

Town of Auburn, Massachusetts

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Section 300

BOARD OF SELECTMEN POLICY

LIQUOR LICENSE POLICY

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LIQUOR LICENSE POLICY
TOWN OF AUBURN

I. INTRODUCTION

The Auburn Board of Selectmen serving as License Commissioners under the authority of G.L. c.138, §1, (hereinafter “License Commissioners”) has the objective of providing a reasonable number of restaurant, club and package goods store licenses for the sale and/or service of all alcoholic beverages and/or wine/malt beverages to the public and with all licensed establishments to be of credit to the immediate community and contributing to the quality of life, within the Town of Auburn as a whole.

The number of licenses issued is based upon a quota system related to population and regulated by the General Laws of the Commonwealth. There is no compelling reason for the License Commissioners to issue licenses if in the majority opinion of the License Commissioners, the public good will not be served by the issuing of new licenses.

The Auburn Board of Selectmen serving as the License Commissioners wish to be assured that those holding a financial interest as well as a beneficial interest within a licensed business are not only of sound character, but are qualified to hold a license. They, as well as the manager of record, must be qualified to hold a license and be able to show the License Commissioners that they will operate a closely supervised business and if holders of a restaurant license or club license, that quality food will be available and that the service and sale of alcoholic or wine/malt beverages will represent only a minor portion of the business.

The Auburn Board of Selectmen will strongly regulate the closing hours of premises and will always believe that the rights of residents supersede the economic considerations of the licensed premises. Therefore, last call will be one-half hour before the set closing hour of the restaurant or club and there will not be any drink consumption time allowed once the set closing hour has been reached. If any form of entertainment is to be provided, weekdays or on Sunday, proper entertainment licenses must be secured.

All officers of the Auburn Police Department are appointed Agents of the License Commissioners. At any time, the Agents of the License Commissioners may inspect the licensed premises to insure that the conduct of the business conforms to all existing laws and regulations. The manager of record is responsible for the conduct of the business, whether present or not, and it will be required that the manager of record or their agent be on the licensed premises at least fifty (50) percent of the time that the premises are open.

Read and understand the following rules and regulations which have been promulgated with the sole objective of having quality regulations for the citizens of Auburn.

II. PREAMBLE

This policy shall become effective on the date of final adoption by the Auburn Board of Selectmen and unless otherwise provided, shall apply to all liquor license applications to the Auburn Board of Selectmen, serving as License Commissioners for the Town of Auburn, for new, renewal, and/or transfer of licenses received on or after the date of adoption of this policy.

III. RULES AND REGULATIONS

***THIS SECTION TO BE USED LATER.**

SECTION A – GENERAL PROVISIONS

1. LICENSING AUTHORITY

These regulations are adopted and may be amended from time to time, by the Board of Selectmen serving as License Commissioners of Auburn, pursuant to the provisions of Massachusetts General Laws, Chapter 138 and Chapter 140. Any and all alcoholic beverages and common licenses issued by the License Commissioners shall be governed by these regulations, M.G.L. Chapter 138 and Chapter 140, and the rules and regulations of The Alcoholic Beverages Control Commission of the Commonwealth of Massachusetts, as the same may be amended from time to time.

2. FILING OF APPLICATIONS

All license applications must be submitted in complete form on applications provided by the License Commissioners in order to be processed by the office of the License Commissioners for submission to the Board of License Commissioners for action following a public hearing. The office of the Commission has a complete instruction sheet regarding the filing of applications which lists information that will be required as well as the various forms, along with the application form, that will be required. In many instances a “legal notice”, paid for by the applicant will be required and immediate abutters notified of the date of the public hearing. Complete information regarding legal notice and notification to abutters is available at the office of the Commission. 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 the application and forms required.

3. FILING FEES

Filing fees must be paid at such time as an application is filed at the office of the License Commissioners. Fees will vary depending upon the type of application submitted. Town of Auburn filing fees, if paid for by check, must have the check made payable to Town of Auburn. Filing fees required by The Alcoholic Beverages Control Commission must be made payable to Commonwealth of Massachusetts and must be a certified check or bank treasurer’s check. Filing fees are not returnable once an application has been accepted by the License Commissioners.

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4. ANNUAL LICENSE FEES

Annual license fees must be paid prior to the issuance of any license. License fees may not be prorated and are not refundable.

5. COMPLIANCE WITH ALL LAWS AND REGULATIONS

All licensees shall maintain their premises and operations in full compliance with all applicable state and local building codes, all health and sanitary codes, laws and regulations. All taxes and charges owed to the Town of Auburn must be paid on a current basis. Failure to comply with any of these Rules and regulations shall be sufficient cause for revocation, suspension or modification of the license.

