



COPY

## **TOWN OF GILFORD, NEW HAMPSHIRE**

### **A POLICY GOVERNING THE ISSUANCE OF "WRITTEN AUTHORIZATION" FOR LIQUOR LICENSEES (CHAPTER 38)**

**KNOW ALL PERSONS BY THESE PRESENTS**, the Gilford Board of Selectmen hereby adopts this Policy Governing the Issuance of "Written Authorization" for Liquor Licensees as the means by which the Town shall implement the provisions of RSA 179:19, II.

#### **38.1 AUTHORITY**

This policy is adopted pursuant to the authority granted under RSA 41:8.

#### **38.2 PURPOSE**

A. The primary purpose of this policy is to enable liquor licensees in the Town of Gilford to obtain such written authorization as may be necessary to provide dancing and/or entertainment. In addition, this policy shall establish the administrative processes by which the Town of Gilford shall provide such written authorization as may be necessary for applicants to obtain a NH liquor license pursuant to the practices in effect by the NH Liquor Commission.

B. Another purpose of this policy is to ensure, in so much as possible, that liquor licensees in the Town of Gilford comply with all applicable public safety laws, rules and regulations, as well as duly enacted local land use regulations.

#### **38.3 REPEAL OF PREVIOUS ORDINANCES/REGULATIONS/POLICIES**

This policy shall supersede and replace the Written Authorization Policy & Entertainment Business Permit Ordinance as previously adopted on January 25, 2012. However, all written authorization issued under that previous Ordinance shall continue in effect until such time as they may be revoked as otherwise set forth herein.

#### 38.4 WRITTEN AUTHORIZATION - ISSUANCE

A. The Town Administrator shall provide written authorization for liquor license applicant(s) with proposed premises situated in the Town of Gilford who are seeking an initial liquor license from the State of New Hampshire to sell alcoholic beverages upon written request under the following conditions:

- (1) The requestor shall provide the Town with a copy of the NH liquor license application that clearly identifies the applicant(s) and all of the areas on the proposed premises where liquor shall be sold and/or consumed.
- (2) The Director of Planning & Land Use (or his/her designee) has affirmed in writing that the proposed premises are in compliance with the Town of Gilford Zoning Ordinance and Building Code.
- (3) The Fire Chief (or his/her designee) has affirmed in writing that the proposed premises are in compliance with the State Fire Code and Town of Gilford Fire Prevention Code.
- (4) The Police Chief (or his/her designee) has affirmed in writing that there are no current outstanding arrest warrants or felony conviction(s) within the past six (6) months pending against the applicant(s) for the liquor license.
- (5) Written authorization under these specific circumstances shall clearly indicate that the Town does not give consent for dancing or entertainment.

B. The Town Administrator shall provide written authorization for liquor license applicant(s) with proposed premises situated in the Town of Gilford to provide dancing and/or entertainment upon written request, under the following conditions:

- (1) The requestor shall provide the Town with a copy of a valid NH liquor license and a drawing that clearly defines all of the areas on the licensed premises where dancing and/or entertainment shall take place.
- (2) The Director of Planning & Land Use (or his/her designee) has affirmed in writing that the proposed premises are in compliance with the Town of Gilford Zoning Ordinance and Building Code.
- (3) The Fire Chief (or his/her designee) has affirmed in writing that the proposed premises are in compliance with the State Fire Code and Town of Gilford Fire Prevention Code.
- (4) The Police Chief (or his/her designee) has affirmed in writing that there are no current outstanding arrest warrants or felony conviction(s) within the past six (6) months pending against the applicant(s) for the liquor license.

- (5) Written authorization under these specific circumstances shall clearly indicate that the Town gives consent for dancing and/or entertainment as noted in the application materials.
- C. There shall be no application or administrative fee charged by the Town to provide written authorization as set forth in this policy.
- D. Written authorization shall be deemed to be in effect indefinitely unless otherwise revoked as set forth herein.
- E. Notwithstanding the provisions of Section 38.7.B, it shall be expressly understood that the beneficiary of written authorization issued under this policy is not being issued a permit, license, contract, or any form of vested property rights as it pertains to the sale and consumption of alcoholic beverages in association with dancing and entertainment.

### **38.5 WRITTEN AUTHORIZATION – REVOCATION**

A. Written authorization for dancing and/or entertainment issued pursuant to this policy shall be revoked upon receipt of official notice that a NH liquor license has been relinquished, transferred, expired, revoked, suspended, or placed in safekeeping status; in which case the Town Administrator shall promptly send a written notice of revocation to the NH Liquor Commission and the licensee. Every licensee shall provide the Town with a copy of their current liquor license within thirty (30) days of renewal; otherwise the Town Administrator shall send notice of written authorization revocation as set forth herein.

