

Town of Lunenburg
Board of Selectmen



Policies and Procedures

November 12, 2013

as revised 3/20/14

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TOWN OF LUNENBURG

Board of Selectmen

Policies and Procedures

Article 1. Procedural Policies Purpose

Section 1.01 Purpose

These policies and procedures shall address those topics that cannot be dealt with elsewhere. Its content should be considered supplemental and subordinate to language embodied in state statute, Town Charter and Town By-law.

Subjects which are more appropriately addressed in statute, by-law or regulation shall not be included in this format, except in reference. The individual policies and procedures embodied herein are severable. If any of them are held to be unconstitutional or invalid, the remaining policies and procedures shall not be affected thereby.

Section 1.02 Establishment of Policies and Procedures

Draft policies and procedures will be placed on the agenda for any regularly scheduled meeting of the Board. Drafts will be in writing, and may be introduced only by a member of the Board or the Town Manager. Upon receipt of a draft, the Board may choose to discuss the policy immediately or schedule the discussion for a future meeting. The Board may schedule any hearings or meetings it deems necessary for discussion. The Board may distribute a draft the comment to appropriate officials as it deems necessary.

The Board will not vote on a policy at the same meeting that that it is first introduced. This rule may be waived if the majority of the Board votes that prompt action is necessary. A unanimous vote of a three member board or four votes of a five member board is necessary for adoption. Policies and Procedures will be distributed to all new board members.

The Town Manager shall be responsible for the maintenance of all policies and procedures, for updating the Policy Manual with new and amended policies, and for ensuring that copies of the Board's policies and procedures are distributed to newly elected Board members. Copies of the Policy Manual shall be made available to the public at the Selectmen's Office and at the Office of the Town Clerk.

Section 1.03 Authority

The Board of Selectmen is an elected board and derives its authority and responsibilities from the statutes of the Commonwealth of Massachusetts, and from the Charter and by-laws of the Town of Lunenburg.

Section 1.04 Authority of the Town Manager

According to the Charter, the Board is responsible for appointing a Town Manager, who functions as the Town's Chief Administrative Officer. The primary responsibilities of the Town Manager are defined in the Charter Article 4 Section 4-2, & Section 4-3.

The Town Manager must maintain a close working relationship with all members of the Board. He/she shall brief the Board of all important issues.

Section 1.05 Duties & Responsibilities - Standards of Conduct

A member of the Board, in relation to his/her responsibility to the community, shall: recognize that his/her primary role is to set policy, with responsibility for administration delegated to the Town Manager;

- recognize that he/she is a member of a team, and shall abide by all Board decisions once they are made;
- be well informed concerning the duties of a Board member on both state and local levels;
- remember that he/she represents the entire community at all times;
- accept the Office of the Selectmen as a means of unselfish public service, not to benefit personally or professionally from his/her Board activities;
- in all appointments, avoid political patronage by judging all candidates on merit, experience and qualifications only; and
- abide by the provisions established by the Commonwealth in M.G.L. Ch 28A as they apply to municipal officials.

As a member of the Board, a Selectmen shall:

- endeavor to establish sound, clearly defined policies which will direct and support the administration for the benefit of the people of the Town;
- recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administrations;
- give the Town Manager full responsibility for discharging his/her decisions and solutions;
- not make statements or promises of how he/she will vote on matters that will come before the Board until he/she has had an opportunity to hear the pros and cons of the issue at a Board meeting;
- make decisions only after all facts on a question have been presented or discussed;
- uphold the intent of executive session and respect the privileged communication that exists therein and;
- treat with respect the rights of all members of the Board despite differences of opinion.

Section 1.06 Organization

The Chairman shall be elected annually at the first regular meeting following the Annual Town Election. The Board may remove the Chairman at any time. A majority vote shall constitute an election. The immediate past Chairman shall preside as Chairman pro tem until the Chairman is elected. If there is no immediate past chairman, the senior member in terms of current service shall serve as Chairman pro tem. In the case of members with the same amount of seniority, the member receiving more votes in the most recent election shall serve. If a vacancy occurs in the office of Chairman, the board shall elect a successor. The Board shall further appoint a Vice-Chairman and Clerk under the same provisions for the Chairman.

Section 1.07 Responsibilities of Officers

The Chairman shall:

- preside at all meetings of the Board at which he/she is present. In doing so, he/she shall maintain order in the meeting room, recognize speakers, call for votes, and preside over the discussion of agenda items;
- sign official documents that require the signature of the Chairman, following a vote of the Board;

- call special meetings of the Board in accordance with the Open Meeting Law;
- prepare meetings agendas with the Town Manager;
- represent the Board at meetings, conferences, and other gatherings unless otherwise determined by the Board or delegated by the Chairman;
- serve as spokesman of the Board at Town Meetings and present the Board's position unless otherwise determined by the Board or delegated by the Chairman;
- make liaison assignments, as appropriate, and assign overview responsibilities for projects and tasks to Board members unless otherwise determined by the Board, and;
- arrange for the orientation of new members, unless otherwise noted
- ensure that the Board maintains a legal and open level of communication.

The Chairman shall have the same rights as other members to offer and second motions and resolutions, to discuss questions, and to vote thereon.

The Vice Chairman shall act in the place of the Chairman during his/her absence at Board meetings. Should the Chairman leave office, the Vice Chairman shall assume the duties of the Chairman until the Board elects a new Chairman.

The Clerk shall sign all official documents requiring the signature of the Clerk, with the authorization of the Board, and shall be responsible for recording minutes of any portion of meetings held in executive session for which the Town Manager is not present.

Section 1.08 Meeting Procedures

The Board of Selectmen functions only when acting as a Board in a legally constituted session. The Board functions as a body in all policy decisions and all other matters as required by law or determined by a vote of the Board in formal session. Selectmen are elected officials with responsibility to represent all segments of the community and there should be no restraint in the proper and reasonable exercise of this responsibility. The individual members of the Board shall respect their responsibility to other members of the Board so that the discharge of these duties may be accomplished in an expeditious and productive manner. Extended orations or arbitrary declarations are not conducive to intelligent and factual solutions to problems before the Board.

Meetings are to be conducted in accordance with generally accepted rules of parliamentary procedure and the Open Meeting Law.

A quorum shall consist of three members of the Board. As a practical courtesy, action on critical or controversial matters, the adoption of policy, or appointments shall be taken, whenever practicable, with the full Board in attendance. Actions and decisions shall be by motion, second, and vote.

Split votes will be identified by name in meeting minutes. The Chair will announce the outcome of each vote taken.

Regular meetings of the Board shall be held in the Joseph F. Bilotta Meeting Room as scheduled by the Board. Meetings shall be televised on the local cable access channel. Meetings falling on a legal holiday are usually canceled or rescheduled at the discretion of the Board.

In addition to regular meetings the Chair may call from time to time, as needed, working sessions. Working sessions shall be duly posted and recorded as are all other meetings, but the Board will take no action or votes during such sessions. The sessions will allow the Board to meet informally to discuss and work on current issues. All meetings of the Board shall be held in places accessible to the handicapped.

Meeting of the Board may be convened at the direction of the Chair whenever circumstances require. These will normally be convened to address unfinished business, respond to emergency situations, or to conduct informal working sessions. The Board will notice and record minutes of all meetings are required by MGL c.39.

Section 1.09 Agenda

The Town Manager bears primary responsibility for coordinating and planning the agenda for regular meetings of the Board. The Town Manager, in consultation with the Chair, shall prepare the agenda, and schedule a realistic time period for each appointment, interview, conference, or other scheduled item of business. All items to be considered must be submitted to the Selectmen's office by the close of business the Tuesday prior to the scheduled meeting date. Items of an emergency nature that develop after the close of the agenda may be added to the agenda by the Chair. The agenda for a regularly scheduled Board meeting shall be prepared by the end of the work day on Thursday the week prior.

Members of the Board, Staff, Town Manager or others who prepare background materials for a meeting should have such materials available by the close of business the week prior to the scheduled meeting date. If background information is insufficient or complex, any member should feel free to ask for additional time for careful study of an issue or a motion.

The Tuesday agenda shall be available to the public and the press at the Selectmen's Office and shall be posted on the bulletin board in accordance with Massachusetts General Law and posted on the Town's website.

Copies of the minutes of previous meetings and all important correspondence, reports and other pertinent background materials shall be held in the Selectmen's Office for inspection by interested parties and the press. In addition, a reasonable number of copies should be made available to the public for their inspection on the night of the Selectmen's Meeting.

**Public participation shall be limited to fifteen minutes with no more than three minutes allowed per speaker except at the discretion of the Chair.

Section 1.10 Executive Session

Where practical, executive session shall be scheduled at the end of the open meeting of the Board. Only items clearly allowed under the Open Meeting Law shall be included in executive session. Prior to calling for a motion to adjourn into executive session, the Chairman shall state the reasons for which an executive session is sought. The Chairman shall also state whether or not the Board will reconvene in open session. A majority of the members present and voting must vote to enter executive session by roll call vote.

Section 1.11 Public Comment

In recognizing that it both represents and is accountable to the residents of the Town, it is the policy of the Board to make every effort to strengthen communications with citizens. The Board will act to increase citizen participation, encourage citizen input into government decision, and to keep residents informed of all actions contemplated or taken by the Board which will affect them. To this end, the Board will take the following steps:

- public comment limited to three (3) minutes per citizen/group unless extended by the Chair;
- in addition to public comment, a resident or group of residents may request a meeting with the Board by contacting the Selectmen's Office, stating precisely the reason for the appearance and the Board action desired and by naming a spokesman for the group. As circumstances permit, such a meeting will be incorporated into the agenda of the next regularly scheduled Board meeting. Participants shall be allowed to make a reasonable presentation through the spokesman and to express opinions, and to ask for pertinent information. Residents making such presentations are encouraged to prepare written materials for the Board's review;
- The Town Manager will ensure that persons who will be directly affected by proposed Board discussion or action will be notified by the date and time of the meeting at which the matter will be discussed or acted upon by the Board;

- If the Board is considering matters of citizens concern at a regular meeting, the public will be allowed to ask questions or make statements relative to the matter under consideration at the discretion of the Chairman;
- The Town Manager and Board will ensure that all citizen questions and complaints are answered promptly by the appropriate body. Matters requiring the attention of the full Board shall be included in the agenda of the next regular Board meeting.

Section 1.12 Town Meeting

The Annual Town Meeting is held the second Saturday in May (per Town ByLaw). The deadline for filing articles is 42 days before the date of the meeting. Town Meeting shall be convened and conducted in accordance with Article I of the General Bylaws and Section 2.4-2.9 of the Charter.

Article II. Operational Policies

Section 2.01 Access to Town Counsel

All requests for the use of Town Counsel must be submitted in writing or verbally to the Town Manager. The Town Manager will henceforth act as the contact point between Town Counsel and the governmental body of the Town unless an alternate contact person is designated by the Town Manager.

The information furnished to the Town Manager must include:

- The request or the question.
- What date a response is needed by.
- What type of response (written/verbal) is needed.
- Any additional information you may feel is necessary.

The Town Manager will log in this request for Town Counsel's services and will respond as necessary for each request for services.

Emergency situations, should they arise, will be handled by contacting Town Counsel directly. Then, immediately notifying the Town Manager as to the subject matter of the request as well as an explanation as to why it was determined to be an emergency situation.

When a governmental body becomes aware that litigation is probable or imminent the Town Manager and the Board of Selectmen shall be notified immediately. A meeting shall then be scheduled by the Town Manager with all pertinent parties in attendance, including but not limited to; the governmental body involved, the Board of Selectmen, Town Manager and Town Counsel, to review strategy, risk assessment and cost limitations.

Section 2.02 Remote Participation

Adopted by: Board of Selectmen May 22,2013

Purpose Statement

The Office of the Attorney General amended the Open Meeting Law regulations at 940 CMR 29.00 to allow members of public bodies, in limited circumstances, to participate remotely in meetings. While members of Town Boards should make every effort to attend meetings in person, the new regulations seek to promote greater participation in government meetings by allowing members to participate remotely when certain specific circumstances prevent them from being physically present.

The intent of this policy is to establish clear guidelines on the practice of remote participation by Town Boards under the Open Meeting Law, M.G.L. c.30A, §§18 – 25.

Enabling Authority-940 CMR 29.10(8)

A municipality may adopt a policy that prohibits or further restricts the use of remote participation by public bodies within its jurisdiction.

Applicability

The Board of Selectmen, on May 22, 2012 voted to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town. The Board of Selectmen may revoke its adoption of 940 CMR 29.10 by simple majority vote at any time.

This policy and 940 CMR 29.10 shall apply to all Town boards, committees, commissions, sub-committees, task forces and working groups ("Town Boards") regardless of whether such Town Boards are appointed or elected. Where the Remote Participation Policy is more stringent than 940 CMR 29.10, the Policy shall control.

Minimum Requirements for Remote Participation

No member of a Town Board shall participate in a meeting remotely unless the following requirements are met:

- a. Members of the Town Board who participate remotely and all persons present at the meeting locations shall be clearly audible to each other and, if the meeting is televised, the member participating remotely shall be audible to the television viewing audience;
- b. A quorum of the Town Board, including the chair or the person authorized to chair the meeting, shall be physically present at the meeting location;
- c. To the greatest extent practical, and to ensure informed discussion and decision-making, members of the Town Board who participate remotely should have access to the materials being used at the meeting location.

Permissible Reasons for Remote Participation

It is the expressed intent of the Board of Selectmen that remote participation in meetings be an infrequent event, for both individual board members and Town Boards as a whole. Chairs of Town Boards are encouraged to interpret these rules in a strict fashion and encourage all members to attend meetings in person as a general rule, due to the inherent benefits of physical presence in a meeting.

A member of a Town Board may be permitted to participate remotely in a meeting if the member determines that one or more of the following factors makes the member's physical attendance unreasonably difficult yet still leaves that member able to actively participate in the meeting:

- a. Personal illness;
- b. Personal disability;
- c. Emergency;
- d. Military Service; or
- e. Significant geographic distance.

Technology

The following media are acceptable methods for remote participation. Accommodations shall be

made for any Town Board member who requires TTY service, video relay service, or other form of adaptive telecommunications.

- a. Telephone, internet, or satellite-enabled audio or video conferencing;
- b. Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

The focus of the chair should always be on maintaining the flow of the meeting. If the chair determines that technical difficulties are inhibiting the progress of the meeting, the chair may elect to terminate the participation of the remote member. If technical difficulties arise resulting in the loss of connection with the remote participant, that participant's attendance shall be terminated. Either such event shall be noted in the meeting minutes.

Each individual Town Board that anticipates using remote participation shall determine which of the acceptable methods may be used by its members.

