

SALE OF ALCOHOLIC BEVERAGES REGULATIONS

**GENERAL RULES AND REGULATIONS FOR
LICENSING OF ALCOHOLIC BEVERAGE
SALES IN THE TOWN OF WAKEFIELD**

SALE OF ALCOHOLIC BEVERAGES REGULATIONS
Voted by the Board of Selectmen November 13, 2013

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POLICY

It is the goal of the Board of Selectmen (“Board”), as the local liquor licensing authority, to provide for a reasonable number and variety of well-run establishments for the sale and service of food and drink as will meet the public need and serve the common good. Further, it is the goal of the Board to regulate such establishments to ensure they are operated responsibly and do not detract from the quality of life in neighborhoods or in the Town as a whole. The Board expects and requires that principals and managers are of sound character and are qualified according to legal requirements and local regulations. Common victuallers and inn holders must show the Board that they will operate a closely-supervised, well-managed establishment where the service of alcohol is a secondary service that supports the primary function of food service.

Hours of operation shall be regulated so as to protect the quality of life in neighborhoods and to discourage excessive drinking. Server training and other conditions shall be imposed to ensure the responsible service of alcoholic beverages. Entertainment appropriate to a dining atmosphere or a special event may be approved.

Strong and consistent enforcement of all liquor laws and regulations shall be maintained. Regular inspections shall be conducted. Violators shall be subject to possible suspension or revocation of their license. Discipline for violations may also include reducing hours or imposing other restrictive conditions.

The rules and regulations that follow have been enacted to achieve the above-stated goals.

Definitions

“AGENT” as used herein with respect to the Board shall include the Town Administrator and any member of the Police Department or any other authorized licensing authority of the Town of Wakefield.

“ALCOHOLIC BEVERAGES” as used herein, shall mean any type of alcoholic beverages, including wines and malt beverages and spirits.

“BOARD” as used herein means the Wakefield Board of Selectmen.

“LICENSEE” or “LICENSEES” as used herein means an individual licensee, each member of a partnership or limited liability company licensee, each officer, director, member, manager, and stockholder of a corporate licensee and any agent of a licensee including those employees who work in the public areas of the Premises.

“LICENSE” as used herein means a revocable privilege granted by the Board. When used in these regulations, the term collectively refers to licenses issued under G.L. c.138

“PATRON” as used herein means a customer who is legally on the licensed premises.

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“PREMISES” as used herein means the establishment at which the licensed business is operated, including all land and buildings associated with the operation of the licensed business.

“RETAIL FOOD ESTABLISHMENT” as used herein means a retail store selling food products, not to be consumed on the premises, which shall include but not be limited to one or more of the following: fresh cheese, fresh meat or delicatessen products, freshly prepared baked goods or confections, natural and organic food or beverages, and which may also sell incidental to the sale of food products therein, wines and malt beverages, but not tobacco products, lottery tickets, pharmacy items, toiletries, personal care products or photographic supplies or services. The term “retail food establishment” as used herein shall further comport with the definition of “establishment” as defined in Chapter 327 of the Acts of 2008.

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Section A. GENERAL — APPLIES TO ALL ON-PREMISES LIQUOR LICENSES (i.e., COMMON VICTUALLER, INNHOLDER, AND CLUBS) AND ALL OFF-PREMISES LIQUOR LICENSES (i.e., RETAIL PACKAGE STORES, SUPERMARKETS AND CONVENIENCE STORES)

(M.G.L. c. 138, §§ 12 and 15)

A.1.) Applicability of Town Liquor Regulations

All on-premise and off-premise licenses to sell alcoholic beverages issued pursuant to Sections B, C, and D of these regulations are subject to and conditioned on compliance with the regulations contained in this Section A.

A.2.) Legislative Authority / Compliance with Laws, Regulations, By-Laws and Conditions

These regulations are adopted by the Board pursuant to the provisions of the Massachusetts General Laws (“M.G.L.”), Chapters 138 and 140. Any and all licenses issued by the Board shall be governed by, and subject to the licensee’s compliance with, all applicable federal, state and local laws, regulations and by-laws, including, but not limited to, the M.G.L., the regulations of the Alcoholic Beverages Control Commission (“ABCC,” at 204 Code of Massachusetts Regulations (“C.M.R.”), these regulations, the Town of Wakefield’s By-Laws, all applicable building, fire prevention, zoning, health and sanitary codes, and any conditions the Board imposes on specific licenses. Where there is conflict between these regulations and a condition on a license, the condition shall govern unless it is inconsistent with law. The Board reserves the right to modify and supplement these regulations and the conditions on any license after due notice and hearing.