6. CORPORATE AND TRADE NAMES

No licensee shall assume obligations for licensed premises under any corporate or trade name other than that under which he/she is licensed. Any change in corporate name or any change in trade name (DBA) shall require the prior approval of the Auburn Board of Selectmen.

7. INITIATION OF OPERATION

Where there are no premises actually in existence at the time an application is made, the License Commissioners may, at their sole discretion, grant a license upon condition that a plan showing the actual dimensions of the premises which are to be constructed on which the license is to be exercised are filed with the application. Such a license shall be a conditional license and shall expire six (6) months after the date of issuance, unless it is determined, by the License Commissioners, or their representative, that the facility is fully operational or unless further extended by the License Commissioners, upon request of the applicant.

The License Commissioners may also grant a conditional license to an applicant for a new license or for renewal of a license, whose facilities are under renovation, for a period not to exceed six (6) months, on condition that the premises being constructed or under renovation shall meet all of the rules and regulations contained herein and a plan showing the actual dimensions of the premises which are being renovated on which the license is to be exercised is filed with the application.

8. CESSATION OF OPERATIONS

Any licensee intending to close a place of business, whether on a temporary or permanent basis, must notify the License Commissioners in writing before such closing stating the reason and length of such closing. Failure to provide such notice may result in the revocation of the license.

9. BANKRUPTCY AND COURT PROCEEDINGS

The licensee shall immediately notify, in writing, the License Commissioners 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.

10. CORPORATE TRANSACTIONS AND CHANGE OF MANAGERS

The licensee shall not change managers, change corporate officers, sell or transfer corporate stock, pledge corporate stock or liquor license as security, or accept a loan or credit from another licensee, without first obtaining the approval of the License Commissioners. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the License Commissioners.

11. FORECLOSURES ON LOANS

Assignment of stock in incorporated licensed places for the purpose of safeguarding the assignee on loans, etc., gives no right to such assignee to conduct the business of the licensee; therefore, licensees must notify the License Commissioners immediately when the assignee forecloses under such assignment of stock.

12. MANAGER

No corporation shall be approved for a license unless the corporation, by vote of its Board of Directors, has appointed a Manager who is a United States citizen and who has been vested with full authority and control of the premises and the business to be licensed. The Manager or their Agent 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 by the License Commissioners.

13. MANAGER'S RESPONSIBILITIES

The Manager shall at all times maintain order and decorum in the premises and in the immediate surrounding area of their premises and shall cooperate in all ways with city officials in ensuring safe and orderly facilities. There shall be no disorder, indecency, prostitution, lewdness or illegal gambling on the licensed premises. No entrance door shall remain or be kept in an open position. Rear exit doors must remain shut so that noise does not become disturbing to abutters and/or neighbors.

14. EMPLOYEE CONSUMPTION PROHIBITED

No Manager, or employee shall consume any alcoholic beverages while on duty nor after the official closing hour.

15. SERVICE PROHIBITED TO CERTAIN INDIVIDUALS

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.

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16. PROOF OF IDENTITY AND AGE

In accordance with M.G.L. Chapter 138, Section 34B, any licensee, *its* agent or employees, who reasonably relies on a valid operator's license issued by the Registry of Motor Vehicles of the Commonwealth of Massachusetts or the Registry of Motor Vehicles for any state or Commonwealth of the United States, or a valid passport issued by the United States government or by *a* government, recognized by the United States government of a foreign country, or a valid United States issued military identification card, for proof of a person's identity and age shall be presumed to have exercised due care in making a delivery of sale of alcohol or alcoholic beverages to a person under twenty-one years of age and shall not suffer any modification, suspension, revocation or cancellation of such license. A licensee or its agents or employees shall not accept any other type of I.D.

17. DISCRIMINATION PROHIBITED

No licensee or its agents and employees shall make any distinction, discrimination or restriction in accordance with the laws of Massachusetts relative to the admission or treatment of any person.

18. EMPLOYEE LIST TO BE MAINTAINED

An up-to-date list of all employees shall be available on the premises at all times for review by authorized agents of the License Commissioners. All establishments must maintain during operating hours in an accessible place a roster or certificate of trained personnel. An updated roster shall be submitted with the annual application for renewal of the license. The roster shall include:

1. Employee Name
2. Employee Date of Birth
3. Employee Social Security Number
4. Type of Training (License)
5. Date Valid
6. Date of Expiration
7. Date of Hire

19. SUSPENSION REVOCATION OR MODIFICATION OF LICENSE

All licenses are subject to suspension, revocation or modification for breach of any conditions, regulations, laws, by-laws or policies of the Commonwealth of Massachusetts, the Town of Auburn or License Commissioners. The License Commissioners reserve the right to change or add to any license conditions or any regulations after notice to the licensee.