Procedures for Remote Participation

1. Any member of a Town Board who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the person chairing the meeting of his or her desire to do so and the reason for and facts supporting his or her request.
2. The meeting chair shall make any necessary arrangements with appropriate Town personnel to ensure that the required equipment is available and, to the greatest extent practical, provide access to all meeting materials.
3. At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason for his or her remote participation. This information shall be recorded into the minutes.
4. Members participating remotely may vote and shall be counted as present for the meeting.
5. All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
6. Remote participation shall not be allowed when the Town Board is participating in an Executive Session.
7. The Town shall not be responsible for the reimbursement of any out-of-pocket costs associated with the remote participation of Board Members.
8. Members participating remotely are cautioned that the same obligations of consideration apply as in any physical meeting. Remote participants should direct all their attention to the meeting, and should make their decisions based upon the same information as is available to all the other participants in the meeting. The remote participant shall also state at the beginning of any meeting that no other person is in proximity who could exert undue influence on the participant and shall inform the chair if that situation changes.
9. The chair of any committee for which a request is received to participate remotely shall provide to the Board of Selectmen, no later than December 31 of each year, a report that indicates the date(s) of any meetings for which remote participation was requested, the name(s) of the individuals making the request, and a summary of any logistical, technical and compliance issues related to remote participation.
10. Under no circumstances may a member of a Town Board participate remotely in more than 10% of the Board's meetings on an annual basis.
11. Remote participation may not always be available in all meeting locations at all times.

Section 2.03 Computer Use – Under Review

1. Introduction

1.1 The Town of Lunenburg provides staff with computer equipment and the ability to communicate and receive information using electronic mail and the Internet. The Town utilizes this technology to improve staff efficiency and communication, and to serve the public more effectively. These computer resources are the property of the Town of Lunenburg and should be used for appropriate business purposes only. Town employees are expected to use their access to electronic mail and the Internet in a responsible and informed way.

Questions regarding acceptable use can be referred to the Technology Director or the Town Manager's Office.

2. Prohibited Activities

The following activities are strictly prohibited:

- a. Any illegal activity, including, but not limited to, the transmission of copyrighted or trade secret materials, obscene or threatening materials, or the participation in any type of criminal activity.
- b. Transmission of materials used for commercial promotion, product endorsement or political lobbying.
- c. Attempts to violate the Town of Lunenburg computer system or the computer system of any other municipality, institution, organization, company or individual.
- d. Software piracy, or the downloading and transferring of software for which the user does not have proper licensing.

3. Use of Computers

3.1 Authorized Use. Computers are provided for specific employees who utilize them to perform their job functions. Department Heads are responsible for determining which personnel are authorized to use each computer under the Department Head's purview. Any unauthorized use of computer equipment is prohibited.

3.2 Software. The copying or installing of software programs without prior approval of the Technology Director or the Town Manager is prohibited.

3.3 Virus Checking. Data files such as word processing documents, spreadsheets and database files which originate from computers other than those located in a Town office must be checked for viruses before use. Users needing procedures for checking viruses should contact the Technology Director. The Technology Director may impose additional restrictions or regulations on the importing of files from computers outside the Town's network.

3.4 Storage. Documents and data files stored on the town's computers are the property of the Town and may be accessed by authorized personnel for the purposes of, but not limited to, system maintenance, back-up recovery, virus checking and adherence to this policy.

4. Use of Passwords

4.1 Confidentiality. Passwords should be kept confidential at all times. Employees should endeavor to create passwords that are unique and not easily discoverable.

4.2 Changing Passwords. Users should periodically change their passwords. Users needed instructions for changing their password should contact the Technology Director.

5. Use of Electronic Mail/ Email and Website

5.1 Town Business. Email and the Website are effective ways to communicate with town employees and other job related contacts. Email and the Website are to be used for town business only. Email and any related online services, are the property of the Town of Lunenburg. Abuse of this privilege could result in the loss of Email and the Internet for the individual.

5.2 Content. Email and the Website should never be used for any illegal activity, including but not limited to, the transmission of copyrighted or trade secret material, the transmission of obscene, defamatory, or threatening material, or the propagation of any type of criminal activity. Email and the Website should also never be used to create offensive or disruptive messages or images. Among those things which are considered offensive are any messages or images which contain sexual implications, racial slurs, gender-specific comments, or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin or disability.

5.3 Public Record. Users are considered the custodians of their messages and should maintain messages according to relevant public records law.

5.4 Reserved Space

5.5 Unsolicited Email. Unsolicited email received from the Internet should not be opened. The user should delete the message immediately. Never open an attachment, especially if you do not know the source. Opening unknown attachments could initiate a virus.

6. Use of Internet Browsing Software

6.1 Privileges. Internet browsing capabilities are extended to those personnel requiring access to information on the World Wide Web.

6.2 Job Functions. Browsing should be limited to Internet sites directly related to the user's job function.

6.3 Downloading. Under no circumstances should software programs be downloaded from the Internet and/ or installed without the prior permission of the Technology Director of the Town Manager. See section 3.2.

6.4 Downloading Documents. Careful consideration should be made before downloading data files (word processing and spreadsheet files) from an Internet site. The reliability of the source of the document should be considered. Since harmful programs can be transmitted via documents, all documents must be checked for viruses prior to use. See Section 3.3.

7. Referral to the Technology Director

7.1 Unusual Occurrences. All matters relating to unusual occurrences must be reported immediately to the Technology Director. When something unusual occurs, record information such as steps taken and warnings from the computer to aid the Technology Director in diagnosing the situation.

8. Sanctions. Any employee who violates this policy or uses the Town's computer system for inappropriate purposes shall be subject to disciplinary action, up to and including discharge.

Section 2.04 Email Policy

All Governmental Bodies within the Town of Lunenburg should not exchange emails between a quorum of the Board, Committee or Commission, either on a collective basis or on a serial basis on substantive matters.

Section 2.05 Smoking

Smoking is prohibited in public buildings and outside areas in accordance with Massachusetts General Laws Chapter 270 Section 22.

Section 2.06 Vehicle Use Policy

I. Purpose

The purpose of this policy is to establish guidelines and standards for:

Vehicle Uses – Municipal, Personal, and Stipends

Personal Vehicle Use for Work Related Travel

Municipal Vehicle Assignments

Commuting and Imputed Tax

Vehicle Accident Reporting

Responsibilities When Driving a Municipal

Policy Exemptions

II. Applicability

The entire policy applies to all Lunenburg employees. Employee's whose employment is regulated by individual agreement or collective bargaining agreements are subject only to those portions of this policy that are not specifically regulated by law or agreement.

II. Definitions

Vehicle Stipend – the amount approved by the governing Board to compensate an employee for regular and routine use of a Personal Vehicle for work related travel. Vehicle Stipends are considered a salary item and as such, are subject to taxation.

Expense Reimbursement – payment for approved expenses relating to Personal Vehicle use upon receipt of written documentation. Expense reimbursement is not considered to be a salary item.

Municipal Vehicle – those automobiles, truck, vans, or other self-propelled equipment owned, rented, or leased by the Town and licensed for travel on a public way.

Personal Vehicle – that vehicle owned or available for private use by the employee.

Commuting – the use of Municipal Vehicle for travel between the employee's residence and his or her principal work location. Under Internal Revenue Service (IRS) regulations, the benefit of using a Municipal Vehicle for commuting is considered taxable income to an employee and the value of the personal use of the Municipal Vehicle will be included in his or her compensation.

IV. Vehicle Uses

Municipal Vehicles

It is the policy of the Town that certain positions require employee access to Municipal Vehicles, either during their work shift or on a 24-hour on-call basis. Municipal Vehicles are not Personal Vehicles and are not for personal use. Municipal Vehicles should be viewed as belonging to the citizens and are assigned solely for purposes consistent with providing services to those citizens.

Personal Vehicles

It is the policy of the Town to reimburse employees for reasonable expenses which they incur as a result of Personal Vehicle use on behalf of the Town. Receipts and expense reports must be submitted in a timely manner in order for employee to be reimbursed for such expenses.

Vehicle Stipend

It is the policy of the Town that in the event an employee is required to use his or her Personal Vehicle on a year round basis, and that employee has not been assigned a Municipal Vehicle, the governing Board may authorize the payment of a Vehicle Stipend. Such stipend may be rescinded with 90-day written notice and will not be paid in combination with personal automobile expense reimbursement.

Registering and Insuring a Vehicle

Whenever a new vehicle is purchased and registered, the Selectmen's office must be notified and appropriate paperwork completed immediately to add the vehicle to the Town's insurance policy.

V. Administrative Requirements

Reimbursement of Work-Related Travel Expenses

When an employee is authorized to use a Personal Vehicle for work-related travel, he or she shall be reimbursed for mileage at the IRS standard mileage rate, unless covered by contract or stipend, According to the IRS, the standard mileage rate for business purposes is based on an annual study of the fixed and variable costs of operating a vehicle. Employees will be notified by the Accounting Department of any changes to the IRS rate.

In accordance with IRS regulations/rulings, the mileage rate is intended to cover, but is not limited to, the cost of fuel, repairs, insurance, all operating costs, and general wear and tear on the Personal Vehicle.

In addition to the mileage rate, the Town will reimburse employees authorized to travel outside of the Town, driving a Personal or Municipal Vehicle, within the scope of employment, for tolls and reasonable parking expenses, when receipts are provided.

Employees receiving a Vehicle Stipend will not be reimbursed for tolls, but may be reimbursed for reasonable parking expenses. Employees will not be reimbursed for tolls that are paid by the employee during his or her normal commute to work.

Insurance

Employees who are authorized to use Personal Vehicles for work related travel are required to show proof to their Department Head, on an annual basis, of the following minimum levels of insurance coverage:

Bodily Injury: \$100,000/\$300,000

Property Damage: \$50,000

Employees will not be reimbursed for commuting between their homes and offices or other regular work locations.

In order to be reimbursed for Personal Vehicle use, employees must complete a Reimbursement Expense Form and submit with appropriate supporting documentation and/or receipts in a timely manner.

Imputed Income Taxation

Employees authorized to commute in a Municipal Vehicle may be subject to imputed income regulations as set forth by the Internal Revenue Service, which considers a certain portion of the vehicle use (namely the commute) to be income for the purposes of income taxation. The Selectmen's Office shall be responsible for determining any tax liability and will be provided with the names of all employees

authorized to use Municipal Vehicles for commuting purposes, and the normal, one-way commuting distance, each December 1st.

Employees who are assigned marked and unmarked police vehicles, and/or Municipal Vehicles that meet eligibility criteria as defined under 26 CFR 1.274-5T will not be subject to imputed income taxation as a result of the vehicle assignment. This includes Police and Fire Chiefs, Police Deputy Chief, Lieutenants and Detectives.

VI. Employee Driving Records

Employees utilizing Town vehicles in the course of their employment shall be subject to driving record check annually through the Registry of Motor Vehicles. This is necessary for the Town to appropriately identify potential risk of liability.

A copy of the operators Massachusetts driving record shall be obtained by the Town Manager and/or the Department Head to verify the historical driving record of the operator.

If the operator has an out of state license, then the operator must provide, upon request, a copy of their existing state driving record to the HR Department. Any out of pocket expense in obtaining a copy of the driving record will be reimbursed by the Town upon submission of a receipt, in a timely fashion.

Driving records shall be reviewed by the Town Manager and/or Department Head.

Driving records determined to be a safety concern by the Town Manager, may result in the disapproval of an employee's vehicle use in the course of employment, after consultation with the appropriate Department Head.

VII. Assignment of Municipal Vehicles

Employees are required to have a valid motor vehicle license for the class of vehicle to be operated issued by the Commonwealth of Massachusetts or their state of current residence and must show proof of such valid license to his/her Supervisor or Department Head prior to being assigned a Municipal Vehicle. Prior to the assignment of a municipal vehicle, a copy of the operators Massachusetts driving record will be reviewed as described in this policy.

The assignment of Municipal Vehicles for 24-hour use will be made by the Town Manager and will only be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions, as identified in an approved position description provided by the Department Head. The following criteria will be used in the determination of eligibility for 24-hour vehicle use:

- Bona-fide non-compensatory reason that requires commuting in the municipal vehicle.
- Officially designated 24 hour on-call status;
- Requirement for frequent emergency availability during non-working hours;
- Issuance of a pager or other communication device; and/or,
- Emergency or other equipment contained in the vehicle.

The vehicles classified as 24 hour emergency use for the Town of Lunenburg are:

- Police and Fire Chiefs
- Police Deputy Chief
- Police Lieutenants and Detectives (unmarked)
- DPW Director

All other vehicles should be secured on Town premises at the close of business:

- All other Police and Fire Vehicles
- Park and Recreation Vehicles
- Cemetery Vehicles
- Driver's Ed Vehicles

School Department Vehicles Municipal Vehicle assignments may be rescinded in writing for good reason or cause by the Town Administrator.

Employees assigned a Municipal Vehicle for 24-hour use shall reimburse the Town for the additional fuel cost for commuting as determined by the Town Treasurer.

VIII. Rules and Responsibilities

- Employees who drive a Municipal or Personal Vehicle are responsible for, but not limited to, the following:
 - Municipal Vehicles may only be used for legitimate municipal business.
 - Individuals assigned a Municipal Vehicle with commuting privileges may take "incidental personal uses" such as stopping at a grocery store or going to the bank, on his/her way home, but only if the stop does not add mileage to the trip.
 - Operators should exercise sound judgment at all times when using assigned Municipal Vehicles and should avoid the appearance of misuse.
 - The Massachusetts Ethics Code discusses unwarranted privileges. Using public equipment or resources for personal use constitutes use of an official position to obtain an unwarranted privilege not similarly available to others. Misuse of an assigned Municipal Vehicle is an ethics violation.
 - Municipal Vehicles will not be used to transport any individual who is not directly or indirectly related to municipal business. Passengers shall be limited to Town employees and individuals who are directly associated with Town work activity (committee members, consultants, contractors, etc.). Police Officers transporting individuals in the performance of their normal job duties are exempt from this provision.
- The Town shall not be liable for the loss or damage of any personal property transported in the Municipal Vehicle or for any personal property while using their Personal Vehicle for work related travel.
- Employees are expected to keep Municipal Vehicles clean, and to report any malfunction, damage, needed repairs or other vehicle problems to their supervisors immediately.
- Employees assigned Municipal Vehicles for commuting purposes are expected to park such vehicles in safe locations and to lock the car when not in use. Operators should never leave vehicles unattended with the ignition keys in the lock or anywhere in the vehicle.
- Unless expressly exempted by law, employees are to ensure that they and all passenger(s) in a Municipal Vehicle wear seat belts at all times, if the Municipal Vehicles is so equipped.
- All operators of vehicles that require a CDL must be tested for drugs and alcohol as provided by US DOT regulations and the Town's drug/alcohol policy.
- Employees may not operate Municipal Vehicles or Personal Vehicles being used for work related travel, under the influence of alcohol, illegal drugs, or any controlled substances.
- Employees are prohibited from possessing open alcoholic containers, illegal drugs, or controlled substances in a Municipal Vehicle or in a Personal Vehicle being used for work related travel.