(See M.G.L. c. 138, §§ 2, 23, 30H, 62, 64)

A.3.) Qualified Applicants

No license for the sale of alcoholic beverages shall be issued to any person who is not, at the time of his or her application, a citizen of the United States, or to any agent of any such person, or to any corporation a majority of whose directors are in fact aliens. In addition, persons applying for licenses must be at least 21 years of age and of good character. An applicant for a common victualler or inn holder liquor license must, in addition, be qualified pursuant to Section B.2 of these regulations. An applicant for an off premise liquor license must, in addition, be qualified pursuant to Section C.2 of these regulations. An applicant for a club liquor license must, in addition, be qualified pursuant to Section D.2 of these regulations. All applicants for any type of liquor license must, in addition, be qualified pursuant to Wakefield Bylaw Chapter #143.

(See M.G.L. c. 138, §§ 12, 15, 26, 34 and Wakefield Bylaw Chapter #143)

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A.4.) Application for a License

Unless otherwise provided, licenses shall be issued for a 12 month calendar year, beginning on January 1st. An application for a new license shall be issued for the remainder of the calendar year. Fees shall be charged for the entire calendar year even if the license is effective for only a portion of the calendar year.

All applications must contain complete and truthful information. Submission of an application containing false information may be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Board until it is fully complete in accordance with the Town's and the ABCC's requirements. Filing fees must be paid prior to processing of the application by the Board. Annual license fees shall be payable immediately upon approval of the license by the Board. All filing fees and license fees shall be paid by cash or check. Filing fees are non-returnable once an application has been accepted by the Board. License fees shall not be prorated and are not refundable.

No person or entity shall obtain a license unless the applicant can demonstrate proof of a legal right to the licensed premises for the term of the license, such as ownership papers, tenancy documents, or a management contract.

Applications for a common victualler or inn holder liquor license shall be accompanied by a food and beverages menu (including an alcoholic beverages menu) and a general description of the operations. Applications for renewal of such licenses shall be accompanied by a description of any significant change in operations (such as changes to hours of food and alcoholic beverages service, and significant changes to the food and beverages menu (including the alcoholic beverages menu) and entertainment offerings).

Applications by a common victualler or inn holder shall be accompanied by a description of a plan for the control and elimination of litter that complies with Section A.29.

Where United States citizenship is stated as a qualification by these regulations, such citizenship shall be proven by a birth or naturalization certificate or by proof of registered voter status. The Board reserves the right to request to inspect a copy of such proof containing an original seal, in the event an applicant supplies a photocopy not containing such seal.

The Board shall consider the public need and common good in determining whether or not to grant a request for a new liquor license. In considering whether the public need and common good would be served by granting a new license, the Board may consider the number and location of existing licenses, the sort of operation proposed, the qualifications of the applicant and proposed manager, any impact on the community with respect to matters such as noise, traffic, congestion, odors, sanitary and/or nuisance conditions, waste disposal requirements and facilities, parking, dust and fumes, the impact on the character of the neighborhood and the Town, and whether any articulable harm would follow from the granting of the license. The Board may refuse to grant licenses to common victuallers, inn holders and clubs in certain geographic areas of the Town where the character of the neighborhood may warrant such refusal. As part of the licensing application and renewal process, the Board shall seek advisory reports

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from the Police Department (to include but not limited to the results of adherence to Wakefield Bylaw Chapter #143), Fire Department, Treasurer/Collector, Health Department, Building Department, and Planning Department, as appropriate.

The Board may deny an application for renewal of a license where there is cause for doing so. Prior to issuing a renewed license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, and Building Department.

The applicant's failure to comply with any federal, state or local law, regulation, or by-law may be cause for denial of the application.

(See M.G.L. c. 138, §§ 12, 15, 15A, 16A, 23, 70; 204 C.M.R. Parts 2.01(1), (7) and (8))

A.5.) Transfers in Ownership or Premises and Changes to Description of Licensed Premises

The Board may approve the transfer of a license to any person or entity who would have been qualified to receive such license in the first instance, if, in the opinion of the Board, the transfer is in the public interest. A license may not be transferred to a new location and the description of the licensed premises may not be changed except with approval of the Board.

(See M.G.L. c. 138, § 23)

A.6.) Premises' Description

No licensee shall keep for sale, store, or sell alcoholic beverages in any part of the premises not specified on the license.

