1.0 Authority

1.1 Pursuant to 4 Del.C. §512(f), the Delaware Alcoholic Beverage Control Commissioner is empowered to issue licenses for the sale of alcoholic beverages to the operators of bowling alleys for consumption on the bowling alley premises.

1.1.1 For the purposes of the Liquor Control Act, a bowling alley is defined as any bowling alley operation having ten bowling lanes in use for a period of at least six months.

1.1.2 The licensed area of the bowling alley encompasses the entire bowling alley premises including the concourse and lane areas.

1.1.3 The dispensation of alcoholic beverages must be at a counter separate from the counter from which food and/or snacks are dispensed. Stands or bars where alcoholic liquor is sold shall be clearly segregated and partitioned off from other concession areas. No other commodity shall be sold or dispensed therein. Such stands and storage facilities for alcoholic liquor shall be approved by the Commissioner prior to their use.

1.1.4 The provisions of File 22 shall apply to bowling alleys. In addition, all storage facilities at serving bars or counters shall be kept locked at all times when not attended.

19 DE Reg. 775 (02/01/16)

Rule 1002 (Formerly Rule 66) On-Premises and Off-Site Caterers

1.0 On-Premises Caterers

1.1 Pursuant to 4 Del.C. §512(g)(1), any caterer as defined by 4 Del.C. §101(8) may apply for a license to purchase alcoholic beverages and keep and sell such alcoholic liquors either by the glass or by the bottle for consumption on any portion of the premises of the caterer approved by the Commissioner for that purpose.

1.2 Caterers are empowered to sell alcoholic beverages pursuant to a license issued by the Commissioner only while providing the food and beverages at social gatherings held on the caterers' licensed premises. At least sixty (60) percent of the caterer's gross receipts must come from the sale of food.

1.3 The sale of alcoholic beverages shall only be allowed at events such as weddings, dinners, benefits, banquets, or other similar events for consideration pursuant to a written contract setting forth the price per person at the catered event, except that a cash bar may be utilized in conjunction with the catered event.

1.4 Persons not of sufficient age to consume alcoholic liquors shall be allowed and permitted to be on the licensed premises of the caterer so long as all of the other provisions of the Liquor Control Act and the rules of this Commissioner are being complied with.

2.0 Off-Site Caterers

2.1 Pursuant to 4 Del.C. §512 (g)(2), any off-site caterer may apply for a license to purchase alcoholic beverages and keep and sell such alcoholic liquors either by the glass or by the bottle for consumption on any portion of off-site premises approved by the Commissioner for that purpose.

2.2 Off-site Caterers are empowered to sell alcoholic beverages pursuant to a license issued by the Commissioner only while providing the food and beverages at social gatherings held at off-site premises approved by the Commissioner. At least sixty (60) percent of the caterer's gross receipts must come from the sale of food.

2.3 The sale of alcoholic beverages shall only be allowed at events such as weddings, dinners, benefits, banquets, or other similar events for consideration pursuant to a written contract setting forth the price per person at the catered event, except that a cash bar may be utilized in conjunction with the catered event.
2.4 Persons not of sufficient age to consume alcoholic liquors shall be allowed and permitted to be on the licensed premises of the caterer so long as all of the other provisions of the Liquor Control Act and the rules of this Commissioner are being complied with.

2.5 Each off-site catered event must be approved by the Commissioner no later than 20 days prior to the event. For the Commissioner to approve the location of the event, the following items must be submitted:

2.5.1 An executed contract between the caterer and their client that lists the day, date, and time of the catered event and explicit approval from both the tenant and the landlord/property owner that permits reasonable access to the catered event by members of the DATE or other recognized law enforcement agency to ensure compliance with The Liquor Control Act and the Commissioner's Rules.

2.5.2 A list of all products that will be transported to and sold at the catered event describing the type and amount of each product. This document serves as a waybill that must be present in the vehicle during the transportation of alcoholic beverages to and from the catered event.

Rule 1003 (Formerly Rule 75) A Rule Pertaining to the Closing of Package Stores, Taverns and Taprooms or Any Off-Premises Licensee

1.0 Purpose

The purpose of this rule is to standardize procedures for closings of package stores, taverns and taprooms and any off-premises licensee while ensuring that residents of the neighborhoods in which the licensees operate are still able to make a lawful purchase of alcoholic beverages with reasonable convenience.