- The transporting of unopened alcoholic containers is limited to “incidental personal use” as described in this policy.
- Police Officers who are required to carry prohibited items in performing their normal job duties are exempt from applicable provisions.
- Employees operating a Municipal Vehicle or a Personal Vehicle while on work related travel, must maintain a valid motor vehicle license issued by the Commonwealth of Massachusetts or the state of their current residence, which must be provided upon request by a Supervisor during a specific or periodic license check.
- Employees operating a Municipal Vehicle or a Personal Vehicle while on work related travel, shall drive defensively and obey all applicable traffic and parking regulations, ordinances, and laws.
- Employees who incur parking or other fines/citations while operating or using an assigned Municipal Vehicle or using a Personal Vehicle on work related travel, will be personally responsible for payment of such fines/citations, unless payment of such fine/citation is approved by the Town Administrator.
- Employees who are issued citations for any offense while operating or using a Municipal Vehicle must notify their Supervisor immediately when practicable, but in no case later than 24 hours after the issuance of an issued citation.
- An employee who is assigned a Municipal Vehicle and who is arrested for or charged with a motor vehicle offense for which punishment includes suspension or revocation of the motor vehicle license, whether in his or her Personal Vehicle or in a Municipal Vehicle, must notify his or her Supervisor immediately when practicable, but in no case later than 24 hours after such arrest or charge has occurred. License suspension or conviction of an offense may be grounds for loss of Municipal Vehicle privileges.
- No employee may use a Municipal Vehicle for out of state use without advance approval of the Town Administrator.
- When utilizing a Municipal Vehicle, employees are required to obtain fuel from designated Municipal fueling facilities, unless fueling is required in the course of out of town travel.
- Smoking is not permitted in a Municipal Vehicle in accordance with M.G.L. c270 s22. Those utilizing a Personal Vehicle for work related travel should be considerate of others in the vehicle that do not smoke.

IX. Cellular Phones and Handheld Electronic Devices

The use of hand held cellular phone and handheld electronic devices is prohibited with the exception of placing and receiving calls hands free. In the event of exigent circumstances, employees are expected to keep the call short, use hands-free options if available, refrain from discussion of complicated or emotional matters, and remain focused on the road and driving conditions.

X. Vehicle Accidents

In the event that an employee’s Personal Vehicle is damaged during an approved, work-related trip, and the damage is not due to negligence of the employee, the Town will reimburse the employee to cover the part of the cost of repair, up to a maximum of \$500 or the amount of the deductible, whichever is less, per occurrence. A copy of a police report and evidence of the employee’s vehicle insurance deductible (comprehensive or collision) payment shall accompany any request for reimbursement.

When an employee using a Municipal Vehicle or Personal Vehicle on work related travel is involved in a motor vehicle accident, the operator must:

- Stop the vehicle
- Obtain the following information:
 - Name(s) and address(es) of the other driver(s);

- Drivers license number(s) of the other driver(s);
 - Name(s) and address(es) of the owner(s);
 - Registration number(s) of the other vehicle(s) involved;
 - Name(s) and address(es) of other driver(s) insurance company(ies); and,
 - Name(s) and address(es) of any witness(es) to the accident.
- Do not admit liability for the accident, even if the employee believes it was their fault.
 - Immediately report details to the employee's immediate supervisor.
 - When any person has been injured and/or when vehicles have suffered significant damage, the local or state police must be called to the scene.
 - Do not move the vehicle in these circumstances until authorized by the Police.
 - Unless an injury prevents the operator from doing so, he/she must fill out a Vehicle Accident Report within 48 hours of the accident. A blank copy of the form may be obtained from the Accounting office. The completed VAR shall be filed with their direct Supervisor.
 - The Supervisor shall ensure all information is in the report and file a copy with the Town Manager's office.
 - The Supervisor shall also file a copy with the appropriate department for placement in the employee's personnel file.

XI. Special Circumstances

This policy is intended to provide a basic framework governing the use of Personal and Municipal Vehicles in the Town and such cannot contain procedures governing every situation that might arise. Employees seeking clarification of this policy should contact their supervisor or the Town Manager. Exemptions from certain provisions of this policy may be authorized by the Town Manager, under mitigating circumstances, after review by the Department Head. Such exemptions must be documented and signed off by the employee (see Attachment A), approved by the Town Manager so as to be placed in the employee's personnel file.

XII. Exemptions

Exemptions to the Vehicle Use Policy are strictly limited. Exemptions that will increase the liability to the Town are not allowed. Issues related to insurance coverage, transportation of individuals unrelated to Municipal business, operating a vehicle without a valid motor vehicle license, are examples of what may not be exempted.

XIII. Discipline

Failure to comply with any and all applicable provisions of this policy may result in disciplinary action up to and including suspension or removal of Town vehicle privileges, suspension and/or termination of employment.

Town of Lunenburg Vehicle Use Policy
Attachment B – Acknowledgement

I, _____ (print name), as an employee of the Town of Lunenburg, hereby acknowledge that I have received, read, understand, and agree to abide by the Town's *Vehicle Use Policy*.

If assigned a Municipal Vehicle and/or receive a Vehicle Stipend and/or use a Personal Vehicle for work related travel, I shall comply with the respective provisions of the policy or those portions of the policy not specifically regulated by law or collective bargaining agreement or individual agreement/contract.

In addition, I authorize the Town of Lunenburg to obtain on an annual basis for Municipal Vehicle usage or on a case by case basis for Personal Vehicle usage, and at no cost to me, a copy of my driving record, which shall only be used in determining my safety record, enabling me to be assigned and/or operate a Municipal Vehicle or to use my Personal Vehicle for work related travel, should the need be required. In consultation with the appropriate Department Head, the Town Manager shall make such a determination.

Once signed, this form will be placed in the employee's personnel file for records purposes.

Employee Signature: _____ Date: ____/____/____

Town of Lunenburg Vehicle Use Policy Attachment C – Exemption Limitations

The following is a guide for the Town Manager in determining what sections of the Town's *Vehicle Use Policy* may be exempted.

Keep in mind that **Attachment A** of the *Vehicle Use Policy* must be filled out and appropriately signed, approved, and placed in the employee's personnel file for an exemption to be fully authorized.

Only the following sections of the Vehicle Use Policy may be exempted, if the employee provides an adequate mitigating circumstance(s) that is/are approved by the Town Manager.

- If the Town Administrator believes that there are extenuating circumstances that require an individual to be assigned a Municipal Vehicle for 24-hour usage, but does not meet the eligibility requirements in this section.
- Municipal Vehicles shall only contain items for which the vehicle is assigned. If this section is exempted, companion section 5.C.4.b shall not be exempted. The Town shall not be liable for the loss or damage of allowable transported non-work related items.
- Deals with obtaining fuel from designated Municipal fueling facilities.

Only the above 3 sections of the *Vehicle Use Policy* may be exempted. All other sections of the policy may not be exempted, whether agreed upon by the Town Manager. Exemptions for individuals with contract agreements with the Town are subject to contract amendments initiated by the Town Administrator to ensure consistency with application and intent, and subsequently approved by the appropriate appointing authority.

By allowing exemptions from the *Vehicle Use Policy*, the Town Manager has determined that any of the above exemptions listed on approved **Attachment A** are needed for the employee to perform his/her job responsibilities more effectively or that the indicated exemptions will not inhibit the employee from further meeting his/her job responsibilities.

Section 2.07 Appointments

Subject to applicable State Law and the Town Charter, the Board shall make its annual appointments at the first regular meeting in June. Appointments made at that meeting shall have terms beginning on July 1 and expiring on June 30. In addition, as the need arises, the Board may make appointments throughout the year for terms to take immediate effect, with expiration dates of June 30. Terms shall not exceed three years, unless specifically allowed by MGLA.

Appointments shall be based on merit and qualifications that relate to the duties of the subject board, committee or position. Where possible, the Board will seek variety in backgrounds, interest, ages, genders and geographic areas of residents, so that town boards and committees will reflect a true cross-section of the community. In order to attract qualified and interested persons, vacancies and reappointments will be made public as far in advance of the appointment as practicable. The Town Manager will ensure the availability of up-to-date talent bank forms in Town Hall, other town buildings and on the town's website. She/he will also ensure that completed talent bank forms are maintained in an organized and easily retrievable manner, that receipt of the completed form is acknowledged, and that the resident be given a sense of the appointment process.

Reappointment shall not be considered automatic, but shall be based on an evaluation of the appointee's past contribution to the board, committee or position. As part of the annual appointment process, the Town Manager will ask incumbents whose terms will expire on June 30 to fill out a modified talent bank regarding their desire for reappointment and description of their past contributions. The Town Manager will ensure that the Selectmen receive by May 1st a list of appointments and reappointments to be filled by the Board.

As Board-appointed vacancies occur, the Town Manager will ensure that local newspapers are advised of the vacancies, and that vacancy notices are posted on Town bulletin boards and advertised on the town's website and local cable access television channel. Vacancies shall be so advertised for no less than fifteen (15) days. The chairman of the board on which a vacancy occurs will seek talent bank forms, and nomination recommendations from a majority of the relevant committee.

The Board shall meet with applicants to fill any given Board-appointed vacancy or reappointment. This requirement may be waived at the Board's discretion. Appointments shall require a nomination and a second, and shall be made by a majority vote of the Board. Appointees must contact the Town Clerk to be sworn in and be provided with information on the Open Meeting and Conflict of Interest laws.

The Board may from time to time appoint standing or advisory committees to aid on matter under the Board's jurisdiction. The use of such committees provides greater expertise and more widespread citizen participation in the operation of government. The Board will give each advisory committee a written charge, which shall include the work to be undertaken, the time in which it is to be accomplished, and the procedures for reporting to the Selectmen. The Board will discharge committees upon completion of their work. The charges and membership of advisory committees shall be reviewed at least annually to assess the necessity and desirability of continuing the committee.

All committees appointed by the Board shall assure that all committee agendas and minutes are posted on the town's website, in addition to the open meeting posting requirements. Each committee must report in writing at least annually to the Selectmen, and meet with the Board at least once a year. Each committee shall be provided with information on parliamentary procedures

A decision to terminate an appointment may be made by a majority of the Board subject to notice and a right to be heard.

■ Article III. Financial – Under Review

Section 3.01 *Borrowing*

Borrowing should only be used for major capital projects. Routine capital projects should be funded on a pay-as-you go basis.

Section 3.02 *Capital Budget*

Operating budgets should be set at sustainable levels. The capital budget can vary around a long-term target level. The long-term target level for the capital program is 5% of total expenditures.

Section 3.03 *Free Cash*

Unusually large amounts of free cash should be used to build reserves and/ or supplement to the capital program.

Section 3.04 *Stabilization*

A reserve fund used to support borrowing and credit rating. Used as a means to mitigate spikes in the tax levy. Not to be used for operating expenses. Target of 5% of total expenditures adjusted for the total debt level. Is a good place to deposit non-recurring revenues.

Section 3.05 *Warrants*

All warrants must be available for review and signature by 5:30 p.m. on the meeting date.

■ Article IV. Regulatory

Section 4.01 *Liquor License*

In issuing the regulations, the License Commission is setting forth the expectations of the citizens of Lunenburg as to the conduct of the Town's liquor license holders. A significant objective of the regulations is the prevention of violations. In familiarizing themselves with these regulations, license holders will realize that much is expected of them. The License Commission believes that violations will be prevented because these regulations will at last require license holders to operate in accordance with a clearly defined, higher standard.

1. Identification of the Town of Lunenburg Licensing Authority

a. The Licensing Authority for the Town of Lunenburg shall consist of the License Commission.

2. Scope of and Statutory Basis for Promulgation of Rules

a. The statutory basis for the promulgation of these rules is set forth within the applicable sections of G.L. c. 138. Each reference to a statute shall include any amendment thereto.

- b. These rules are supplementary to any statutory requirements and to the rules of the Alcoholic Beverages Control Commission.

3. Definitions

- a. Whenever the word “**Licensee**” is used herein it shall mean an individual licensee and each member of a partnership licensee and each officer, director, manager and stockholder of a corporate licensee and any agent of a licensee including those employees who work in the public areas of the premises.
- b. Whenever the word “**License**” is used herein it shall mean a revocable privilege granted by the licensing authority.
- c. Whenever the word “**Licensing Authority**” or “**Authority**” are used herein it shall mean those groups having legal authority to grant licenses and/or regulate the operation of the licensed premises. The specific licensing authority for the Town of Lunenburg shall be the Board of Selectmen..
- d. Whenever the word “**Patron**” is used herein it shall mean a customer who is legally on the licensed premises.
- e. Whenever the word “**Premises**” is used herein it shall mean all land and buildings associated with the operation of the license.
- f. Whenever the phrase “**Rules and Regulations**” is used herein it shall mean a compilation of regulations, ordinances and laws set up by a licensing authority to regulate the manner in which businesses under its authority shall operate.

SECTION ONE: GENERAL LICENSING RULES FOR LICENSEES

1.0 Applicability of Rules and Regulations

- a. This section shall apply to all Town licensees, unless specifically provided otherwise.

1.01 Availability of Rules and Regulations

- a. All licensees of the Licensing Authority for the Town shall ensure that a copy of the Rules and Regulations of the Authority is kept on the premises at all times and is available for inspection upon request by a member of the public or an agent of the Authority.
- b. 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 Licensing Authority and comply with all rules and laws.

1.02 Posting and Signs

- a. Licenses issued by the Authority shall be posted in a conspicuous place easily seen by the public where they can be read without difficulty and without the assistance of employees at the premises.
- b. All other licenses, permits and certificates affecting the licensed premises shall be posted conspicuously; provided, however, that no such document shall be posted in such a way as to cover over any part of the license issued by the Authority.
- c. No dress code or preferred customer program or cover charge or other admissions policy shall be put into effect at the premises except upon proper posting pursuant to section 1.03 (“Admissions”) below.

1.03 Admissions to the Premises

- a. No licensee shall permit any rule, policy or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sexual orientation, or ancestry, physical or mental disability, relative to the admission or treatment of persons from the general public or employees at the licensed premises; provided however, that premises licensed pursuant to section 12 of the General Laws, Chapter 138, may make rules regulating the admission of minors to the premises when such rules are not inconsistent with other rules and regulations stated herein; provided further that private club licensees shall not discriminate, as aforesaid, with regard to guests at the licensed premises or with regard to who may be invited to the premises as guests.
- b. No licensee shall institute dress requirements of any kind except according to the following rules:
 - 1. A sign shall be posted at the entrance stating dress requirements or dress restrictions with specificity that may also include restrictions to footwear. (Examples: "Jackets required", "Ties and jackets required", "Shirts with collars required, no sneakers").
 - 2. No signs shall be posted which state that, "Proper dress required" or which otherwise announce a dress policy without stating specifically, item by item, what dress is required or what dress is prohibited.
- c. No licensee shall institute privileged entrance requirements of any kind except according to the following rules.
 - 1. A licensee may issue special passes.
 - 2. The special passes shall state the calendar year on the face of the pass.
 - 3. The special pass shall not entitle the pass holder to free drinks or to a discount on drinks.
 - 4. The licensee shall keep a list of the names and addresses of all pass holders and must have such a list available if requested by the Authority.
 - 5. The licensee is responsible for ensuring that persons are picked to be pass holders on a rational basis and not on any basis that is discriminatory in violation of law or these regulations.
- d. No licensee shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of the charge; provided however, that no such licensee shall require a person under thirteen years of age to pay a minimum charge or cover charge. Such cover charge shall not be collected in advance of gaining entrance to the licensed premises and can only be charged upon written or printed receipt, permanently recorded and numbered seriatim, presented to each individual customer or group of customers. Records of such receipts shall be kept by the licensee for a period of not less than two years. Cover charge shall mean all admission fees or admission charges. Such charges must also be posted on the outside of the licensed premises. Nothing in this regulation shall be construed to prohibit advance ticket sales.
- e. No minimum charge for the purpose of alcoholic beverages or minimum alcoholic beverage drinking requirements shall be imposed upon any customer of a G.L. c. 138 § 12 licensee.
- f. A licensee who charges a minimum charge for the purchase of food and/or nonalcoholic beverages shall include a specific statement in a posting stating that there is no minimum charge for alcoholic beverages. Such minimum charge, for food and/or non-alcoholic beverages shall not be collected in advance of gaining entrance to the premises. No licensee shall impose a minimum charge for food

and/or non-alcoholic beverages upon any customer who incurs charges for alcoholic beverages equal to, or greater than, the posted minimum charge for food and/or non-alcoholic beverages.