20. DISPLAY OF LICENSES AND PERMITS

All licenses and permits issued by the Town of Auburn shall be displayed on the premises in a conspicuous place.

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21. HOURS OF OPERATION – (SEE HOURS OF OPERATION UPON YOUR LICENSE)

The hours of operation shall be restricted to those set by the License Commissioners. No patrons shall be on the premises before the official opening hours nor fifteen minutes after the official closing hours. Customers must be up and on the way out once the closing hour of the licensed premises has been reached. There shall be no drink consumption time permitted by any licensee, its agents or employees.

22. EMPLOYEES ON PREMISES AFTER CLOSING HOURS

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 such premises, preparing food for the next day’s business, restocking of merchandise or opening or closing the business in an orderly manner.

If it is necessary to have workmen other than employees on the premises after hours, or if it is necessary for the owners or employees to be on the premises beyond sixty (60) minutes after the closing hour, the Manager must contact the Auburn Police Department’s Commanding Officer and state the reason and the number of people on the premises as well as the approximate hours they will be on the premises. Failure to provide such notice shall be cause for action against the license.

23. ACCESS TO PREMISES BY POLICE AND AGENTS

It shall be the responsibility of the licensee to ensure that procedures are in place, be it by posting a doorman or otherwise, to allow Police and authorized agents of the License Commissioners, 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.

24. INSPECTION OF PREMISES

The licensed premises shall be subject at any time, without Notice, to inspection by the members of the License Commissioners and/or their agents. Any hindrance or delay of such inspection caused by an employee of the licensee shall be cause for action against the license.

25. PREMISES DESCRIPTION – INTERNAL AND EXTERNAL ALTERATIONS

No licensee shall keep for sale, store, or sell alcoholic beverages in any part of the premises not specified on the license, such as a patio or sidewalk. No major physical changes to the premises shall be made without prior approval of the License Commissioners. Changes to the original plans approved by the License Commissioners must have such changes approved by the License Commissioners prior to being made to the premises.

26. POSTING OF SUSPENSION NOTICE

Whenever the License Commissioners suspend the license or licenses of any licensee, the License Commissioners shall provide the licensee with a sign containing the words “Closed

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by order of the Board of Selectmen acting as License Commissioners for the Town of Auburn” which sign shall be attached on the inside but visible from the outside of the licensed premises in a conspicuous place during the entire period of such suspension.

27. REFUSE REMOVAL

No licensee shall allow refuse generated at the premises to be collected by any contractor between the hours of 11:00 P.M. and 7:00 A.M. On Sundays and legal holidays no such collection shall be allowed prior to 10:00 A.M. nor after 10:00 P.M. Refuse shall be removed a minimum of once each week, and more often if necessary, to prevent any nuisance conditions. All refuse shall be stored in a dumpster or in such other manner as approved by the Auburn Board of Health Department, and shall be maintained in accordance with the regulations and conditions of the Auburn Health Department. Any rules and regulations of the Auburn Health Department may supersede this regulation.

28. FOOD SERVICE REQUIRED

Licenses issues under M.G.L. Chapter 138, Section 12, which are restaurant licenses, may be issued only to those who have been granted a common victualer license under M.G.L. Chapter 140. These two sections also apply to holders of Innholder licenses. Common victualers must have adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons as required by M.G.L. Chapter 138, Sections 5 and 6. No alcoholic beverages shall be sold unless food service is available.

29. CLEAR VIEW OF PREMISES’ INTERIOR

No advertising matter, screen, curtain or other obstruction which in the opinion of the License Commissioners or their agents prevents a clear view of the interior of the premises

shall be maintained in or on any window or door thereof after the License Commissioners have ordered the removal of such obstruction.

30. INTERIOR LIGHTING

The interior of the premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted signs, "Exit" as mandated by the Building Inspector's Office of the Town of Auburn or by the Fire Department of the Town of Auburn.

31. SERVICE LIMITED TO APPROVED AREAS

The service and consumption of alcoholic beverages shall be limited to those areas of the premises approved by the License Commissioners. No alcoholic beverages shall be served or consumed in any areas of the premises which are not within the original approved description of the premises. New areas must have plans submitted to the License Commissioners for prior approval.