2.0 Applicability

This rule shall apply to all package stores, taverns and taprooms as well as other off-premises licensees licensed by the Commissioner.

3.0 Closings for Fourteen Days or Less

Licensees shall not be required to notify the Commissioner in order to close their establishments for a cumulative period of fourteen days or less in any calendar year or in order to change their hours of operation during such a limited period of time; provided, however, that any licensee which closes for fourteen days or less or temporarily changes its hours of operation shall conspicuously post notice of that fact at all public entrances to the licensed premises.

4.0 Closings for More Than Fourteen Days

4.1 Procedures

4.1.1 Whenever a licensed package store, tavern or taproom or other off-premises licensee intends to close for a period of more than fourteen days in any calendar year, or intends to close on specific days which when considered cumulatively amount to a period of more than fourteen days in any calendar year, the following procedure shall be followed:

4.1.1.1 The licensee shall submit a letter of intent to the Commissioner which must include the specific dates during which the licensee intends to be closed and the reasons for which the licensee intends to close. The letter of intent must be filed at least twenty days but not more than sixty days before the first day on which the licensee intends to close.

4.1.1.2 The letter of intent filed with the Commissioner shall be accompanied by certificates of the publishers of two newspapers circulated in the county in which the license operates. From the certificates it shall appear that the licensee has caused to be circulated in such newspapers at least three times within the period of twenty days immediately preceding the filing of the letter of intent with the Commissioner, a notice setting forth the intention of the licensee to close for a period of more than fourteen days in any calendar year, including the specific dates on which the licensee intends to be closed and advising the public of the right to object to the closure by filing a protest with the Commissioner. One of the notices shall appear in a newspaper circulated at the place in the county nearest to the location of the licensed premises.

4.1.1.3 On the same date that the letter of intent is submitted to the Commissioner, the licensee shall send notice by certified mail, return receipt requested, of its intent to close for a period of more than
fourteen days in the calendar year, including the specific dates on which the licensee intends to be closed, to all licensed package stores, taverns and taprooms located within one mile of the licensed premises.

4.1.1.4 On the same date that the letter of intent is submitted to the Commissioner, the licensee shall conspicuously post a Public Notice sign at all public entrances to the licensed premises stating the intent to close and specifying the dates during which the licensed premises will be closed. The Public Notice sign shall be a minimum of 18 x 24” in size and shall remain posted at all public entrances to the premises throughout the entire time the establishment is closed.

4.2 Protests

4.2.1 Within ten days of the filing of the letter of intent with the Commissioner, a protest against the intended closing, signed by at least ten residents of the neighborhood wherein the license operates, may be filed with the Commissioner.

4.2.2 In the event such a protest is filed the Commissioner or the Commissioner believes that the closing would deprive the residents of the neighborhood the opportunity to make a lawful purchase of alcoholic beverages with reasonable convenience, the Commissioner shall hold a hearing to consider the sole issue of whether the intended closing of the licensed establishment would deprive residents of the neighborhood of the opportunity to make a lawful purchase of alcoholic beverages with reasonable convenience.

4.2.3 Such a hearing shall be conducted by the Commissioner.

4.2.4 Notice of the hearing, including its time and date and a recital of the protest shall be sent to the licensee and to each of the persons who signed the protest; provided, however, that it shall be sufficient to send notice to the attorney of any party represented by legal counsel.

4.2.5 A record from which a verbatim transcript can be prepared shall be made of any protested hearing.

4.2.6 After hearing all the evidence, if the Commissioner determines that the closing of the package store, tavern or taproom or other off-premises licensee will deprive the protesting neighborhood residents of the opportunity to make a reasonably convenient lawful purchase of alcoholic beverages, the closing shall not be permitted or the requested dates of closing shall be modified as determined by the Commissioner.

4.2.7 If the Commissioner determines, after hearing all of the evidence, that the closing will not deprive the protesting neighborhood residents of the opportunity to make a reasonably convenient lawful purchase of alcoholic beverages, then the closing shall be permitted.

4.3 Restrictions

4.3.1 Pursuant to the provisions of this rule, no licensee shall close its establishment for a period of more than 150 days cumulatively in any calendar year.