- g. Licensees shall refuse entrance to the premises to a person who appears to be intoxicated or unruly; and shall evict such a patron, except that in such a case the licensee should call the police and should offer assistance to an intoxicated person when possible.
- h. Licensees shall not permit entrance to the premises by more persons than the maximum occupancy limit established by the Building Department and stated on their Certificate of Occupancy
- i. Licensees who permit persons to wait in line for a table or a seat or for entrance to the premises shall obey the following rules:
 - 1. Persons who wait inside the premises 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.
 - 2. Persons who are permitted to wait in line outside the premises shall be supervised by an employee of the licensed premises. Such employees shall stand outside with the line during all times when the line exceeds ten persons and shall announce no further admissions to the premises if persons in the line are being loud and disorderly or if the line is blocking the sidewalk or is of a size that 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 a licensed premises become the subject of public complaints the licensee shall have been deemed to be inviting a public nuisance and shall be subject to disciplinary proceedings for same. It is recommended that licensees in residential areas discourage lines of more than ten persons.
- j. Licensees shall not lock the front door of the premises until the last patron has exited from the premises.
- k. Licensees shall not allow any patron or any guest or any employee who is not working that shift to enter the premises after the closing hour posted on the license or prior to the opening hour posted on the license.
- l. The bringing of one's own beer, wine, or other alcoholic beverages into an establishment for one's own personal consumption, a practice commonly known as "brown-bagging" and/or B.Y.O.B. (bring your own booze), is prohibited. Establishments holding any license issued under M.G.L. Chapter 138 or M.G.L. Chapter 140 §2 are prohibited from allowing "brown bagging".
- m. M.G.L. Chapter 138 §12 club license holder will be considered in violation of these regulations for having an "open door" policy or serving non-members. The License Commission Regulations allow the following:

Clubs may serve alcoholic beverages only to members of the Club. However, one (1) guest of a member may be served alcoholic beverages after he/she has been introduced by the member as a guest. This introduction will be in the form of a guest book noting the member's name, guest's name, date and time of introduction. Should the member at any time leave the premises the guest may no longer be served and the guest must vacate the premises. The guest book must be available at all times for inspection by the License Commission and/or its agents.

1.04 Hours of Operation

- a. The hours of operation shall be restricted to those set by the Licensing Authority and stated on the face of the license. No patrons shall be on the premises before the official opening hours or after the official closing hours. Last call is a minimum of thirty (30) minutes prior to closing time. Customers must be up and out once the closing hour of the licensed premises has been reached. No drinks shall be consumed after closing hours.

- b. The rules for employees on premises after closing hours are as follows: owners and employees must be off the premises no later than sixty (60) minutes after the official closing hour, provided however, that such owners and employees or other hired personnel may be on the premises at any time for the purpose of cleaning, making emergency repairs, providing security for the premises, or preparing food for the next day's business or opening or closing the business in an orderly manner.
- c. Licensees shall ensure that their patrons leave the premises in an orderly manner. Licensees who have a clientele that regularly fails to leave the area in a quiet and orderly manner should hire security personnel to police the leave-taking of the patrons at closing time.

1.05 Physical Premises

- a. The licensed premises shall conform to the floor plan approved by the Authority with regard to the structures and the walls at the premises, as well as with regard to all tables, chairs, booths, bars, counters, bar stools, dance floors or areas, railing partitions, and other barriers at the premises. Any change in the floor plan or any renovations of any kind shall not be made without notification to the Authority, approval of the Authority and approval by the Alcoholic Beverages Control Commission. This includes substantial changes in the arrangement of moveable furniture.
- b. No licensee shall have two occupancies listed on their Certificate of Occupancy (i.e. one occupancy with tables and chairs and one occupancy without tables and chairs). The licensed premises shall conform to the floor plans approved by the Authority as stated above in Section A.
- c. All premises covered by the license shall be kept in a clean and sanitary condition.
- d. No outside area shall be used as a gathering place for patrons unless approved by the Authority. Any extension of premises for outdoor patio seating must be approved by the Authority and the Alcoholic Beverages Control Commission and must conform to the guidelines established by the Alcoholic Beverages Control Commission.
- e. The premises shall be lighted in all public areas in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents of the Authority to make observations at the premises without the need to identify themselves or the need to seek assistance.
- f. The capacity set for the premises by the Building Commissioner shall be the maximum potential capacity for the premises.
- g. Licensees shall not invite the members of the public to private areas of the premises which are approved by the Authority for storage or for an office or for a kitchen or for a music or video projection room or for any similar non-public use. Only owners and employees of the licensed premises shall be in these areas.
- h. No advertising matter, screen, curtain or other obstruction which in the opinion of the License Authority, Liquor Officer or its Agents, prevents a clear view of the interior of the premises shall be maintained in or on any window or door thereof after the Authority has ordered the removal of such obstruction.
- i. The interior of the premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted "Exit" signs, as same may be mandated by the Building Commissioner or by the Fire Department. A copy of the Certificate of Occupancy signed by the Building Commissioner and Fire Department shall be posted in a visible location at all times.

1.06 Business Arrangements of Licensees

- a. Person or entities obtaining or renewing a license shall demonstrate proof of a legal right to the licensed premises for term of the license. Such proof shall include ownership papers or a tenancy

document or a management contract; provided, however, that all parties to such ownership or leasehold interest or management contract shall be know to the Authority and the terms of such agreements or contracts shall be made known to the Authority.

- b. No licensee shall hire any employee or contract for goods or services in any name other than that of the licensee, nor shall the licensee pay for any such employment, goods, or services by any means other than its own cash or bank accounts in its own name. Cash transactions shall be recorded in a manner suitable for review by the Authority. Such records shall be kept for a period of three years.
- c. No licensee shall permit any person to have a direct or indirect financial or beneficial interest in the licensed business or to receive any revenue from the business or to manage the premises other than the persons properly approved of by the Authority and the salaried employees of such persons.
- d. No licensee shall permit any person to work at the licensed premises or to hold themselves out as a person in a position of authority at the premises except for those persons who are owners and officers or who are salaried employees for whom payroll records are available. No licensee shall pay an employee any percentage of the profits of the business or pay an employee in any manner other than by salary or hourly rate except upon approval of the Authority.
- e. No licensee shall pay a landlord or creditor of any kind a percentage of the profits of the business except upon complete disclosure to the Authority and the receipt of the Authority's approval.
- f. No licensee shall lease out any part of the business without the approval of the Authority. No licensee shall lease out the food or beverage service without the approval of the Authority.
- g. No licensee shall enter into an agreement with an independent contractor to provide beverages or food or entertainment or management at the premises without the approval of the Authority.
- h. No licensee shall pledge the stock in the licensed business or the license itself without the approval of the Authority pursuant to M.G.L. Chapter 138 §15A. No licensee shall pledge a license without obtaining the approval of the Authority pursuant to M.G.L. Chapter 138, §15A. The approval of a pledge does not give the pledgee the authority to operate the business.
- i. No licensee shall take a loan secured by any direct or indirect interest in the licensed business without the approval of the Authority.
- j. No licensee shall contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed.
- k. The Manager in a licensed premises shall not be changed until the Authority and the Alcoholic Beverages Control Commission have approved such change.
- l. Any licensee intending to close its place of business shall notify the Authority in writing and obtain permission before such closing. The request shall state the reason for such closing and identify the length of the closing.
- m. Assignment of the stock of corporate licensees for purposes of collateralizing loans or notes, etc., gives no right to the assignee to conduct the business of the licensee. Licensees shall immediately notify the Authority when the assignee forecloses under such assignment of stock or when other proceedings are brought which affect the economic and financial rights and abilities of the licensee.
- n. Licensees shall enter into no agreement or understanding which sets a minimum requirement for gross sales of food and beverages at the premises.

- o. Licensees shall not use any trade name, assumed name, or abbreviated name in connection with the licensed business unless the same appears on the license certificate issued by the Authority or unless written permission is first obtained from the Authority. The use of any unauthorized name on the books, records, stationary or interior or exterior of the licensed premises or for advertising purposes or telephone listing is prohibited unless permission is first obtained from the Authority.
- p. Licensees are responsible for maintaining a legal right to access to, and control of, the premises which is covered by the license. Failure to have a legal right to the named licensed premises shall result in the revocation or non-renewal of the license.
- q. Licenses for automatic amusement devices shall be granted only to the licensee on whose premises the machine is to be operated, and not to the distributor and/or vendor. It is, therefore, the responsibility of the licensee to apply for, and obtain, such license and not to accept any delivery of a machine that has not been licensed. If the License Commission determines that there is an unlicensed amusement device on a premises it shall constitute cause to suspend or revoke the license for any other such machine that may be on said premises. It shall also be cause for a hearing to show cause why the establishment's liquor license should not be subject to discipline.

Acceptance of an unlicensed machine from a distributor and/or vendor is the licensee's responsibility, and every licensee must be certain to apply for and receive a license before accepting delivery of a machine.

- r. Annually, at the time of the license renewal, the licensee shall submit to the License Commission a listing of the names and addresses of all its directors, officers and employees as of January first. Each licensee shall also maintain a current list during the year, which shall be available for inspection on the premises at all times.

1.07 Alcoholic Beverage Sales and Laws

- a. No alcoholic beverages shall be sold for less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage.
- b. All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.
- c. No licensee or employee or agent or a licensee shall:
 - 1. offer or deliver any free drinks to any person or group of persons;
 - 2. deliver more than two drinks to one person at one time;
 - 3. sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the general public;
 - 4. sell, offer to sell, or deliver to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the general public;
 - 5. sell, offer to sell, or deliver drinks to any person or group of persons on any one day at prices less than those charged to the general public on that day, except at private functions not open to the public;
 - 6. sell, offer to sell, or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time; increase the volume of alcoholic beverages contained in a drink without

increasing proportionately the price regularly charged for such drink during the same calendar week;

7. encourage or permit, on the licensed premises, any game or contest which involves drinking or the award of drinks as prizes;
 8. advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
- d. Nothing contained in the preceding section shall be construed to prohibit licensees from offering 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 persons; or to prohibit those licensed under Chapter 138, Section 15, from offering free wine tastings; or to prohibit those licensed under M.G.L. Chapter 38, Section 12 from offering room services to registered guests.
 - e. Licensees shall not permit alcoholic beverages to be brought on the licensed premises by patrons or employees.
 - f. Licensees shall be responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by another patron. Licensees who do not have the ability to keep track of the drinking activity of minors at the premises shall exclude minors from coming onto the premises in order to meet the burden of ensuring that there is no underage drinking at the premises. Sufficient security personnel shall be employed to monitor the premises to ensure that patrons do not pass alcoholic beverages to minors.
 - g. Any establishment licensed to sell alcoholic beverages to be drunk on the premises shall post a copy of the penalties for driving under the influence set forth in Section 24 of General Laws Chapter 90. Establishments licensed to sell alcoholic beverages not to be drunk on the premises shall post a copy of the penalties for operating a motor vehicle while drinking from an open container. Said copies shall be posted conspicuously in said establishments. Said copies are available at the Alcoholic Beverages Control Commission.
 - h. Food service shall be available in all areas of the licensed premises where alcoholic beverages are served, this to include dining areas and lounge areas. This does not include any area approved as a waiting area by the Licensing Authority.

1.08 Environs of Licensed Premises

- a. It shall be the obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee shall be accountable for all violations that are related to the licensed premises to determine whether or not the licensee acted properly in the given circumstances.
- b. No licensee may have upon the premises any automatic amusement machine unless same has been approved and separately licensed by the Town of Lunenburg. Types of machines and location of machines on the premises must be approved. The Licensee shall make application, not the distributor.
- c. Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate in front of or at the licensed premises. 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: (1) maintaining the front door in a closed position; (2) asking loiterers to disperse; (3) promptly notifying the police if loiterers refuse to disperse; (4) hiring a security guard or stationing a security employee at the front door to

disperse loiterers; (5) refusing to allow patrons to walk in and out of the premises at short intervals; (6) maintaining order in lines of patrons waiting outside to get in; (7) announcing that no further patrons will be allowed into the premises if lines become too long or disorderly or loud.

- d. Licensees shall take such steps as are necessary to ensure that patrons or employees do not leave the premises with alcoholic beverages. Such steps shall include: (1) having an employee stationed at the door to watch patrons as they leave; (2) refusing to serve beer in bottles; (3) refusing to serve alcoholic beverages in disposable cups. When patrons are observed leaving the premises with beer bottles, beer cans, or cups or glasses filled with liquids that smell like alcoholic beverages to the Authority's agents, it shall be presumed that the vessels contain alcoholic beverages.
- e. When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or adjacent to the licensed premises, or in any parking lot provided by the licensee for the use of its patrons, which in the judgment of the Authority adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the licensed premises are located, or results in the licensed premises becoming the focal point for police attention, the licensee shall be held in violation of the license and subject to proceedings for suspension, revocation or modification of the license.
- f. At all times the public areas of the licensed premises must be continuously illuminated to the degree of not less than one foot candle (measured 30 inches from the floor) except those portions of the room under furniture.
- g. No physical additions, alterations or renovations shall be made unless a plan is submitted and approved by the Authority and the Alcoholic Beverages Control Commission.
- h. No licensee shall keep for sale, store or sell alcoholic beverages in any part of the premises not specified on this license.
- i. Except for package stores, all alcoholic beverages sold must be opened and consumed on the licensed premises.
- j. All State and Local Laws and Regulations apply to the licensed premises whether during regular hours, after hours or private functions.

1.09 Inspections and Investigations

- a. The licensed premises shall be subject to inspection by the members of the Licensing Authority and its duly authorized agents. Any hindrance or delay of such inspection caused by an employee of the licensee shall be cause for action against the license. It shall be the responsibility of the licensee to ensure that procedures are in place, be it posting a doorman or otherwise, to allow Police and authorized agents of the Authority, immediate entrance into the premises at any time employees are on the premises. Any delay in providing such access shall be cause for action against the license.
- b. Licensees shall maintain a current list of all their employees and shall have it available at all times for inspection upon the request of an authorized agent of the Authority. Licensees shall mail this list to the Lunenburg License Commission on June 1st of every year and again as part of the end of year license renewal packet. Licensees who contract with entertainment entities to provide entertainers must maintain a current list of the names of such entertainers and said entertainers shall be held to the same rules as other employees at the premises.
- c. No device or electronic equipment shall be utilized by a licensed premise for the purpose of signaling employees that agents of the Licensing Authority are present.
- d. All complaints and reports shall continue in force until they have been reviewed and disposed of by the Licensing Authority.

- e. All Police Officers, regardless of rank, are hereby designated as authorized agents of the Licensing Authority.