NOTE: Written authorization shall be reissued whenever the conditions noted above have been corrected as verified by official written documentation, in which case the Town Administrator shall promptly send a written notice of the reissuance to the NH Liquor Commission and the licensee.

B. Written authorization for dancing and/or entertainment issued pursuant to this policy shall be revoked upon a finding by the Board of Selectmen that a liquor licensee is not in compliance with the terms and conditions of this policy pursuant to a public hearing process as set forth below in Section 38.6; in which case the Town Administrator shall promptly send a written notice of the revocation to the NH Liquor Commission and licensee.

### **38.6 REVOCATION PROCEEDINGS**

A. The Board of Selectmen shall schedule a public hearing to consider the revocation of written authorization issued pursuant to RSA 179:19, II under the following circumstances:

- (1) Receipt of official notice by the Director of Planning and Land Use (or his/her designee) that a licensee is operating in a manner that is not in compliance with the Town of Gilford Zoning Ordinance or Building Code.

- (2) Receipt of official notice by the Fire Chief (or his/her designee) that a licensee is operating in a manner that is not in compliance with the State Fire Code or Town of Gilford Fire Prevention Code.
- (3) Receipt of official notice by the Police Chief (or his/her designee) that a licensee has an outstanding arrest warrant or felony conviction(s) within the past six (6) months or that any criminal activity has taken place at the licensed premises that was known or should have been known by the licensee or that the licensee has failed to comply with the provisions of Section 38.7.A as noted below.

B. Public hearings to consider written authorization revocation shall be scheduled at the convenience of the Board of Selectmen in accordance with the provisions of RSA Chapter 43.

C. Within thirty (30) days upon the conclusion of the public hearing, the Board of Selectmen shall render a written decision with its findings. If no written decision is released, the previously issued written authorization shall remain in effect.

D. The decision and/or findings of the Board of Selectmen shall be deemed final and not subject to any appeal. Any person aggrieved by the decision of the Board of Selectmen may petition a court of competent jurisdiction for such relief as may be deemed necessary.

### **38.7 GENERAL INFORMATION**

A. Pursuant to RSA 105:9, the Police Chief shall have the authority to require private police details to be paid by a liquor licensee to attend any public functions upon a determination that such action is necessary to prevent, in so much as possible, (i) traffic-related problems; (ii) public disturbances or nuisances; or (iii) endangerment to public health, safety or welfare. Such orders may be issued at anytime as otherwise allowed by law.

B. The issuance of written authorization for entertainment shall be deemed to concurrently convey a Showman License for any entertainer who performs at the licensed premises as otherwise required by RSA 286:1.

C. Nothing in this policy is intended to infringe upon the ability of any Town Official, including, but not limited to the Selectmen, Town Administrator, Code Enforcement Officer, Fire Chief, their designees and any duly sworn law enforcement officer from entering upon the public areas of the licensed premises during regular business hours without a warrant or advance notice, nor is this policy intended to prevent such Town Officials from taking any other action that is otherwise allowed by law in the exercise of their official duties.

D. The invalidity of any provision of this policy shall not affect the validity or enforceability of any other provisions.

E. Any licensee that has had his/her written authorization revoked as otherwise set forth herein, may reapply after thirty (30) days has expired since the revocation took effect, provided that they meet all of the other requirements for the issuance of the written authorization in accordance with the terms and conditions of this policy.

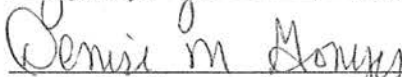
IN WITNESS WHEREOF, this Policy Governing the Issuance of "Written Authorization" for Liquor Licensees is hereby adopted and approved on the 28<sup>th</sup> day of JANUARY, 2015 by the Gilford Board of Selectmen, upon the convening of a public hearing and deliberations during a duly posted, public meeting of the Gilford Board of Selectmen held on the 28<sup>th</sup> day of JANUARY, 2015; to be effective immediately. ATTEST:

  
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John T. O'Brien, Chair

  
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Gus Benavides, Vice-Chair

  
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Richard Grenier, Clerk

UNDER SEAL OF THE TOWN, RECEIVED AND RECORDED ON THIS 29<sup>th</sup> DAY OF January, 2015, BY:

  
\_\_\_\_\_  
Denise M. Gonyer, Town Clerk – Tax Collector