4.3.2 Any licensee which closes its establishment in accordance with the provisions of this rule shall still be required to comply with, and adhere to, all applicable provisions of the Liquor Control Act and the Commissioner Rules.

19 DE Reg. 775 (02/01/16)

Rule 1004 (Formerly Rule 72) A Rule Pertaining to the Sale of Alcoholic Liquors by Multiple Activity Clubs

1.0 History

1.1 The Commissioner grants multiple activity club licenses to private country clubs that satisfy the definition for this particular class of license (4 Del.C. §101 [28]) and meet the requirements of the Commissioner’s rules governing multiple activity clubs (Delaware Alcoholic Beverage Control Commissioner Rules 1007 and 1009). In addition, many non-profit, charitable organizations are granted gathering licenses pursuant to 4 Del.C. §514(b) and Commissioner Rule 602 to sell alcoholic liquors on the grounds and golf courses of private country clubs, outside of the licensed club house. The issuance of both types of licenses is consistent with the intent of the Liquor Control Act, which is to make alcoholic liquors available to members and guests, who are of legal drinking age, under strictly controlled conditions.

1.2 It is the finding of the Commissioner that the private country clubs licensed to sell alcoholic liquors in Delaware have established and enforced reasonable rules and guidelines governing the conduct of their members and guests. Responsible and lawful behavior is required of all members and guests. On various occasions, the Commissioner has approved the extension of country club liquor licenses to include areas of the grounds and
golf course outside of the normally licensed club house. These events have been held for many years without incident. Several country clubs have now requested approval to expand their liquor license to allow for the sale and consumption of alcoholic liquors on the grounds and golf courses that they operate. Requests have been made to allow the selling of alcoholic liquors from concessionaire stands and mobile golf carts, and to permit the consumption of alcoholic liquors on the entire premises controlled by the country club.

2.0 Purpose

2.1 This rule is promulgated pursuant to the Commissioner's authority to regulate the time, place, and manner in which alcoholic liquors are sold and dispensed (4 Del.C. §304). In addition, it is the purpose of this rule to implement and clarify the Commissioner's authority to license a multiple activity club, in this case a private country club, to sell alcoholic liquors for consumption on any portion of the premises approved by the Commissioner [4 Del.C. §512(a)]. In accordance with these statutes alcoholic liquors may be sold or dispensed in a manner consistent with Title 4 of the Delaware Code and Commissioner Rules.

2.2 By the promulgation of this rule, the Commissioner finds that alcoholic liquors may be sold and consumed on the grounds and golf courses of private country clubs that have been approved by the Commissioner in accordance with the provisions of this rule.

3.0 Definition; as used in this Rule

"Country club" means a privately owned and operated facility that provides social activities and recreation to its members, and operates a golf course. It must also be licensed by the Commissioner as a multiple activity club.

4.0 Applicability

This rule shall govern the manner in which private country clubs sell and dispense alcoholic liquors outside of the licensed clubhouse. In addition, all other applicable laws and rules shall apply to all extension of a multiple activity club license.

5.0 Procedure

5.1 The Commissioner may approve the sale and dispensing of alcoholic liquors on the grounds and golf courses of privately owned and operated country clubs provided, however, that they comply with the requirements that follow:

5.1.1 Submit to the Commissioner a diagram or plot plan that is drawn to scale and that clearly indicates the area(s) in or on which the sale, dispensing, and consumption of alcoholic liquors is requested;

5.1.2 Submit to the Commissioner a copy of the club's rules that govern the conduct of its' members and guests;

5.1.3 Submit to the Commissioner a written plan detailing the procedures it will follow to insure responsible and moderate consumption of alcoholic liquors on its premises;

5.1.4 Submit to the Commissioner proof that its' employees who serve, handle or manage the service of alcoholic liquors have successfully completed a Commissioner approved responsible beverage server training program.

5.2 The Commissioner may deny an application to extend a multiple activity club license if the applicant fails to provide for the responsible sale, handling, and consumption of alcoholic liquors or the extension of such a license is otherwise found to be adverse to the best interest of the public, adjoining property owners or the clubs members and guests. In addition, the Commissioner may revoke the extension of a country club's multiple activity club license for just cause.

5.3 The Commissioner may grant an extension of a country club's multiple activity license to permit consumption of alcoholic liquors on golf courses and grounds, provided that it is lawfully purchased on the premises. In addition, the Commissioner may approve the sale of alcoholic liquors from golf carts and concessionaire stands on the golf course provided that all alcoholic liquors are securely stored when not being offered for sale.