1.10 Standards of Conduct on the Premises

- a. 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.
- b. 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 person.
- c. No alcoholic beverages shall be sold to anyone under twenty-one (21) years of age. No service of alcoholic, wine/malt beverages shall be made to anyone under twenty-one (21) years of age.
- d. No manager or employee shall consume any alcoholic beverages while on the licensed premises while on duty or after the official closing hour.
- e. No alcoholic beverages shall be sold for a fee less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverages.

1.11 Illegal Activity on the Licensed Premises

- a. Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts shall include:
 - 1. Frequent monitoring of restrooms and other nonpublic areas of the premises for signs of drug activity or other illegalities;
 - 2. Paying attention to activities on the premises of known drug users, drug dealers, prostitutes or others who are known to have been convicted of crimes which may be conducted at a licensed premises;
 - 3. Monitoring of activities of person 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 premises such as prostitution, gambling or larceny from patrons or assaults and batteries or other problems associated with the premises.
- b. There shall be no disorder or other illegal activity on the licensed premises or any premises connected therewith by an interior communication.
- c. No licensee shall allow any disturbance, disorder or illegality on the licensed premises. The license holder shall be responsible therefore, whether present or not.

1.12 Injuries to Persons at the Premises

- a. Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a patron unless to protect other patrons or themselves from being subjected to body blows from an unruly patron. In all other circumstances employees and security personnel are to call the police to have patrons removed from the premises when such patrons are being disruptive and they are unable to convince the patron to leave the premises voluntarily.

- b. Licensees shall call the police and an ambulance and take all other reasonable steps to assist patrons or persons who are injured in or on the licensed premises or whose injuries have occurred outside the premises but have been brought to the attention of the licensee

1.13 Other causes for Revocation, Suspension and Modification

- a. Any license issued pursuant to General Laws Chapter 138 may be modified, suspended or revoked for any of the following causes:
 - 1. Violation by the licensee of any provision of the relevant General Laws of the Commonwealth, of the regulations of the Alcoholic Beverages Control Commission or of the regulations of the Licensing Authority.
 - 2. Fraud, misrepresentation, false material statement, concealment or suppression of facts by the licensee in connection with an application for a license or permit or for renewal thereof or in connection with an application for the removal of the licensed premises or the alteration of the premises or in connection with any other petition affecting the rights of the licensee or in any interview or hearing held by the Authority in connection with such petition, request, or application affecting the rights of the licensee;
 - 3. Failure to operate the premises covered by the license without prior approval of the Licensing Authority;
 - 4. Failure or refusal of the licensee to furnish or disclose any information required by any provision of the General Laws or by any rule or regulation of the Alcoholic Beverages Control Commission or any rule or regulation of the Licensing Authority;
 - 5. Licensees shall not give or offer any money or any article of value or pay for or reimburse or forgive the debt for services provided to any employee or agent of the Authority either as a gratuity or for any service;
 - 6. Licensees may not fail to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Authority or upon which any application or petition relating to the premises was granted by the Authority. It shall be the duty of the licensee to ensure that all appropriate personnel at the licensed premises are familiar with the rules and regulations of the Authority and with any conditions on the license.
 - 7. A license may be suspended or modified or revoked for the refusal by any licensee and, if a corporation, by a manager, officer, or director thereof to appear at an inquiry or hearing held by the Authority with respect to any application or matter bearing upon the conduct of the licensed business or bearing upon the character and fitness of such person to continue to hold a license.
 - 8. Licensees shall properly serve suspension and modification orders.

1.14 Liquor License Sentencing Guidelines

- a. Licensees in violation of the applicable laws of the Commonwealth, regulations of the Alcoholic Beverages Control Commission and/or these regulations may be subject to the following range of discipline:
 - i. First offense; warning to seven day suspension.
 - ii. Second offense; warning to twenty-one day suspension.
 - iii. Third offense: warning to revocation.

- b. Only offenses which have occurred within the two years preceding the date of violation shall be used in calculating the number of offenses for purposes of the sentencing guidelines.
- c. The sentencing guidelines are only a guide. The Licensing Authority may use its discretion in determining whether the facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by the guidelines.
- d. The sentencing guidelines shall not be construed so as to limit the Licensing Authority's authority to consider alternative dispositions, or further conditions on a license, or even alternate penalties (e.g. roll back of operating hours).

1.15 Service of Liquor License Suspension Orders

- a. When the Authority suspends the license or licenses of any licensee, it shall provide the licensee with an order of suspension for public display that must contain the words, "No alcohol served per order of the License Commission". Such order shall be publicly displayed by the licensee in the following manner. If there is a door opening from the street into the licensed premises and a window facing the street upon which such door opens, such order shall be displayed in such window so that it may readily be seen from the street. If the licensed premises are otherwise located, such order shall be affixed to the door of the entrance to the premises and displayed in such a way that it may be readily seen from the street.
- b. Suspension orders of the Authority, as above, shall remain affixed throughout the entire period of suspension. The removal, covering, defacement, or obliteration of the order of suspension or the failure to maintain the order of suspension in the manner and place required prior to the expiration of the suspension period shall be deemed the act of the licensee and shall be cause for further suspension, modification or revocation of the license.
- c. Suspension periods shall not be used as a time to do renovations at the licensed premises unless such renovations have previously been approved by the Authority.
- d. Upon receiving a notice of suspension or revocation, the licensee will hand deliver the license to the Lunenburg Selectmen's Office, 17 Main Street, Town Hall, Lunenburg, MA 01462. The license will be given to the Administrative Assistant no later than 9:00 a.m. on the day of the suspension or revocation. The license may be picked up at 9:00 a.m. the day following the suspension or revocation. (example: XYZ license has been suspended 10/01/09 thru 10/05/09 for violation of XXXX. License will be dropped off by the licensee by 9:00 a.m. on October 1, 2009 and picked up on October 6, 2009 at 9:00 a.m.

1.16 Permission to Close Premises Required

- a. Any Licensee intending to close a place of business, whether on a temporary or permanent basis, must notify the Licensing Authority in writing before such closing stating the reason and length of such closing and obtain approval. Failure to provide such notice may result in the suspension or revocation of the license.
- b. The restriction in (a) shall not apply to a closing due to an act of God, natural disaster, illness or some other business problem for which request had been made to the Authority and approval granted.

1.17 Bankruptcy and Court Proceedings

- a. The licensee shall immediately notify, in writing, the Licensing Authority of any proceedings brought by or against the licensee under the bankruptcy laws or of any other court proceedings which may affect the status of the license.

1.18 Management

- a. Each corporate licensee must appoint a manager by a properly authorized and executed delegation.
- b. The responsibilities of every license holder and any manager shall be as follows:
 - 1. To obey all statutes of the Commonwealth, rules of the Alcoholic Beverages Control Commission, Rules and Regulations of the Licensing Authority;
 - 2. To promptly notify the police of any disturbance or illegal activity on the licensed premises of which he/she becomes aware;
 - 3. As to corporate licensees, to sign the annual application for renewal of license, unless unavailable;
 - 4. To cooperate with authorized agents of the Licensing Authority, including, but no limited to, any police officer, in their investigation or inspection of the licensed premises.
- c. Any such notice sent to the manager as named in the records of the Licensing Authority or the owner at the address of the licensed premises shall constitute valid legal notice to the licensee.
- d. The licensee shall not change managers, change corporate officers, sell or transfer corporate stock, pledge corporate stock or the liquor license as security, or accept a loan or credit from another licensee, without first obtaining the approval of the Authority and the Alcoholic Beverages Control Commission. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Authority.
- e. The Manager, or their designee, must be on the premises at least fifty (50) percent of the time the premises are open. The Manager shall have total responsibility for the proper operation of the licensed premises, whether present or not. No appointment of a Manager shall be effective unless and until approved the by the License Commission. If a Manager leaves the employ of the license holder, the license holder shall notify the Commission immediately and shall promptly file a Change of Manager application. No change of manager will be effective until approved by the Commission and the Alcoholic Beverages Control Commission.

1.19 Service Training

- a. An employee training program on the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated shall be provided by the licensee. A written description of such program, along with a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be provided to the Authority as part of the original or renewal application materials and maintained on the premises at all times.
- b. A signed certificate of each employee who handles alcohol, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the premises at all times. Copies of all such documents and certifications shall be available to the licensing authority, or any authorized agent thereof, upon demand.
- c. All employees, including bouncers and doormen, shall obtain server training within thirty (30) days of commencing employment. The server training certificate shall be sent to the License Commission within seven (7) days of issuance.
- d. Upon a finding by the Authority of a violation of the laws or regulations concerning service of alcohol to a minor or intoxicated person, the employees involved in the violation who continue to be employed by the licensee shall be retrained forthwith and receive a new server training certification.

- e. The training and certification referenced in Section 1.19 shall be pursuant to a training program approved by the Authority (e.g. TIPS or equivalent).

1.20 ABCC Compliance

- a. Compliance check guidelines are applicable to retail licenses for the sale of alcoholic beverages to be drunk on the premises, called “pouring licenses”, fall into five types: hotel, restaurant, tavern, club, and general-on-premise. These are further divided into four categories based on the category of alcoholic permitted to be served; all-alcoholic, wine only, malt only, or wine and malt and in accordance with the ABCC rules and regulations.

1.21 Applications and Fees

- a. Whenever a alcoholic beverage license becomes available in a category for which all the licenses allotted the Town had previously been properly assigned, the Licensing Authority shall publish, on one occasion, in a local newspaper, on its public bulletin board and on its website a notice that such license has become available. The Licensing Authority will not accept any new applications for this license until 30 days after such a notification has been made, published and posted.
- b. All license applications must be “COMPLETE” in order to be processed by the Office of the License Commission for submission to the License Commissioners for action. While the Office of the Commission will assist any individual with the filing of an application, it is not the responsibility of the office staff to fill out and complete an application and forms required.
- c. Filing fees must be paid at such time as an application is filed at the Office of the License Commission. Fees are to be made payable to the Town of Lunenburg. Filing fees are not returnable once an application has been accepted by the Office of the License Commission.
- d. Annual license fees must be paid prior to the issuance of any license. License fees may not be prorated and are not refundable.
- e. Should a fee payment be non-negotiable (i.e. “bounce”), such event shall be deemed to be a violation of these regulations.

At no time will the Authority accept an application for an alcohol beverage license under any circumstances except as prescribed in this section.

Section 4.02 BRING YOUR OWN BOTTLE - “Carry-In” Intoxicating Beverages

Definitions

For purposes of this Policy, the following terms shall have the following meanings:

“Board” shall mean the Board of Selectmen acting as the Town’s local licensing authority for common victuallers under M.G.L. Chapter 140.

“Policy” shall mean this Policy applicable to Carry-In Permit for intoxicating beverages to restaurants operated by common victuallers.

“Carry-In Permit” shall mean permission granted by the Board to a common victualler under this Policy to allow intoxicating beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler.

“Common Victualler” shall mean a person duly licensed under the provisions of M.G.L. Chapter 140 to conduct a restaurant.

“Intoxicating Beverages” shall mean intoxicating beverages as defined in M.G.L. Chapter 138, §1.

“Restaurant” shall mean a restaurant as defined in M.G.L. Chapter 138, §1.

“TIPS” shall mean Training for Intervention Procedures.

2. General Rules

No common victualler shall permit intoxicating beverages to be consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler except pursuant to a valid license issued under the provisions of M.G.L. Chapter 138, or pursuant to and in strict conformity with this Policy and regulations adopted by the Board pursuant to this Policy.

3. Carry-In Permit for Intoxicating Beverages

The Board may grant Carry-In Permit to a common victualler to allow intoxicating beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler provided that:

a. Application for such Carry-In Permit shall be made to the Board at the time of the initial or renewal application for a common victualler’s license.

b. The applicant for such Carry-In Permit shall not be less than twenty-one years of age and must be a person of good character in the Town.

c. No Carry-In Permit shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.

d. No Carry-In Permit shall be issued to any fast food restaurant, which is part of a restaurant chain or franchise.

e. No Carry-In Permit shall be issued to any applicant who has a license for the restaurant issued under the provisions of M.G.L. Chapter 138.

f. No Carry-In Permit shall be issued to any applicant whose license for the restaurant issued under the provisions of M.G.L. Chapter 138 has been suspended or revoked, or to any person, firm, corporation, association or other combination of persons affiliated, directly or indirectly, with such licensee through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever.

g. Before approving or renewing Carry-In Permit, the Board may cause an examination or examinations to be made of the premises of the applicant or may otherwise review such evidence as the Board deems credible to determine whether such premises comply in all respects with the appropriate definitions of section one and whether activities conducted on the premises comply in all respects with the provisions of this Policy. The Board may deny Carry-In Permit or renewal of Carry-In Permit to any applicant where the premises and/or the activities conducted on the premises do not in the Board’s judgment so comply.

h. The Board may refuse to grant Carry-In Permit in certain geographical areas of the Town, where the character of the neighborhood may warrant such refusal or when not allowed as a permitted use under a Special Permit or Zoning Bylaw.

i. The common victualler shall comply with any and all conditions imposed by the Board with respect to such Carry-In Permit, including without limitation conditions with respect to hours and days during which

such intoxicating beverages may be consumed in the restaurant and the insurance which shall be carried with respect to operation of the restaurant having Carry-In Permit.

j. Carry-In Permit under this Policy shall be not be transferable between persons or locations except with the advance permission of the Board and then only if consistent with the public interest. Carry-In Permit shall be revocable as provided herein.

k. Approval of Carry-In Permit under this Policy shall not create any property rights; rather such permission is authorized solely to serve the public need and in such a manner as to protect the common good.

l. Every approval of Carry-In Permit under the provisions of this Policy shall expire on December thirty-first of the year of issue, subject, however, to earlier revocation or cancellation within its term.

4. Obligations of A Common Victualler Granted Carry-In Permit for Intoxicating Beverages.

Any common victualler approved for Carry-In Permit shall at all times comply with the following requirements: (it is recommended that the Common Victualler attends a Training for Intervention ProcedureS (TIPS)) Program and acknowledge that obtaining TIPS certification is their responsibility.

a. The common victualler shall not permit any person under the age of twenty-one to consume intoxicating beverages in the restaurant. Any person bringing or accompanying any person bringing intoxicating beverages into a restaurant having Carry-In Permit shall, upon request of the common victualler, a Lunenburg police officer, or an agent of the Board, state his name, age, and address, and produce a valid identification document. The common victualler shall verify by appropriate picture identification that any patrons and customers consuming such intoxicating beverages in the restaurant are twenty-one years of age or older. Any common victualler, or agent or employee thereof, under this Policy who reasonably relies on a valid operator's license issued by the registry of motor vehicles pursuant to M.G.L. Chapter 90, §8, a valid liquor purchase identification card issued pursuant to M.G.L. Chapter 138, §34B, a valid passport issued by the United States government or by the government of a foreign country recognized by the United States government, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any modification, suspension, revocation or cancellation of its Carry-In Permit or common victuallers license by virtue of that individual's under-age drinking in the restaurant.

b. The common victualler shall only allow intoxicating beverages to be consumed in the dining room or dining rooms of the restaurant, and is responsible for sealing and wrapping the open container before the patron exits the establishment.

c. The common victualler shall ensure that intoxicating beverages are not consumed in the restaurant by customers or patrons so as to cause or contribute to their becoming unruly and/or a danger to themselves or others either in the restaurant or on the public ways upon leaving the restaurant. The common victualler is hereby authorized to confiscate all remaining intoxicating beverages from any patrons or customers who appear to present a danger of becoming unruly and/or becoming a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of intoxicating beverages. Any customers or patrons of a restaurant with Carry-In Permit shall be deemed at all times to consent to such confiscation if deemed necessary by the common victualler.

d. The common victualler shall immediately report to the Lunenburg Police Department any situation in which customers or patrons consuming alcohol in the restaurant appear to present a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of intoxicating beverages.

