



ALCOHOLIC BEVERAGES CONTROL BOARD

P.O. Box 1410, Kahnawake Mohawk Territory, J0L 1B0

Phone: (450)635-2002 Fax: (450)635-2843

REGULATION FOR THE APPLICATION, ISSUANCE, SUSPENSION, VARYING AND CANCELLATION OF PERMITS

Enacted on December 12, 2011

1. PURPOSE

- 1.1 The purpose of this Regulation is to regulate the application, issuance, suspension, varying and cancellation of Permits in the Mohawk Territory of Kahnawà:ke.
- 1.2 This Regulation is enacted pursuant to Section 172 (o) of the Kahnawà:ke Alcoholic Beverages Law ("Law").

2. APPLICATION

- 2.1 This Regulation applies to the process for the application, issuance, varying and cancellation of Permits within the Mohawk Territory of Kahnawà:ke and any matters related thereto.

3. DEFINITIONS

- 3.1 The terms used in the present Regulation have the same meaning as when they are used in the Law.

4. INTERNAL MANAGEMENT OF AN APPLICATION

- 4.1 At least one (1) Board Member must sign all external correspondence.
- 4.2 The Board will do its best to make its decisions based on consensus. If one Board Member is not agreeable to a decision of the Board, the Board member may abstain from signing any correspondence related to the decision.
- 4.3 The Board must review and decide upon any and all applications under the class of Permit for which the application was submitted.

- 4.4 The Board must review each application in a fair, reasonable and equitable manner.
- 4.5 The Board shall invite an applicant(s) to meet with the Board if clarifications are required.
- 4.6 All Members of the Board should undertake a site visit to the business establishment of the applicant(s).

5. REFUSAL TO ISSUE A PERMIT

- 5.1 When making a decision as to whether to issue a Permit to an applicant, the Board shall consider the following public interest factors and shall refuse the issuance of a Permit when:
 - a) The applicant has been convicted of an offense under the Law or its Regulations; Example: Illegal sale of manufacturing of alcohol. Sale/Manufacture without an ABC permit.
 - b) The location of the business establishment is likely to unreasonably disturb the Mohawk Community of Kahnawà:ke, or endanger the public's health or safety;
 - c) The Applicant has been convicted of an indictable offense, unless a pardon has been granted; Example: drunk driving causing death.
 - d) The application is made on behalf of another person, unless the applicant is specifically authorized to do so in accordance with section 113(c) of the Law;
 - e) The Applicant is unable to comply with the standards listed in the Law.
 - f) Valid reasons or concerns are provided to the Board in writing.

6. PROCEDURE FOR THE SUSPENSION, VARIATION AND CANCELLATION OF PERMITS

- 6.1 Any information provided to the Board that a Permit holder is in violation of section 161 of the Law must:
 - a) State the grounds on which it is alleged that section 161 of the Law has been violated;
 - b) Be signed, and
 - c) Any and all supporting documents and information must be forwarded to the Board.

- 6.2 After receipt of such information or after learning of a potential violation of section 161 of the Law, the Board shall, as per section 161 of the Law, immediately forward a written notice to the Permit holder advising of the particulars of the alleged violation and requesting a written response be provided to the Board within ten (10) days.
- 6.3 This written notice from the Board shall include:
- a) A notification that information has been received or that the Board has learned that one of the conditions listed at section 161 of the Law has been allegedly violated,
 - b) That the Permit holder, as per section 161 of the Law, must provide a written response to the ABC Board within ten (10) days, and
 - c) A request for any additional documents or information that the Board may require to conduct a review on this matter.
- 6.4 The Board will use its best efforts to conduct a review within thirty (30) days of the date on which it learns or is advised by any person that a Permit holder has allegedly violated one of the of the conditions listed at section 161 of the Law.
- 6.5 The Permit holder will be given a reasonable opportunity to present any information, documents and witnesses and to make oral and written submissions to the Board.
- 6.6 The Board shall be permitted to ask questions of the Permit holder, including questions regarding any information or documents provided. It may also ask questions to the witnesses.
- 6.7 The Permit holder has the right to be represented by legal counsel.
- 6.8 The Permit holder has the right to be present at the hearing; to hear all evidence against him and to respond, orally or in writing, to all accusations made against him.
- 6.9 The Board will only make a finding against the Permit holder if, in the opinion of the Board, the evidence is clear and convincing.
- 6.10 The Board will provide the Permit holder with its decision in writing.
- 6.11 The decision of the Board will be entered into the Board's Registry.
- 6.12 As indicated at section 167 of the Law, at the conclusion of the hearing the Board shall:

- (a) dismiss the allegations;
 - (b) suspend, vary or cancel the Permit, or:
 - (c) take any other action that the Board decides is appropriate under the circumstances.
- 6.13 Within thirty (30) days of the date in which a hearing concludes, the Board will render a written decision, with reasons, signed by each of the Members who were in favor of said decision. A copy will be sent by registered mail to the Permit holder.
- 6.14 During the time that the suspension of a Permit is in effect, the Permit holder is not permitted to sell or serve Alcoholic Beverages.
- 6.15 In the event that a Permit is suspended or revoked the Board will give its reasons in writing to the Permit holder. If the Permit holder is not satisfied with the response of the Board, the applicant may in writing request a review or revocation of its decision.

7. AMENDMENTS TO THE REGULATION

- 7.1 The Board may amend this Regulation by Resolution.

8. COMING INTO FORCE

- 8.1 This Regulation comes into force on the day fixed by Resolution of the Board.
- 8.2 This Regulation will be reviewed annually, and will address any concerns provided to the Board.

9. HISTORY

- 9.1 Adopted by Alcoholic Beverages Control Board Resolution on December 12, 2011.