19 DE Reg. 775 (02/01/16)
1.0 Purpose

This rule is promulgated pursuant to the Commissioner's authority to regulate the time, place, and manner in which alcoholic liquors are sold and dispensed (4 Del.C. §304). In addition, it is the purpose of this rule to implement and clarify the Commissioner's authority to license a movie theater to sell alcoholic liquors for consumption on any portion of the premises approved by the Commissioner (4 Del.C. §512 (f)). In accordance with these statutes alcoholic liquors may be sold or dispensed in a manner consistent with Title 4 of the Delaware Code and Commissioner Rules.

By the promulgation of this rule, the Commissioner finds that alcoholic liquors may be sold and consumed on the premises of a movie theater that has been approved by the Commissioner in accordance with the provisions of this rule.

2.0 Definitions

For purposes of this regulation, the following definitions shall apply.

"Alcoholic beverage" means a beverage consisting of no more than sixteen (16) ounces of beer, eight (8) ounces of wine, or two (2) ounces of spirits.

"Movie theater" means an indoor facility used to host showings of motion pictures which:

a. has a capacity of at least 500 patrons for any single movie showing or for showing of multiple movies in separate theaters at the same time;

b. shall host a minimum of 250 movie showings in any calendar year and shall be open at least 5 days a week;

c. has video cameras in each theater auditorium that allows supervision of movie patrons from a centralized or remote location during a movie showing; and

d. has a separate bar or location where alcohol is sold, served or dispensed that is separated from where food and non-alcoholic drink are sold.

3.0 Approved Course Required

All movie theater managers and employees involved in serving alcohol must successfully complete within 30 days from employment an approved course on the responsible service of alcoholic beverages.

4.0 Minors Prohibited

No minors are permitted to stand or sit at the bar or counter where alcoholic beverages are sold, served or consumed.

5.0 Dispensing Limitations

No more than one (1) alcoholic beverage may be sold to a patron at a time who is at least twenty-one (21) years old and no more than two (2) alcoholic beverages may be sold per patron per movie showing. The alcoholic beverage must be dispensed in a container that is clearly different from other non-alcoholic drinks and the patron purchasing the alcoholic beverage must be identified by a wrist band or similar means.

6.0 Inspection Required

A server trained individual must physically inspect each theater at least once during each movie showing to ensure that persons under the age of twenty-one (21) are not consuming alcohol.

18 DE Reg. 398 (11/01/14)
19 DE Reg. 775 (02/01/16)

Rule 1006 (Formerly Rule 32) A Rule Defining and Regulating Multiple Activity Clubs Licensed to Sell to Guests of Such Clubs and Guests of Members

1.0 Defining Multiple Activity Clubs

1.1 A licensed club whose gross revenue from the sale of alcoholic liquor does not exceed 40% of its total annual revenue from all sources and which either:

1.1.1 Serves meals at regular hours six days a week, or
1.1.2 Has a physical facility, regularly used by members of the club other than club rooms for the sale and service of food and alcoholic liquor and which facility is of a permanent nature and regularly used, i.e., tennis court, golf course, indoor pool, may apply for a Multiple Activity Club License.

1.2 A Multiple Activity Club License permits the sale of alcoholic liquor to guests of the club or guests of its members.

19 DE Reg. 775 (02/01/16)

Rule 1007 (Formerly Rule 18) A Rule Regulating Clubs and Multiple Activity Clubs

1.0 Clubs

1.1 "The word "'club'" means a corporation or association created by competent authority, which is the owner, lessee or occupant of premises operated solely for objects of national, social, patriotic, political or athletic nature, or the like, whether or not for pecuniary gain, and the property as well as the advantages of which belong to or are enjoyed by the stockholders or by the members of such corporation or association."

1.2 At the time of the making of an application for a license under the Liquor Control Act, and at all times after the granting of a license, upon demand of the Commissioner, such 'club' shall produce at the office of the Commissioner, the original or a properly authenticated copy of its charter or articles of association, its minute books, membership and financial records, covering the full-period of its licensed existence.

1.3 Said charter, articles of association, minutes and financial records will show that all profit from the sale of alcoholic beverages is controlled by the membership, and its properly elected officers, and used for the authorized objects of the club.