5. Regulations

The Board may promulgate rules and regulations consistent with the provisions of this Policy for clarifying, carrying out, enforcing, implementing and preventing violations of, all and any of its provisions.

Without limitation, the Board may make regulations (a) limiting the number of approvals for Carry-In Permit to be issued under this Policy, (b) determining the fee to be charged for Carry-In Permit under this Policy, which fee shall not be more than double the license fee for a common victualler's license, (c) determining the method and frequency of inspection of the premises and method of carrying on the business of any common victualler having Carry-In Permit hereunder, and (d) for the proper and orderly conduct of any business having Carry-In Permit hereunder.

6. Penalties for Violation

Violation by a common victualler of this Policy or any regulation promulgated by the Board pursuant to this Policy shall be punishable by a fine of one hundred dollars for the first offense, any further violations will result in a fine of three hundred dollars (\$300) per offense. Each day a violation continues shall be considered a separate offense.

Any person bringing intoxicating beverages into or consuming intoxicating beverages in a restaurant having Carry-In Permit shall be punished by a fine of three hundred dollars per offense for any of the following violations of this Policy: (a) refusing, upon request of the common victualler, a Lunenburg police officer, or an agent of the Board, to state his name, age, and address, and produce a valid identification document, (b) stating in response to such request a false name, age, or address, including a name or address which is not his name or address in ordinary use, (c) producing or displaying in response to such request a false or fraudulent identification document, (d) refusing to allow the common victualler to confiscate remaining intoxicating beverages under Section 4(c), or (e) acting in a manner dangerous to himself or others in the restaurant. Any sums of money collected as fines shall be paid forthwith into the general revenues of the Town.

7. Suspension, etc., of Carry-In Permit

The Board may suspend, modify, cancel, deny, refuse to renew, or revoke Carry-In Permit for any violation of this Policy or any regulation promulgated by the Board pursuant to this Policy. The Board may suspend, modify, cancel, deny, refuse to renew, or revoke a common victualler's license in the event a common victualler has committed multiple, willful, or repeated violations of this Policy or any regulation promulgated by the Board pursuant to this Policy. In case of suspension, modification, cancellation, denial, refusal to renew, or revocation of any Carry-In Permit or any license as aforesaid, no abatement or refund of any part of the fee paid therefor shall be made.

8. Severability

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

9. Effective Date

This Policy shall take effect March 10, 2009.

Section 4.03 ONE DAY LIQUOR LICENSE

The following types of organizations and individuals are eligible for one-day alcoholic beverage licenses under this policy. Other organizations or individuals may submit applications for consideration.

- Civic or municipal organizations
- Commercial establishments
- Fraternal organizations
- Non-profit organizations
- Non-profit unincorporated associations
- Individuals holding social events not held at a private residence
- Unincorporated groups or organizations not engaged in the sale for profit

of alcoholic beverages.

- Service clubs
- Veteran's organizations

In accordance with MGL Chapter 138, Section 14 and 14A, a one day all alcoholic license may only be issued to a non-profit organization.

A. Criteria for Approval

The following matters will be taken into account in approving one-day licenses:

1. Admission Age: The Board will not deny a one-day license solely because individuals under the legal drinking age shall be present at a function, but will require that sufficient trained servers are present to assure compliance with the laws governing the sale or furnishing of alcoholic beverages to such persons.
2. Frequency: The Board considers that one-day licenses are to be issued primarily to applicants sponsoring functions that are not held more than once annually. Except for applicants that are in the business of catering or accommodating individual functions, one-day licenses are not intended as an alternative to an annual license.
3. Acceptance of Conditions: Acceptance of a one-day license under this policy will be deemed to be an acceptance of the conditions of the license and an agreement with the Town of Lunenburg to be bound thereby.

B. Conditions to be Contained in One-Day Licenses

1. Certification of Service Providers: All persons engaged in furnishing alcoholic beverages at a licensed function, whether by sale or without charge, including servers, must be certified as having completed an approved alcoholic beverage training program and have evidence of such certification in their possession.
2. Number of Persons on Premises: The number of persons may not exceed the occupancy limits allowed by law for the premises on which the license will be exercised.
3. Police Details: The number of officers, if any, and the hours during which a police detail will be required within the licensed premises and, if required, for orderly parking and traffic control will be recommended by the Police Department. Generally those hours will include the entire duration of the function, including after service hours. The factors to be considered include the location of the premises, availability of on-site parking, the number of persons estimated to be in attendance and the time and duration of the function.

C. Additional Provisions

1. Departmental Approvals: The Board of Health, Fire Department, Police Department and the Building Inspection Department must approve the licensed premises, including, where applicable, food service equipment.
2. Neighborhood Impact: The applicant or such other person designated by name, address and local telephone number in the application will be responsible for the orderly conduct of the function for which the license is issued. Consumption of alcoholic beverage outside of the structure within which the licensed function is to be held will not be permitted. Music, noise, or other function related activities must not create an undue imposition upon any adjacent residences. Police detail officers will be instructed to respond appropriately to complaints. Such response may include an order to terminate the event or otherwise limit the offending activity.

License fee shall be based upon current fee schedule.

A copy of the approval shall be forwarded to the ABCC within 10 days of the hearing.

Section 4.04 Earth Removal Permits

Earth Removal permits shall be issued in accordance with the Earth Removal Ordinance, Article IX, Section 9 of the Town Bylaws

Section 4.05 Circus Permit

Circus permits shall be issued in accordance with all applicable State Law and Regulations.

Section 4.06 Peddler's License

Peddler's licenses shall be reviewed and issued in accordance with Article V, Section 6 of the Town Bylaws. Fee shall be in accordance with current fee schedule.

Applicant must first file for Commonwealth of Massachusetts, Division of Standards, Application for License to Peddle.

Section 4.07 Weekday (Public Entertainment License)

A Public Entertainment License shall be required for any theatrical exhibition, public shows, public amusements, and exhibitions of every description HELD ON WEEKDAYS ONLY (a separate license is required for Sundays). The license may be an annual or daily license.

Upon receipt of a completed application, the Licensing Authority shall have 30 days to act upon same. The fee shall be set in accordance with the current fee schedule.

Section 4.08 Auctioneer's License

In order for a person to apply for an Auctioneer's License in a city or town, they must be licensed by the State and must show proof of such license and must indicate State License number on application.

ANNUAL The only annual license the Town can issue is a license to a person who maintains a regular place of business for the conduct of auctions within the Town.

SPECIAL No person may conduct an auction in Town without obtaining a special permit from the Town.

APPLICATION

Application for an annual permit or special permit shall be filed with the Licensing Authority and shall contain:

Name, address and State license number of applicant
Photocopy of State License
Location and Hours of Auction

General description of goods to be auctioned
On special permit only, the estimated value of the goods and the date or dates
Signed tax certification form
CORI form

Within thirty (30) days after application is filed for a **special permit**, the Licensing Authority or auction permit agent shall either approve or deny the permit. Failure to act within thirty (30) days, shall constitute approval.

Within fourteen days after application is filed for **annual permit**, the Licensing Authority or auction permit agent shall either approve or deny the permit. Failure to act within the fourteen days, shall constitute approval. Permit is good for one year from date of issuance.

When approved, applicant must pay required fee in accordance with current fee schedule.

Section 4.09 Automatic Amusement

All automatic amusement licenses shall expire annually. License fees shall be in accordance with approved fee schedule.

No more than 3 automatic amusement machines shall be allowed in a commercial establishment. Upon receipt of a completed application the licensing authority shall place the item on the agenda for action.

An application for a commercial amusement center shall be submitted along with the following:

- a. Tax form indicating number & types of machines, etc.
- b. Floor plan showing location of machine, entrance, exits and all other) pertinent information.
- c. Plot plan of property showing parking spaces, proposed sign, and all other pertinent information.
- d. Tax Certification Form.

Application shall be forwarded to the Building Official.

After submission of completed application, an informal public hearing shall be scheduled.

Section 4.10 Base License

For general operation of establishments such as Bowling Alley, Golf Driving Range, Drive-in Theater, Amusement Center. These establishments also require licenses for daily and Sunday operation.

Base licenses shall expire annually and fee shall be in accordance with current fee schedule.

All applicants must submit a CORI form with application.

Application shall be forwarded to the Building Official and Board of Health for recommendation.

Section 4.11 Bazaars & Raffles

Licenses for Bazaars and Raffles are issued in accordance with the standards set forth under Mass. General Laws – Chapter 271 Section 7A.

Section 4.12 Billiard License

A billiard license shall be required for a business in which a person rents a billiard table for one hour.

Prior to submission of an application to the Licensing Authority, approval by the Zoning Board of Appeals is required.

Upon receipt of a completed application a formal hearing shall be scheduled in accordance with Chapter 140 of the General Laws. All fees for abutters notification shall be the responsibility of the applicant. The license fee shall be in accordance with the current fee schedule.

Section 4.13 Class 1 and 2 Licenses

Prior to submission of an application to the Licensing Authority, approval by the Zoning Board of Appeals is required.

A \$25,000 bond shall be required in accordance with MGL Chapter 140, Section 58.

The application must be accompanied by the following:

- A certified abutters list.
- A detailed sketch plan of property showing all buildings, (proposed and existing) plus interior layout of building, septic system, water supply source, location and maximum number of vehicles to be parked thereon.
- Tax Attestation Form
- Workers Compensation Form
- CORI Form

Applicant must also file for a “Use & Sign Permit” with the Building Official.

Upon favorable decision by the Licensing Authority, the fee for the license shall be in accordance with current fee schedule.

Section 4.14 Class 3 License

Prior to submission of an application to the Licensing Authority, approval by the Zoning Board of Appeals is required (Section IV-C-2-a and c of the Protective By-law).

The application must be accompanied by the following:

- an engineered plan showing boundaries, location of buildings (proposed & existing), fences, water lines, wells, septic system, drainage, wetlands, number and location of vehicles, all utilities, etc.
- a certified abutters list
- Tax Attestation Form
- Recommendation of Fire Chief on gasoline storage and/or oil storage and disposal.
- Workers Compensation Form
- CORI Form

Applicant must also file for a "Use & Sign Permit" with the Building Official.

Upon favorable decision by the Licensing Authority, the fee for the license shall be in accordance with current fee schedule.

Section 4.15 Common Victualler License

All common victualler licenses shall expire on December 31st. All applications for a common victualler license shall be accompanied by the following:

1. Food Service Permit
2. Use and Sign Permit application if applicable.
3. CORI Form
4. Workers Compensation Form

Upon favorable decision by the Licensing Authority, the fee for the license shall be in accordance with current fee schedule.

Section 4.16 Taxicab License

Taxicab license fee and operator's fee shall be in accordance with current approved fee schedule.

General Rules of Operation

- 1) No taxi cab shall operate from a location in the Town of Lunenburg without a license granted hereunder.
- 2) When so licensed, such cab shall operate from a stand or stands assigned to it by the Licensing Authority, which stands may be changed from time to time only with the prior approval of the Licensing Authority. The assignment of stands shall be contingent upon complete adherence to the Protective Bylaw and all other applicable bylaws of the Town and State statutes.
- 3) All taxicab licenses issued by the Licensing Authority shall be distributed by and paid for at the office of the Licensing Authority unless otherwise ordered.
- 4) All applications for renewal of taxicab licenses shall be in the hands of the Licensing Authority no later than December 1st of each year.
- 5) No driver of a taxicab shall be required or permitted to drive or remain on duty for more than twelve (12) hours in any twenty-four (24) consecutive hours, and any such driver shall be relieved from duty for at least one period of not less than eight (8) consecutive hours during said twenty-four (24) hours.
- 6) No driver shall, while on duty, occupy any seat other than the driver's seat and at no time shall he permit anyone else to sit therein, or to operate said taxicab.
- 7) All taxicabs must be kept clean inside as well as outside at all times. All taxicabs are subject to inspection by the Licensing Authority or the duly appointed inspector. All taxicabs shall be made available for such inspections on such dates, places and times designated by the Licensing Authority.
- 8) Whenever requested by a passenger, or whenever there is a dispute over a fare, the driver shall give a receipt to said passenger which shall contain the company name, driver's name, badge number, cab number, date and time, origin and destination of the trip and the amount charged. Each licensee is hereby obligated to provide such receipt blanks which shall be carried in every taxicab at all times.
- 9) A taxicab shall not carry more persons than the maximum rating for the vehicle as established by the manufacturer of said vehicle.
- 10) Taxicabs shall establish rates for hire which are reasonable and in conformance with rates charged in the geographic area.
- 11) Each taxicab operator or driver shall use the most direct route possible from point of origin to point of destination for each trip unless otherwise directed by the passenger, or in cases of unusual circumstances in which an alternate route is in the best interest of the passenger.

- 12) Each taxicab driver shall maintain a driver trip sheet in the vehicle at all times while the taxicab is in operation. The taxicab licensee (company name), driver, date and the vehicle number shall appear on this sheet. In addition, the origin, destination and time of origin shall be entered immediately upon occurrence.
- 13) The operation of each taxicab, records keeping, adherence to proper rates of hire and compliance with all rules and orders of the Lunenburg Licensing Authority shall be the sole responsibility of the licensee of said taxicab.
- 14) Failure to comply with the rules and regulations of this regulation shall be grounds for the suspension or revocation of any license issues pursuant to these rules and regulations.
- 15) The annual fee for any and all licenses issued pursuant to these rules and regulations shall be established by the Licensing Authority and may be altered from time to time as the Licensing Authority determines necessary.

Taxicab Stands

- 1) Patrolling or cruising for the sole purpose of soliciting patronage is prohibited.
- 2) Taxicab stands shall be established by the Lunenburg Licensing Authority, for the sole use of the licensee assigned said taxi stand.
- 3) No owner or operator shall enter any stand assigned to another company, and at no time shall solicit or accept passengers from said stand except by request of the dispatcher for the company assigned said stand.
- 4) During times of operation all taxicabs must be clearly identified as taxicabs.

