5,000.
- New* Wine & Malt Package: \$2,500.
- BYOB (Carry-In): *Included in filing fee*
- Renewal* All Alcohol On-Premise: \$2,500.
- Renewal* Wine & Malt Package: \$1,250.
- Farmer-Winery sale at Agricultural Events \$50

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**For Office Use Only**

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*Application Process (Steps I & II)*

- Date Submitted: \_\_\_\_\_  Town Fees Paid (Amount: \_\_\_\_\_)
- All State ABCC Forms Completed (applicable to On-Premises Consumption and Package Store *only*)
- Workers' Compensation Form  Certificate of Insurance \

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*Application Process (Steps III & IV; not applicable Farmer-Winery sales at certified Agricultural events)*

- Building Commissioner Review, Documents  Board of Health Review, Documents
- Fire Chief Review  Certificate of Compliance (Title V) on file
- Police Chief Review
- TIPS-certified servers  Manager: TIPS Certification, 21 years or older  
(On-Premises and Off-Premises *only*)

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- Board of Selectmen Conditions on the License
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*Application Process (Step V)*

Conditions met  License (or Permit) Sent