1.4 At the time of the making of an application for a license to sell alcoholic liquors and at any time after the granting of a license, upon demand of the Commissioner, such club shall furnish the Commissioner forthwith with a statement, signed by its President or Vice-President and notarized, setting forth the reason for organization of the club and the activities in detail carried on by the club.

1.5 No club licensed under the Delaware Liquor Control Act shall have or maintain any "peephole", "bell", "buzzer", or other warning device at any entrance to the club premises; and immediate access to all parts of the premises of the club shall at all times be accorded to DATE or the authorized representatives of the Commissioner, including all qualified police officers in the State of Delaware, when accompanied by DATE or an Inspector of the Commissioner, all of whom shall be permitted to enter immediately and given immediate access to all parts of the premises of a club without a search warrant.

19 DE Reg. 775 (02/01/16)

Rule 1008 (Formerly Rule 19.1) Bottle Clubs - Licensing and Operation

1.0 Purpose and Scope

This Rule implements the 1982 and 1989 Amendments to the Liquor Control Act extending the jurisdiction of the Commissioner to so called "bottle clubs." 4 Del.C. §515, 515Aa, 902(7) and 554(aa), 60 Del. Laws, Ch. 232 (April 30, 1982), 67 Del. Laws, Ch. 122 (July 14, 1989). It applies to all businesses operated for profit where patrons carry onto the premises alcoholic liquors to be consumed thereon and removed by patrons upon their departure.

2.0 Definitions

"Bottle Club" means an establishment operated for profit or pecuniary gain where persons enter upon the premises for the purposes of consuming alcoholic liquors which are brought onto the premises by customers of the establishment and are consumed therein and removed by such persons upon their departure.

"Consume" in any tense, means the act of drinking or eating alcoholic beverages and includes possession of an alcoholic beverage with the present ability to drink or eat it.

"Operated for profit or pecuniary gain" means a business owned by a sole proprietor, partnership, corporation or other business association where such owner is not exempt from federal or state taxes on income on the profits (or losses) from such business, or the profits (or losses) from such business are for the benefit of an individual partnership, corporation or other business association which is not exempt from federal
or state taxes on income. An organization qualified to receive a gathering license under 4 Del.C. §514, shall be deemed to be not for profit or pecuniary gain unless the profits or losses from such enterprise are otherwise subject to federal or state tax on income.

"Restaurant" means any establishment which is regularly used and kept open principally for the purpose of serving complete meals to persons for consideration, and which has seating at tables for thirty-five (35) or more persons, and suitable kitchen facilities connected therewith for cooking an assortment of foods under the charge of a chef or cook. The service of only such food and victuals as sandwiches or salads shall not be deemed to be the service of "meals" [4 Del.C. §101(35)]. In addition, a "restaurant" shall have a valid and current restaurant retailer license required by 30 Del.C. §2906.

3.0 General Policy

No establishment shall be operated for profit or pecuniary gain as a "bottle club" unless licensed by the Commissioner. Licensed "bottle clubs" shall, within the limits of their license, be held to the same standards of performance and financial responsibility as other types of license holders.

4.0 Standards of Operation for "Bottle Club"

4.1 Hours of Operation

4.1.1 An establishment operated as a "bottle club" shall not permit the consumption of alcoholic beverages on its premises after 2:00 a.m. or before 9:00 a.m. on any day. The presence of alcoholic liquors on the premises of a "bottle club" between the hours of 2:00 a.m. and 9:00 a.m. shall be prima facie evidence of a violation.

4.2 Service of General Public.

4.2.1 A "bottle club" may require membership upon payment of a reasonable fee, but approval of such membership shall not be unreasonably denied. A club shall not charge an admission charge or fee, but may charge a cover or minimum during hours when live entertainment is actually being presented.

4.3 Service of Food

4.3.1 A reasonable selection of food shall be available from a written menu or menu board at all hours when alcoholic beverages are being consumed. The selection of foods shall include a choice of sandwiches, entrees, and non-alcoholic beverages.

4.4 Service of Persons Under 21

4.4.1 Minors may be admitted to the premises of a "bottle club." Minors may not consume alcoholic beverages at any time. It shall be a rebuttable presumption that minors found on the premises or departing therefrom who are found to have consumed alcoholic liquors or are in possession of alcoholic liquors, consumed or possessed such alcoholic liquors on the premises.