Licensing of Taxi Drivers

- 1) Each cab driver must obtain a license from the Licensing Authority authorizing him or her to operate a taxicab licensed under this regulation.
- 2) Each cab driver must possess a valid license issued by the Massachusetts Department of Motor Vehicles. Each applicant shall be required to submit evidence of his or her driving record including, but not limited to, the number and type of motor vehicle citations issued to the applicant, any motor vehicle accidents in which the applicant was involved while an operator of a motor vehicle and claims by the applicant to any individual or insurance company for reimbursement for property damage or personal injury as a result of a motor vehicle accident.
- 3) Each applicant shall upon approval of his or her application, submit an identification card to the Licensing Authority for their approval. Said card must be posted in any taxicab operated by the applicant in the Town of Lunenburg. Said card must be posted in such a way so as to be plainly visible by any and all passengers of the taxicab.
- 4) The determination of the sufficiency of the material and information required under the provision of this and all regulations shall be in the sole discretion of the Licensing Authority.
- 5) Applicant shall furnish a copy of Certificate of Liability Insurance for each vehicle authorized in the amount of \$250,000 (Two hundred Fifty Thousand Dollars) for bodily injury to any one person; in the amount of \$500,000 (Five Hundred Thousand Dollars) for injuries to more than one person in the same accident; and \$100,000 (One Hundred Thousand Dollars) for property damage resulting from any one accident. Said Certificate shall be file with the Office of the Town Clerk.

EXCERPT FROM GENERAL BYLAWS: ARTICLE II - TOWN ADMINISTRATION.

SECTION 14. The Licensing Authority shall adopt rules and regulations for licensing of taxicabs, limousines and other related transportation services having their principal place of business within the Town of Lunenburg, including the establishment of fees and penalties.

Section 4.17 Limousine

A person wishing to operate a limousine service strictly on a door to door basis (no scheduled line run), must apply for a municipal license. The license fee shall be in accordance with the current fee schedule. Applicant must conform to applicable regulations in each city/town they wish to operate.

A person wishing to operate any type of charter limousine service (scheduled runs to airport, hotels, etc.) in addition to the door to door service, must have a DPU permit before they can apply for municipal permit for the door to door operation. They must also apply for permit in each city/town they wish to operate.

It should be noted that any trips to Logan Airport (whether charter or not) requires the person to obtain Massport license.

Person applying in Lunenburg must first obtain a Use and Sign Permit from the Building Inspector for permission to operate business from home or whatever location is used.

When Licensing Authority acts upon the municipal license, they may restrict such matters as number of vehicles, route to be taken, and any other matters in the best interests of the Town.

General Rules of Operation

- I. No limousine shall operate from a location in the Town of Lunenburg without a license granted hereunder.
- II. All limousine licenses issued by the Licensing Authority shall be distributed by and paid for at the office of the Licensing Authority unless otherwise ordered by the Licensing Authority.
- III. All applications for renewal of limousine licenses shall be in the hands of the Licensing Authority no later than December 1st of each year.
- IV. No driver of a limousine shall be required or permitted to drive or remain on duty for more than twelve (12) hours in any twenty four (24) consecutive hours, and any such driver shall be relieved from duty for at least one period of not less than eight (8) consecutive hours during said twenty-four (24) hours.
- V. All limousines must be kept clean inside as well as outside at all times. All limousines are subject to inspection by the Licensing Authority or the duly appointed inspector. All limousines shall be made available for such inspections on such dates, places and times designated by the Board.
- VI. Whenever requested by a passenger, or whenever there is a dispute over a fare, the driver shall give a receipt to said passenger which shall contain the company name, driver's name, date and time, origin and destination of the trip and the amount charged.
- VII. Limousines shall establish rates for hire which are reasonable and in conformance with rates charged in the geographic area.
- VIII. The operation of each limousine, records keeping, adherence to proper rates of hire and compliance with all rules and orders of the Lunenburg Licensing Authority shall be the sole responsibility of the licensee of said limousines.
- IX. Failure to comply with the rules and regulations of this regulation shall be grounds for the suspension or revocation of any license issued pursuant to these rules and regulations.
- X. The annual fee for any and all licenses issued pursuant to these rules and regulations shall be established by the Licensing Authority and may be altered from time to time as the Licensing Authority determines necessary.
- XI. Applicant shall furnish a copy of Certificate of Liability Insurance for each vehicle authorized in the amount of \$250,000 (Two hundred Fifty Thousand Dollars) for bodily injury to any one person; in the amount of \$500,000 (Five Hundred Thousand Dollars) for injuries to more than one person in the same accident; and \$100,000 (One Hundred Thousand Dollars) for property damage resulting from any one accident. Said Certificate shall be file with the Office of the Town Clerk.

Section 4.18 Gasoline Storage – Storage of Inflammables

Application shall be accompanied by the following:

- Tax Certification Form
- Plot plan showing location of storage tank, septic system, buildings, well etc.

Completed application shall be forwarded to the Fire Chief for his recommendation prior to the scheduling of a hearing.

Once a hearing date has been set, the date and time of the hearing shall be advertised at least seven (7) days prior to said date. Applicant is required to notify abutters by certified mail at least seven (7) days before the hearing. A copy of the certified abutters list and return receipts must be presented to the Licensing Authority at the hearing. All costs associated with the advertising of the hearing shall be the responsibility of the applicant.

Renewal of the license is required by April 30th annually. In accordance with the general laws of the Commonwealth, the Town Clerk's office is responsible for renewal of these licenses.

Article V. Use of Public Buildings/Public Property

Section 5.01 Pole Location Requests

If a hearing is required for a pole location, a certified abutters list shall be obtained from the Assessors office and all abutters shall be notified of the date and time of the hearing. Application shall be sent to the Director of Public Works for recommendation.

All applications shall contain a clear plot plan showing the exact location of the proposed pole location.

Section 5.02 Road Acceptance

Upon receipt of a completed application to lay out a road as a public town way the Selectmen must formally vote to schedule a hearing to lay out said road.

Application for road acceptance shall contain the following:

1. Formal request to Selectmen to lay out the road as a public town way.
2. Legal description of road for filing of deed.
3. Engineered plan or road with specific details as may be required by Board-i.e. any drainage easements, location of utilities, etc. Plan eventually must be filed with Registry of Deeds.
4. A list of names and address of all abutters to the road as certified by the Board of Assessor's.
5. Application Fee in accordance with the current fee schedule.

A copy of the complete application shall be sent to the Planning Board and Department of Public Works for their recommendation. All roadways must conform to specifications of the Lunenburg Protective Bylaw.

Notification of the hearing shall be posted in the newspaper at least 7 days before hearing. . A copy of the notice shall be posted in Town Hall and sent by the applicant to all abutters by certified mail at least 7 days before hearing. The certified receipts shall be presented to the Board of Selectmen at the hearing.

At the hearing the Selectmen must lay out road by formal vote.

The Order & Report of Layout shall be filed with Town Clerk at least 7 days before the Town Meeting at which the Town is to act upon acceptance of the road.

If road is accepted at Town Meeting, a copy of the deed shall be submitted by the developer to the Board of Selectmen in a format acceptable to Town Counsel. The Original deed and original Mylar plan must be

recorded at the Registry of Deeds by the developer/petitioner and proof of said recording provided to the Selectmen.

Section 5.03 Use of Public Ways

No person shall place any table, tent, booth, stall or other thing in a street, highway, sidewalk, or on any of the public grounds in the town, without a license from the Selectmen.

License is required for vehicular and/or mobile type units to sell goods on public ways. All vendors selling food must obtain all necessary licenses from the Board of Health.

This license entitles person to operate upon any public ways throughout the town, If a potential traffic hazard comes about, this will be a separate and distinct matter for the Police Department. In order to operate upon Town property (park, school, etc.) the applicant must get the approval from each department head involved.

Article VI. Public Relations

Section 6.01 Boston Post Cane

Proposed by the Council of Aging on May 11, 1998. Approved by the Board of Selectmen on 5/26/98

Criteria For Selection: .

1. Oldest registered voter, according to Town Records
2. Resident of Lunenburg at least 25 years during their lifetime, as verified by Town Records
3. An active member of the community in the past.

Procedure For Selection:

1. A questionnaire will be sent to the five oldest people in town, as listed in the Town's Annual Census
2. Respondents will be screened by a sub-committee of the Council on Aging
3. If two or more residents meet the criteria, the person living the longest period of time in the town will be given the advantage
4. The sub-committee will report their findings to the Council on Aging
5. Following approval of the selection by the Council on Aging, a recommendation will be made, in writing to the Board of Selectmen for acceptance

Presentation:

1. A symbolic presentation of the Boston Post Cane by the Chairman of the Board of Selectmen or a designee will take place at a public ceremony
2. If the recipient is not physically able to attend the ceremony, the presentation will take place in his/her home
3. A replica lapel pin of the Boston Post Cane and a framed certificate will be presented to the recipient
4. At that time, a photograph will be taken of the recipient with the Boston Post Cane and certificate.
5. This photograph will be mounted below the case where the cane is on display in the Eagle House Senior Center
6. The recipient's name will be added to the list of past recipients, also mounted below the display case
The honoree will hold the designation as holder of the Lunenburg Boston Post Cane as long as they continue to meet the criteria.

Article VI. Personnel

Section 7.01 Family & Medical Leave

Eligible employees will be entitled to take unpaid, job protected leave for specific family and medical reasons in accordance with the Federal Family and Medical Leave Act of 1993.

Section 7.02 Sexual Harassment

1. Policy

1.1 Introduction. The Town of Lunenburg (Town) depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity. Sexual harassment is a form of behavior which adversely affects the employment relationship. It is prohibited by State and Federal law. The Town also condemns and prohibits sexual harassment by any employee.

1.2 Sexual harassment does not refer to purely voluntary social activities. It refers to behavior which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/ or interferes with the ability of the employee to work effectively. Sexual harassment, as defined by the law, may, depending upon the circumstances include unwelcome actions such as:

- Verbal abuse of a sexual nature, use of sexually degrading words, or jokes or language of a sexual nature;
- Physical contact including patting, pinching or repeated brushing against another's body;
- Demands or requests for sexual favors accompanied by implied or overt promises of preferential treatment or threats concerning an individual's status as an employee;
- Continuing to express sexual interest after being informed that the interest is unwelcome;
- Assaults or molestations;
- Posting or distributing sexually suggestive pictures or other materials; or
- Inquiries into someone's sexual experiences or discussion of one's on sexual activities.

1.3 Sexual harassment is not limited to prohibited behavior by a male employee toward a female employee. Sexual harassment can occur in a variety of circumstances. Here are some things to remember.

- A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser;
- The harasser does not have to be the victim's supervisor;
- The victim does not have to be of the opposite sex from the harasser;
- The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the co-worker or interferes with the co-workers work performance.

Please note, that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

1.4 Employee Responsibilities. Each employee is personally responsible for:

- Ensuring that his/ her conduct does not sexually harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;
- Cooperating in any investigation of alleged sexual harassment by providing any information he/ she possesses concerning the matter being investigated;
- Actively participating in efforts to prevent and eliminate sexual harassment and to maintain a working environment free from such discrimination;
- Ensuring that an employee who files a sexual harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

1.5. The Rule. It is, therefore, against the policy of the Town for any employee of the Town, male or female, to harass another employee sexually, that is, by making unwelcome sexual advances, requests for sexual favors, or other uninvited verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either implicitly or explicitly a term or condition of any employee's employment;
- Submission to, or rejection of, such conduct by an individual is made the basis for employment decisions affecting the employee;
- Such conduct has the purpose or effect of interfering with an individual's work performance;
- A hostile or intimidating work environment is created for the employee.

It is also against the policy of the Town for an employee to sexually harass any person with whom the employee comes in contact on the job.

1.6 Retaliation. Retaliation against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a sexual harassment complaint is against the law.

2. Violation of Policy. Any employee violating this policy will be subject to appropriate discipline, including possible discharge by the Town.

3. Procedures for Complaints.

3.1 Complaints. The Board of Selectmen shall designate a Sexual Harassment Grievance Officer and an Alternate Sexual Harassment Grievance Officer annually. If any employee believes he or she has been subject to sexual harassment, the employee should initiate a complaint by contacting the Sexual Harassment Grievance Officer as soon as possible. The employee should file the complaint promptly following an incident of alleged harassment. The employee should be aware that the longer the period of time between the event giving rise to the complaint and the filing, the more difficult it will be for the Sexual Harassment Grievance Officer to reconstruct what occurred. The employee will be requested to write out his or her complaint to document the charge.

If an employee prefers to discuss a possible sexual harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting sexual harassment and may go directly to the Grievance Officer.

3.2 Investigation. On receiving the complaint, the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer will promptly have a preliminary investigation made into the matter. If after the completion of this preliminary investigation it is determined that there is reasonable cause for finding a violation of this policy, the Town will notify the complainant and the charged employee of the finding orally. The charged employee will be requested to respond to the complaint. Additional investigation will be made to the extent appropriate in each case. This process will be confidential to the extent consistent with an effective investigation, subject to the business needs of the Town.

3.3 Decision. After the response of the charged employee has been made, and any further investigation which may be warranted has been carried out, the Town will make a final decision. If the Town finds that the allegations in the complaint have been established by the investigation, the Town will initiate discipline of the charged employee. Discipline will be appropriate to the offense and employees involved, and may include discharge.

The complainant will be notified of the disposition of the investigation.

4. State and Federal Agencies.

4.1 The Massachusetts Commission Against Discrimination (MCAD), located at One Ashburton Place, Boston, MA, and 436 Dwight Street, Springfield, MA, is responsible for enforcing the Massachusetts

Sexual Harassment Law, and the U.S. Equal Employment Opportunity (EEOC) is responsible for enforcing the federal law prohibiting sexual harassment. The EEOC is located at One Congress Street, Room 1001, Boston, MA. They may be contacted at the above addresses. A complaint to the MCAD must be filed within six (6) months. A complaint under the federal law should be filed within 180 days, but under certain circumstances, a federal complaint may be filed within 300 days.

Section 7.03 Alcohol & Drug Testing for Employees with a Commercial Drivers License

INTRODUCTION

The following is the policy of Lunenburg regarding testing associated with alcohol misuse and drug use by those employees operating motor vehicles, which require a Commercial Drivers' License. The terms alcohol misuse, drug use and substance abuse are used interchangeably in this document.

TERMS AND ABBREVIATIONS

BAT	Breath Alcohol Technician
CDL	Commercial Drivers' License
CMV	Commercial Motor Vehicle
DHHS	Department of Health and Human Services
DOT	Department of Transportation
EAP	Employee Assistance Program
EBT	Evidential Breath Testing
MRO	Medical Review Officer
US	Town of Lunenburg \ The Employer
YOU	The Driver / Employee

DEFINITIONS

Alcohol	The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.
Alcohol Concentration	Also called alcohol content, the alcohol in a volume of breath, (expressed as grams of alcohol per 210 liters of breath) as indicated by an evidential breath test, such as a breathalyzer.
Alcohol Use	The consumption of any beverage, mixture or preparation, including medications, containing alcohol.
Breath Alcohol Technician	An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing (EBT) device.
Confirmation Test	<i>In alcohol testing:</i> a second test, following a screening test with a result of 0.002 or greater, that provides quantitative measurement of alcohol

concentration.

In drug testing: a second test to identify the presence of a specific drug or metabolite. In order to ensure reliability and accuracy, this test is separate from and uses a different technique and chemical principle from that of the alcohol screening test.

Controlled Substances

In this policy, the terms "drugs" and "controlled substances" are interchangeable and have the same meaning. Unless otherwise provided, these terms refer to:

- marijuana
- cocaine
- opiates
- phencyclidine (PCP)
- amphetamines, including methamphetamines

Driver

Any person who operates a commercial motor vehicle (CMV) Including:

- full-time, regular employed drivers
- casual, intermittent or occasional drivers
- leased drivers
- independent, owner-operated contractors who are either directly employed by or under contract to an employer or who operates a commercial motor vehicle (CMV) at the direction of or with the consent of an employer.

