

Alcoholic Beverage License Renewals – November 2020

Local Licensing Authorities (“LLAs”) know that November is the month that renewal application forms for all annual alcoholic beverage licenses must be filed (the ABCC directs that late filed applications be treated as applications for a new license, including public hearings, abutter notices, etc.). General Laws Chapter 138, §16A provides that timely and complete renewals shall be “automatically” approved, but the reality is that this year the Covid-19 pandemic has complicated all aspects of municipal governance, including alcohol licensing. There are certain developments that LLAs should bear in mind during this renewal season.

- Signatures on Renewal Applications: Typically, the ABCC has required that LLAs only accept new and renewal applications that have an original signature on them. In an advisory issued in August, however, the ABCC recognized that the Covid-19 virus could create difficulties for businesses to obtain the appropriate signatures. Therefore, for 2021 renewals only, applications with electronic signatures are acceptable and may be received as scanned copies via email.
- Outdoor Seating: In ordinary years, when a licensee wanted to extend its alcohol service to an outdoor area, an application to alter the premises required a hearing and approval of the LLA and ABCC, and the ABCC conducted inspections of the new area. When restaurants were unable to have indoor seating due to state restrictions, however, Governor Baker issued an order in June that authorized a streamlined approval process for allowing outdoor service through November 1, 2020. On September 10, a new order authorized such outdoor service to extend until 60 days after the end of the State of Emergency called by the Governor. As with the original order, LLAs have the option of issuing a “blanket” approval for on-premises licensees to serve outdoors, or requiring that any licensee wishing to take advantage of this make individual requests. The LLA should keep a record of any such approvals as part of the business’ license. The usual alteration of premises application procedure is not required for this, but once the State of Emergency period expires, any continued outdoor service will be subject to formal approval by the LLA and ABCC.
- Executing Renewal Applications: While electronic signatures are temporarily authorized, the application for renewal must still be signed by one of the authorized representatives:
 - *A shareholder, director, or officer of a corporation;*
 - *A member or manager of a limited liability company (“LLC”);*
 - *The license manager;*
 - *An appointed trustee in bankruptcy;*
 - *An appointed administrator/executor of the estate of a deceased licensee; or*

• *A pledge holder approved by the LLA and ABCC.*

- “Pocket Licenses”: The ABCC typically encourages LLAs not to allow licensees to hold onto and renew licenses they are not actually using, but the LLA must provide six months written notice to the licensee to either open or seek a transfer before it may consider cancellation. At present, many restaurants are unable to operate at anywhere near capacity, while bars and taverns remain unable to open at all. In general, whether to seek to require a license holder that is authorized to operate to open its business is a LLA’s discretionary decision. Under current circumstances, however, for businesses authorized to operate but which are not currently doing so due to Covid-19 concerns and/or state orders, LLAs should approve the renewal, absent circumstances unrelated to state orders. If a closed business not currently authorized to operate applies for renewal, the application should be approved so that the licensee will be able to open when new orders from the Governor and the Department of Public health allow it. In addition, the ABCC recently advised that for §12 (on premises) licensees that remain closed to the public, renewals may be approved without the licensees providing proof of liquor liability or workers’ compensation insurance coverage. Proof of insurance must be provided to the LLA before the business may open, and the exemption for workers’ compensation coverage requires that there is no payroll at the time of renewal.

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