32. SERVICE LIMITED TO FOOD SERVICE AREAS OR APPROVED LOUNGE AREA

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.

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33. CONSUMPTION ON PREMISES

All alcoholic beverages shall be served in open containers and no such beverage shall be allowed to be removed from the premises. No patron or customer shall be allowed to bring alcoholic or wine/malt beverages on the premises for the purpose of consumption on the premises.

34. SERVING CONTAINERS

No alcoholic beverages, with the exception of wine and specialty drinks, shall be served in any container or glass, the capacity of which is in excess of twenty-four (24) fluid ounces. No licensee may make sale or service of malt beverages, beer or ale in pitchers for individual consumption.

35. CHARGE FOR ALCOHOLIC BEVERAGES

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 beverage. The price charged for alcoholic beverages shall not be discounted for any particular hour(s) of the day of day(s) of the week. No minimum charge shall be made for alcoholic beverages.

36. SERVICE OF ALCOHOLIC BEVERAGES LIMITED

No more than one alcoholic or wine/malt beverage drink shall be served to a patron at one time for his/her own consumption. Bartenders may serve only those individuals seated at the bar. All other individuals standing at a bar, due to the lack of available seats, must be served by a waitress or by a waiter.

37. SERVER TRAINING – FOR MANAGERS AND OTHERS

A. Any licensee holding an All Alcohol, including seasonal, or Beer and Wine license shall participate in a program designed to train employees who engage in either package sales

or pouring in methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors. This program will be based on the type of license issued.

B. Listed below are programs that are currently available which meet the requirements of this policy.

1. Training for Intervention Procedures by Servers of Alcohol (TIPS) offered by Health Communications, Inc.
2. Techniques of Alcohol Management (T.A.M.) approved by the Massachusetts Package Store Association (required for off-premises sale license only) or
3. Any insurance industry approved and qualified program offered by a certified trainer and approved by the Board of Selectmen.

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C. All personnel shall be required to participate in a training program based on the type of license issued.

D. All personnel shall be required to be recertified once every three (3) years through an approved program.

E. Failure to comply with this policy may result in the revocation of the license.

38. VERIFICATION OF SERVER TRAINING

Verification for "Server Training" as stated in paragraph 37 shall be maintained for each employee and shall be available for inspection on the premises at all times.

39. CHANGES TO PREMISES OR OPERATION

See regulation 25 regarding any internal or external alterations to the physical description and appearance or character of the licensed premises. This includes renovation work, nature and general operation of the licensed premises and must receive approval from the License Commissioners. Approval of plans and the issuing of permits by the Building Inspector's Office, the Health Department, Fire Prevention Bureau or special permit use approved by the Auburn Board of Selectmen, does not constitute approval by the License Commissioners. Separate approval must be received by the License Commissioners before any work is started. The lone exception to this will be work of an emergency nature.

40. ENTERTAINMENT

No form of entertainment, including but not limited to live music or dancing, shall be allowed without first obtaining an entertainment license for weekday and/or Sunday use. This includes use of amplified music, inside or outside.

41. COIN OPERATED AUTOMATIC AMUSEMENT MACHINES

No licensee may have upon the premises any automatic amusement machine unless same has been approved and licensed by the Town of Auburn. Types of machines, and location of machines upon the premises, must be approved. The licensee must make application not the distributor under M.G.L. Chapter 140, Section 177A.

42. ANNUAL FINANCIAL REPORTS - RESTAURANTS

All holders of restaurant licenses under Chapter 138, Section 12, shall furnish by March 1st of each year, annual report indicating the percentage of gross sales of food and gross sales for alcoholic beverages for the preceding calendar year.

43. PAYMENT OF LOCAL TAXES AND FEES

Any licensee, or any applicant seeking a license from the License Commissioners shall submit at the time of such application for renewal or a new license, a statement signed under the pains and penalties of perjury stating that the applicant has not neglected or refused to pay any local taxes, fees, assessments, betterment or any other town charge, as referred to in Section 13, Chapter VII of the Auburn General By-Laws, unless exempt therefrom.

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SECTION B – APPLIES TO RETAIL PACKAGE STORE LICENSES

1. SERVER TRAINING – IN-HOUSE PROGRAM FOR EMPLOYEES

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 maintained on the premises at all times. A signed certification of each employee, 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.

2. HOURS OF SALES

No sale or delivery of alcoholic beverages shall be made except during the legal hours of sale.

3. CONSUMPTION ON PREMISES PROHIBITED

No alcoholic beverages shall be sold to be drunk on the premises, except for "wine tasting".

