

**TOWN OF ESSEX
BOARD OF SELECTMEN**

**POLICY CONCERNING THE ISSUANCE
OF ENTERTAINMENT LICENSES**

Introduction

In accordance with Sections 181 and 183A of the Massachusetts General Laws, the Board of Selectmen is authorized to issue licenses for the presentation of live and recorded entertainment for one day only (Section 181) or on an annual basis (Section 183A). The Board may grant such licenses unless the proposed activity would endanger public health, safety or order by: (a) unreasonably increasing pedestrian traffic in the area in which the premises are located; (b) increasing the incidence of disruptive conduct in the area in which the premises are located; or (c) unreasonably increasing the level of noise in the area in which the premises are located. The Board is tasked with considering each license on a case-by-case basis and with exercising discretion as to whether the license should issue.

It has become evident that certain situations involving public entertainment may be considered nuisances by others, particularly to residents living in proximity to establishments offering entertainment. In recognition of this type of conflict, the Board desires to set out general guidelines for its own use when considering applications for one day and annual entertainment. By adopting this policy, the Board is hoping to work in harmony with the State Law while balancing the needs and desires of residents and businesses alike.

Emphasis of this Policy

This policy seeks to primarily address outdoor entertainment proposals (which includes proposals to erect tents and have entertainment within). Given that outdoor entertainment can have an effect on the surrounding area with respect to unwanted sound, and given that the State Law lists the prevention of "...an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the premises.." as part of its intent, it is particularly important for the Board to review and address this factor with respect to each application. Indoor entertainment may also have such an effect, but this is less likely and more easily controlled.

Key Elements to be Reviewed

It is the preference of the Board to begin with the premise that limiting outdoor entertainment to unamplified, acoustic music not involving significant elements of percussion or horns is in the best interest of residents living in the area of an establishment offering outdoor entertainment. As such, applicants proposing amplified outdoor entertainment will be required to show that the entertainment will not be audible beyond the boundaries of the applicant's property, or that there are no sensitive noise receptors, such as residences, that will be adversely affected by the entertainment. Statements of consent from neighboring property owners may be considered for this purpose.

It is generally apparent to the Board that outdoor entertainment of any type, tends to provide greater disturbance during night-time hours. Therefore, it is the position of the Board that outdoor entertainment should be limited to the hours of 1:00 p.m. (as required by State law, unless special permission is given) until 8:00 p.m. and that the duration of the entertainment, within that window, should be limited to 4 hours. Applicants proposing outdoor entertainment beyond these time frames will be required to show that there are no sensitive noise receptors, such as residences, that will be adversely affected by the entertainment. Statements of consent from neighboring property owners may be considered for this purpose.

It is generally apparent to the Board that applications for one day entertainment licenses are often accompanied by applications for one day liquor licenses in accordance with Section 14 of Chapter 138 of the Massachusetts General Laws. Whereas the regulations of the Alcoholic Beverages Control Commission, at 204 CMR 7.04, limit the granting of one day liquor licenses to an aggregate of no more than thirty per calendar year, and whereas the effects of one day entertainment licenses can be considered coextensive with the effects of one day liquor licenses, it is the position of the Board that it will not issue more than an aggregate of thirty one-day entertainment licenses for any person or property in a calendar year.

Applicants applying for more than thirty days of licensing in a calendar year will be required to show that there are no sensitive noise receptors, such as residences, that will be adversely affected by the entertainment. Statements of consent from neighboring property owners may be considered for this purpose. Applicants intending to present more than thirty days of entertainment in a calendar year are encouraged to apply for an annual license.

Procedure for Review

Upon receipt of a completed application, including payment of applicable fees, the Board of Selectmen will either grant the license or convene a public hearing in accordance with Section 181 or 183A of Chapter 140 of the Massachusetts General Laws.

If a hearing is going to be held, it will be convened no sooner than ten days after receipt of the completed application. It shall be incumbent upon the applicant to ensure that a completed application is received by the Board sufficiently in advance of the planned event so as to allow for the hearing to be scheduled. Late-filed applications may not be approved by the Board in time for the event.

The applicant shall provide written notice of the hearing at least five days prior thereto to all abutters, abutters to abutters within 500 feet and any other property which may be affected by the proposed entertainment. Abutter notification shall be at the applicant's sole cost and expense.

While the Board will initially seek to apply the guidelines above to all applications for outdoor entertainment, the Board recognizes that certain situations may be conducive to exceptions and these guidelines shall not limit the discretion of the Board from conducting a case-by-case review in accordance with Section 181 or 183A of Chapter 140 of the Massachusetts General Laws, and from granting or denying a license for any of the reasons set forth in said state laws.

Existing Licenses

While one-day entertainment licenses are always reviewed as new events, even if a particular event has been held in the past, the Board recognizes that certain establishments already have annual entertainment licenses that involve outdoor entertainment. These annual licenses will not be modified or rescinded solely on the basis of this policy, but the Board may take such action if it finds that there is cause to do so, and after conducting a public hearing, as required by State Law.