Evidence Breath Testing Device A device used for alcohol breath testing that has been approved by the National Highway Safety Administration.

Medical Review Officer

A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program. The MRO must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history and other relevant biomedical information.

Screening Test

In alcohol testing: the initial test to determine if a driver has a prohibited concentration of alcohol in his or her system.
In controlled substances testing: a screen to eliminate "negative" urine specimens from further consideration.

Substance Abuse

Refers to patterns of substance use that result in health consequences or impairment in social, psychological and occupational functioning.

A licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

WHO IS COVERED BY THE ALCOHOL AND DRUG RULE

The Federal Highway Administration, Department of Transportation Alcohol and Drug ruling applies to every person who operates a commercial motor vehicle (CMV) in interstate or intrastate commerce, and is subject to the commercial driver's license (CDL) requirements of part 383.

SAFETY-SENSITIVE FUNCTION

A Safety-sensitive function is defined as including any of the following circumstances and/or activities:

- at a carrier or shipper plant, terminal or facility, or other property, or on any public property, waiting to be dispatched, unless the driver is relieved from duty by the employer:
- inspecting service brakes, including trailer brake connections, parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear vision mirrors, coupling devices, fire extinguisher, spare fuses, or warning devices for stopped vehicles.
- inspecting servicing, or conditioning any (CMV) in operation;
- at the driving controls of a CMV in operation;
- while in or upon any CMV, except when resting in a sleeper berth;
- supervising or assisting in loading or unloading a vehicle;
- attending a vehicle being loaded or unloaded;
- while in readiness to operate the vehicle;
- when giving or receiving receipts for shipments loaded or unloaded;
- performing the driver requirements of sections 392.40 and 392.41 of part 392, Driving Motor Vehicles, relating to accidents;
- repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

DRUG PROHIBITIONS

The DOT refers to the restrictions for the use of both alcohol and controlled substances as *prohibitions*.

Alcohol prohibitions are tied to the performance of safety-sensitive functions in the following ways:

1. A driver may not report for duty or stay on duty:
 - a) with a blood alcohol concentration of 0.04 or greater

- b) if in possession of alcohol (unless it is being transported as cargo) *Note: this includes any product (medication, food or other product) containing alcohol, regardless of the alcohol content.*
- (c) if using alcohol
- (d) within four hours of using alcohol
- 2. a driver who has an accident may not use alcohol until post-accident testing is done or for a period of eight hours, whichever comes first.
- 3. drivers cannot refuse to submit to alcohol testing.
- 4. employers who know about any of the above acts cannot permit the driver to perform a safety-sensitive function.

The Federal Highway Administration bans the use of controlled substances by drivers.

DRUG PROHIBITIONS:

- 1. Drivers may not report for duty or stay on safety-sensitive duty while using any controlled substance. There may be an exception to this ruling if a physician has prescribed a substance and has advised you that it does not interfere with your ability to operate a vehicle in a safe manner.
- 2. Drivers may not report for duty or stay on duty if they have tested positive for a controlled substance.
- 3. Employers who know about either of the above acts cannot permit the driver to perform a safety-sensitive function.
- 4. Employers may require drivers to report the use of any therapeutic drugs.

REQUIRED TESTS AND FREQUENCY

There are five situations where testing can be done to determine the presence of alcohol and/or drugs.

- 1. Pre-employment
When: Before a new hire can perform any safety-sensitive duties or when a person transfers into a safety-sensitive function from elsewhere in the municipality.
- 2. Post-accident
When: Following an accident where
 - a life was lost
 - the driver was cited for a moving traffic violation.

Post accident alcohol testing should be done within two hours of the accident. If a test cannot be done within eight hours, it probably will not be done. Post-accident drug testing shall be done within 32 hours, or not done at all.

- 3. Random
Unannounced random testing is required on a certain percentage of drivers each year.

How: The random selection process used shall ensure that each driver has an equal chance of being tested each time selections are made.

When: Drivers are randomly selected from the pool. Random testing for alcohol shall be completed just before, during or immediately after performing safety-sensitive work. Random testing for drugs may be done at any time you are at work. Once you are notified that you have been selected for random testing, you must proceed immediate to the test site.

Random testing is done as follows:

- 25% of all drivers shall be randomly tested for alcohol during the first year of the testing program. The number to be randomly tested in following years depends on the percentage of positive tests for the entire industry.
- 50% of drivers shall be randomly tested for controlled substances during each year of the testing program.

4. Reasonable Suspicion

When: If supervisor has reason to believe that an employees behavior or appearance may indicate alcohol or drug use.

Testing for reasonable suspicion is based on:

- the observances of a trained supervisor
- specific, clearly stated observations concerning the driver's appearance, behavior, speech or body odor
- observations made for alcohol testing shall be made just before, during, or just after the performance of a safety-sensitive function.

Important points:

- The supervisor who makes the observation and determines that reasonable suspicion testing should be done, may not conduct the alcohol test on the driver.
- Alcohol testing for reasonable suspicion must be done within two hours of the observation. Tests that cannot be done within eight hours of the observation shall not be done.
- An employee cannot report for duty or stay on the job while under the influence of alcohol or while impaired by alcohol as shown by behavior, speech or performance that indicates alcohol misuse. Employees will not be allowed to continue to perform safety-sensitive duties until:
 - alcohol concentration is less than 0.002.
 - or**
 - 24 hours have passed from the time of the initial observation.
- Action regarding alcohol misuse cannot be taken against a driver unless an alcohol test was administered or was refused by the driver.

5. Return to duty and follow-up

When:

- Return to duty testing is required for drivers who violate prohibitions and are returning to work. In order to return to work, an alcohol concentration of less than 0-002 or a negative drug test is required.
- Follow-up testing is required when a driver returns to a safety-sensitive function. A minimum of six tests shall be performed during the first year back in a safety-

sensitive position. However, follow-up testing may continue for up to five years.

REFUSAL TO BE TESTED

As part of the alcohol and drug rule, an employee must submit to alcohol and drug testing. If an employee refuses to be tested, the employee cannot continue on the job.

Refusal to test is considered to be any time an employee either fails to provide enough breath for alcohol testing or enough urine for controlled substances testing without a valid medical reason for being notified of the testing requirements, or if an employee clearly obstructs the testing process.

ALCOHOL TESTING PROCEDURES

1. All alcohol testing is done by a certified Breath Alcohol Technician, or BAT, in a private setting where no one but the employee and the BAT can see or hear the test results. An evidential breath testing device (EBT) approved by the National Highway Safety Administration must be used.
2. The BAT will ask for identification. An employee may ask for the BAT'S identification as well.
3. To complete the test, the employee must blow forcefully into the mouthpiece of the testing device. The BAT must show the employee the test result on the testing device.
4. A screening test is done first. If the reading is less than 0.02, employee will sign the certification and fill in the date on the form. The test will be reported as negative to the employer.
5. If the reading is 0.02 or greater, a confirmation test must be done (after 15 minutes but within 20 minutes of the first test). Employee will be asked not to eat, drink, belch or put anything in their mouth. These steps prevent the buildup of mouth alcohol, which could lead to an artificially high result.
6. If the screening and confirmation test results are not the same, the confirmation test result is used.

If an employee refuses to be tested or to sign the testing form, the BAT will immediately notify the employer.

DRUG TESTING PROCEDURES

1. Drug testing is done by analyzing a urine sample, which is collected in a private location.
2. Urine specimens are divided into two containers by the collection site person-in your presence. These two samples, called "primary" and "split", are sent to a testing laboratory certified by the Department of Health and Human Services. (DHHS)
3. At the laboratory, a screening test is performed on the primary sample. If this test is positive for drugs, a confirmation test is required.
4. The confirmation test must use a specialized procedure called gas chromatography/mass spectrometry, to ensure that over-the-counter drugs are not reported as positive.
5. If the first test is positive, the Medical Review Officer (MRO) will notify the employee to find out if there is a medical reason for the drug use. If an employee can document why the substance is being taken and the MRO finds it is a legitimate medical use, the test may be reported as negative to the employer.
6. After being notified that the first test was positive, the employee has 72 hours to request a test of the split specimen. If an employee makes this request, the split specimen is sent to another DHHS-certified lab for the test.
 - a) **If an employee does not contact the MRO within 72 hours but can prove to the MRO that an employee had a legitimate reason for doing so, the MRO can order the split specimen tested.**

Removal from safety-sensitive duty as required by the DOT following a positive drug test is not delayed to await the result of the split specimen test.

7. **If the analysis of the split sample does not confirm the presence of a drug, the MRO cancels test**

and reports this to the DOT, to the employer, and to the employee.

CONSEQUENCES OF VIOLATING THE ALCOHOL OR DRUG PROHIBITIONS

Alcohol violations:

- a. Removal from safety-sensitive functions
- b. Following a violation, a driver cannot return to a safety-sensitive duties until an evaluation has been done and any recommended treatment has been completed.
- c. Anyone with an alcohol concentration of 0.02 greater, but less and 0.04, cannot return to safety-sensitive duties for at least 24 hours.

Drug violations:

- a. Removal from safety-sensitive functions.
- b. A driver cannot return to a safety-sensitive job until an evaluation has been done, recommended therapy is completed, and a verified negative drug test is produced.

TREATMENT ASSISTANCE

The alcohol and drug rule requires the Town to provide employees with an opportunity for treatment. The ruling does not, however, require the Town to hold a job open for an employee or to pay for rehabilitation.

If an employee violates an alcohol or drug prohibition they must be evaluated by a substance abuse professional to determine what help is needed.

Before return to safety-sensitive job, an employee must:

- a. have an alcohol concentration of less than 0.02, or a verified negative drug test (depending on the violation)
- b. complete recommended treatment
- c. Complete a minimum of 6 follow-up tests within the first year back to work (follow-up testing may be done for up to five years after return to work.

If an employee has not violated alcohol or drug prohibitions but would like further information or assistance on alcohol or drug issues, they may do so on a confidential basis through the Employee Assistance Program.

Section 7.04 Compensatory Time

There will be no compensatory time for salaried employees. If there is an extraordinary situation, the Town Manager upon review, may approve time off with pay.

Section 7.05 Equal Opportunity

The Town of Lunenburg is committed to, and shall take affirmative steps to ensure non-discrimination and equal opportunity in all municipal decisions, programs and activities. All Town employees and officials shall take affirmative steps to provide equal opportunities in the internal affairs of Town government as well as in their relations with the public. Each department shall continually and deliberately consider the likely effects their decisions and activities shall have in meeting the goal of equality of opportunity.

Section 7.06 Sick Leave Policy

This policy shall apply to all employees under the supervision of the Town Manager.

A phone call/email notice of an employees inability to report to work due to sickness or personal emergency shall be reported to their office staff as soon as possible. In the event the office is un-staffed contact the Town Manager as soon as possible.

Section 7.07 Contractors

Contracting with an outside individual or agency requires the use of a written contract and a disclosure form, obtainable from the Selectmen's Office or the Town Accountant.

Should a copy of the executed contract not be on file with the accounting office at the time a voucher for payment is submitted, the voucher will be returned for insufficient information.

Section 7.08 Town Communications

All communications regarding Town procedure and administration or which may affect the Town or its personnel as a whole, will either originate from or be approved by the Town Manager prior to distribution. No individual in the Town is to send or distribute any communication to "All Personnel" or "All Users" without prior authorization from the Town Manager. Managers are authorized to send or distribute communications regarding their area's business.

Section 7.09 Cori Policy

I. POLICY

This policy is applicable to the criminal history screening of prospective and current employees, volunteers, interns and licensees. CORI checks will be conducted only after a CORI Acknowledgment has been completed.

II. SCOPE

Criminal Offender Record Information (CORI) checks are part of a general background check for some employment and volunteer opportunities with the Town of Lunenburg as well as certain licenses. The Town may also conduct CORI checks on existing employees and license holders.¹ Such CORI checks shall be conducted in accordance with the following procedures:

III. PROCEDURES

- A. CORI checks will only be conducted as authorized by Department of Criminal Justice Information Services (DCJIS). Applicants and/or employees working in certain positions as well as certain license applicants and/or holders will be notified that a CORI check will be conducted. If requested, the applicant, employee and/or licensee will be provided with a copy of the CORI policy.
- B. The Town's employment application does not request conviction information. During the interview process, however, the applicant may be asked about any convictions as allowed by law.

¹ CORI Acknowledgement Forms are effective for one (1) calendar year. If a new CORI check is to be made on an individual within a year of his/her signing of the CORI Acknowledgement Form, the individual will be given seventy-two (72) hours notice that a new CORI check will be conducted. If a new CORI check is to be made after the expiration of a previously signed CORI Acknowledgement Form, a new form will be executed.

CORI checks will only be conducted after a determination of qualification has been made unless otherwise permitted by law.

- C. Prior to questioning an applicant, employee or licensee about his/her criminal record information, the Town will provide the applicant, employee or licensee with a copy of the criminal record in its possession. The Town will also advise the applicant, employee or licensee of the source(s) of the criminal record information.
- D. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on CORI checks will be made consistent with this Policy and any applicable law or regulations.
- E. If a criminal record is received from DCJIS (or other source), the Town will compare the record provided by DCJIS with the information on the CORI request form and any other identifying information provided by the applicant, employee or licensee to ensure the record relates to the applicant, employee or licensee.
- F. If the Town reasonably believes the record belongs to the applicant, employee or licensee and is accurate, based on the information as provided in Section E, the determination of suitability for the position or license will be made. While the existence of a criminal record does create a higher level of scrutiny of an applicant, employee or licensee, due weight will be given to: (1) the age/date of the offense; (2) the age of the person when convicted; (3) the nature of the offense; (4) the relevance of the offense to the position or license; (5) the type of offense; (6) the number of offenses; (7) whether there are charges pending; (8) any evidence of rehabilitation; and (9) any other factors the Town deems appropriate.
- G. If the Town is inclined to make an adverse decision based on the results of the CORI check, the applicant, employee or licensee will be notified by the Town in a timely manner. The applicant, employee or licensee will be: (1) provided with a copy of the criminal record in the Town's possession (if not previously provided), a copy of the Town's CORI Policy and the source(s) of the criminal record; (2) advised of the part or parts of the record that make the individual unsuitable for the position or license; and (3) given an opportunity to dispute the accuracy and relevance of the CORI record before making a final decision. The Town, however, may rely upon the information obtained even if the applicant, employee or licensee contests its authenticity.
- H. Applicants, employee or licensees challenging the accuracy of the CORI report shall be provided a copy of DCJIS's *Information Concerning the Process in Correcting a Criminal Record*. If the CORI record provided does not exactly match the identification provided by the applicant, employee or licensee, the Town will make a determination based on a comparison of the CORI record and documents provided by the applicant, employee or licensee. The Town may contact DCJIS and request a detailed search consistent with DCJIS policy.
- I. The Town will maintain all CORI information for no longer than seven (7) years from either the last date of an individual's employment, the expiration of the applicable license, or the final decision on an application, whichever is longer. After this period, the law requires that employers destroy the CORI information.

IV. ADMINSTRATIVE PROCEDURES

The Town Manager may adopt administrative procedures to carry out this Policy.