4.5 Service of Alcoholic Liquors.

4.5.1 A "bottle club" may serve food, non-alcoholic beverages, mixers and ice and may charge for such service. "Bottle clubs" may not mix or provide bartender service to patrons, nor may a "bottle club" chill or keep alcoholic liquors for customers. A "bottle club" shall not serve alcoholic liquors.

4.6 Presence of Intoxicated Persons on Premises

4.6.1 A "bottle club" shall not permit an intoxicated person to remain on its premises.

4.7 Design and Layout

4.7.1 In a "bottle club" there shall be seating at tables for not less than thirty-five persons. Seats at a bar shall not exceed 25% of the dining seats of the establishment.

19 DE Reg. 775 (02/01/16)

Rule 1009 (Formerly Rule 24) Club Members, Multiple Activity Club Members and Sales of Alcoholic Liquor in Each Such Club

1.0 Clubs

1.1 Except as provided herein, a license for the sale of alcoholic liquor by a club authorizes the sale of such alcoholic liquor to club members only. A member of a club is defined by Section 101, Chapter 1, Title 4, Delaware Code of 1953, as follows:
"Member of a club" means an individual who, whether as a charter member or admitted in accordance with the rules or the by-laws of the club, has become a member thereof, who maintains their membership by the payment of dues in the manner established by the rules or by-laws, and whose name and address is entered on the list of members supplied to the Commissioner at the time of the application for a license under Chapter 5 of this Title, or, if admitted thereafter, within eight days after his admission and payment of dues, if such dues are required. The Commissioner is authorized to extend the meaning of the words "member of a club" to include those who are granted temporary membership or membership of less than one year in accordance with a rule or by-law of the club approved by the Commissioner.

1.2 A guest may consume alcoholic liquor at a club provided that at all times the guest is on the licensed premises the host member of the club who introduced the guest also remains on the licensed premises and pays for the alcoholic liquor.

1.3 If the club in the form of a lodge desires members of subordinate lodges under the same grand lodge to have the privilege of buying alcoholic liquor at their club, this may be done by the lodge passing a resolution granting the privileges of the club to members of other subordinate lodges, providing such member presents their card indicating their membership in such subordinate lodge. A record shall be kept of the names of such members of subordinate lodges to whom such privileges are extended.

2.0 Multiple Activity Club
A license for the sale of alcoholic liquor by a multiple activity club to persons who are guests of that club or of a member of that club is in addition to its license as a club which authorizes the sale of alcoholic liquor only to members of the club.

19 DE Reg. 775 (02/01/16)

Rule 1010 (Formerly Rule 62) A Method for Determining Minimum Distances Between Establishments

1.0 Calculation of Measurements
1.1 In computing the distance, pursuant to 4 Del.C. §543, between a proposed establishment and a licensed establishment of the same type by accessible public road or street, the measurements shall be taken as follows:

1.1.1 The measurements shall begin and end at that part of the individual establishment which is available to the public and closest to the other establishment. In general, one would start measuring at the front corner of both the existing and the proposed establishment nearest to the other licensed establishment of the same type. In multiple purpose buildings, in which a liquor establishment is not the primary use, the measurement shall be made from the portion of the building used for the licensed establishment, and the measured distance shall include corridors, etc., when necessary to reach the nearest accessible public road or street.

1.1.2 Straight lines shall then be drawn from these terminal points, and at right angles thereto, to the center of the adjoining means of ingress and egress.

1.1.3 The lines shall then continue to follow the center lines of regular or established traffic patterns (pedestrian or vehicular) until a public road or street is reached at its center line. The lines shall be drawn to the center of the nearest regular or established traffic pattern for vehicular traffic.

1.1.4 The lines shall continue on the center lines of public roads or streets until they meet.

1.1.5 Except where impracticable lines shall be drawn at right angles to each other and shall be straight.

1.1.6 In all cases, the shortest distance from a proposed establishment to a licensed establishment shall be used as the distance between the two, and said shortest distance shall be measured only by accessible public road or street and the Commissioner may consider motor vehicle traffic directions, patterns and barriers and pedestrian traffic patterns.

19 DE Reg. 775 (02/01/16)