4. PREMISES' DESCRIPTION

No licensee shall keep for sale, store, or sell alcoholic beverages in any part of the premises not specified in the license. Any increase in size of premises must be approved by the License Commissioners.

5. DELIVERIES OFF PREMISES – KEGS OF BEER (MALT BEVERAGES)

A written record shall be maintained listing the name and address of every person to whom a delivery of one or more keg (s) or any fraction of a keg of malt beverages is made outside of the premises. Such record shall include the amount of the beverages that were delivered, the date and time of delivery, and the signature of the person receiving the delivery. Such records shall be maintained for a period of not less than one year and must be available for inspection by the Board of License Commissioners and its agents at all times.

6. TABLES AND CHAIRS

Holders of Package Goods Store All Alcoholic or Wine/Malt Beverages Licenses may not have tables or chairs within the licensed premises for use by customers or patrons.

SECTION C – APPLIES TO CLUB LICENSES

1. LIST OF OFFICERS

Annually the licensees shall submit to the License Commissioners within three months after January first, a listing of names and addresses of all club directors or officers, and employees, as of January first. Such list shall be maintained current during the year and be available for inspection on the premises at all times.

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2. ONLY MEMBERS AND GUESTS TO BE SERVED

Only members and their guests shall be served alcoholic beverages.

3. HOURS OF SALES

The official closing hours, which shall be set by the License Commissioners, shall be no later than 1:00 A.M. Last call shall be at least one half hour prior to the licensee's closing hour and all members and guests must be off the premises within fifteen minutes after the closing hours. All tables and bars must be cleared of all glasses, bottles, and containers of alcoholic beverages within one half hour after the closing hour. In regards to opening hours, no alcoholic beverages shall be sold or served prior to 8:00 A.M. on secular days and 12:00 P.M. on Sundays.

4. SERVICE LIMITED TO APPROVED AREAS

The service and consumption of alcoholic beverages shall be limited to those areas of the premises approved by the License Commissioners. No alcoholic beverages shall be served or consumed in any areas of the premises which have been excluded from the approved description of the premise.

5. CLEAR VIEW OF PREMISES' INTERIOR

No advertising matter, screen, curtain or other obstruction, which, in the opinion of the License Commissioners, prevents a clear view of the interior of the premises, shall be maintained in or on any window or door thereof after the License Commissioners have ordered the removal of such obstruction. No booths, stalls or enclosures of any description are permitted which prevent the persons therein from being plainly observed by other persons on the premises.

6. INTERIOR LIGHTING

The interior of the premises shall be sufficiently lighted at all times.

7. CONSUMPTION ON PREMISES

All Alcoholic beverages shall be served in open containers and no such beverages shall be allowed to be removed from the premises. No patron shall be allowed to bring alcoholic beverages on the premises for the purpose of consumption on the premises.

8. SERVING CONTAINERS

No alcoholic beverages, with the exception of wine and specialty drinks, shall be served in any container or glass, the capacity of which is in excess of twenty-four fluid ounces. Service of malt beverages, beer or ale, in pitchers is not allowed for individual consumption.

9. SERVER TRAINING

The Manager shall have successfully completed an alcoholic beverage server training program such as The Intervention Procedures of Servers of Alcohol (TIPS), or its equivalent, prior to their appointment. Such training shall be required for all bartenders and servers at all clubs with a bar.

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10. VERIFICATION OF SERVER TRAINING

Verification of the training as stated in paragraph 9 shall be maintained and be available for inspection on the premises at all times.

11. CHANGES TO PREMISES

Any proposed major change in the physical description and appearance or character of the licensed premises, including renovation work, or other such changes, requires prior approval of the License Commissioners.

SECTION D – APPLIES TO DRUGGIST LICENSES

1. NOT FOR BEVERAGES PURPOSES

No alcohol shall be sold for beverage purposes.

2. RECORDING SALES

All sales of alcohol shall be recorded in the same book and in the same manner required for the sale of alcoholic beverages with the signature and address of the purchaser, and the hours of sale shall be the same as the hours for the sale of alcoholic beverages not to be consumed on the premises. No sales shall be made on Sundays or legal holidays without a prescription.

3. SALE WITH PRESCRIPTION

Sale on separate prescriptions and in quantity not exceeding one gallon of wines, one gallon of malt beverages and one quart of other alcoholic beverages. Every such prescription shall be dated and signed by a physician and shall contain the name of the person prescribed for.

Approved by Vote of the Board of Selectmen: 11/30/98

Accepted as Amended by Vote of the Board of Selectmen: 1/14/13

Amended by Vote of the Board of Selectmen 1/27/14