No new license shall be issued until an applicant has submitted to the Board and obtained the Board's approval of a description, illustration, and/or detailed plan of the premises (drawn to scale as may be necessary) describing the placement of waiting areas, tables, chairs, stools, fixed seating, booths, service counters or bars, standing only areas, entertainment areas, dance floors, kitchen facilities, bathrooms, hallways, rooms, railing partitions and other barriers, entrances and exits, and interior doors, and describing the premises' signage and any other exterior and interior decorations or features. Applicants must comply with the provisions of the Town of Wakefield's Sign By-Laws.

Where there are no premises actually in existence at the time of an application, the applicant shall submit with its application a detailed description of the premises proposed to be constructed.

A licensee must apply for and obtain the Board's approval prior to making any a) structural change to the premises, b) change in Board-approved alcohol service areas, c) physical change that results in an increase in seating capacity, and d) physical change to the premises pertaining to the fixed placement of tables, chairs, stools, fixed seating, booths, service counters or bars, entertainment areas, dance floors, kitchen facilities, bathrooms, hallways, rooms, railing

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partitions and other barriers, entrances and exits, interior doors, and signage and any other exterior decorations or features. An application for any such physical change shall be accompanied by a description, illustration and/or detailed plan (drawn to scale as may be necessary) describing the premises with such proposed changes.

Subject to their approval by the Board, the Building Commissioner, the Health Department and the Fire Department shall approve all plans contemplated by this Section A.6.

The Board may suspend, cancel or revoke a license in the event it determines that the licensee constructed or made changes to the premises in violation of this Section A.6.

(See M.G.L. c. 138, §§ 2, 12, 15A, 23, 30H)

A.7.) Taxes and Charges

All taxes and charges owed to the Town must be paid on a current basis. Failure to make any required payment may be grounds for denial, suspension or revocation of a license.

(See M.G.L. c. 40, § 57)

A.8.) Corporate and Trade Names

No licensee shall assume obligations for a licensed premise or conduct business under any corporate or trade name (DBA) other than that stated on the license. Any change in corporate name or status or any change in trade name (DBA) from that the Board previously approved shall require the prior approval of the Board.

A.9.) Corporate Transactions and Changes in Operations

The licensee shall not change Manager, Alternate Manager, or corporate directors or officers; sell or transfer corporate stock, control or ownership interest in the licensed entity; pledge corporate stock, an ownership interest, the liquor license, or inventory as security; change the corporate name; accept a loan or credit from another licensee; or make any significant change in the operations outside of the scope of the originally approved license without first obtaining the approval of the Board. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Board.

(See M.G.L. c. 138, §§ 2, 15A, 23, 25, 26)

A.10.) Cessation of Operations / Permission Required

Any licensee intending to close a place of business or cease sales of alcoholic beverages, whether on a temporary or permanent basis, must notify the Board in writing and obtain its prior permission, stating the reason for and length of such closing or inactivity. Failure to provide such notice and to obtain such permission may, after hearing or reasonable opportunity therefor, result in cancellation of the license.

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(See M.G.L. c. 138, §§ 23, 77)

A.11.) Bankruptcy and Court Proceedings

The licensee shall immediately notify the Board in writing of any proceedings brought by or against the licensee under the bankruptcy laws and of any other court proceedings which may affect the status of the license.

A.12.) Foreclosure on Loans

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

A.13.) Access to Premises, Inspections, Required Documentation on Premises, and Requests For Information by the Board and its Agents

The Board or its agent, including the Police and other inspectional departments, may at any time enter upon the premises of the licensee to ascertain the manner in which the licensee conducts its business under such license and whether it is in compliance with the conditions of its license and all applicable federal, state, and local laws, regulations and by-laws.

Holders of on-premise liquor licenses under Sections B and D of these regulations and holders of off-premise liquor licenses under Section C of these regulations shall maintain an employee roster (see Section A.19.) and all documentation required to be kept by such licensees pertaining to the licensee's Safe Service of Alcohol Policy and server training (see Sections A.25 and A.26, respectively).

Licensees shall supply to the Board or its agent such information as the Board or its agent may require for purposes of the proper enforcement of these regulations. Any hindrance imposed by a licensee to an inspection, or any refusal by a licensee to supply information that is requested by the Board or its agent pursuant to this Section A.13, shall be cause for action against the license.

(See M.G.L. c. 138, §§ 12, 63, 63A)

A.14.) Display of Licenses and Permits

All licenses and permits issued by the Town pursuant to these regulations shall be displayed on the premises in a conspicuous place where they can be easily read.

(See 204 C.M.R. Part 2.01(10))

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A.15.) Occupancy

No licensee shall vary the occupancy of the licensed premises as certified by the Building Department.

(See M.G.L. c. 138, § 12)

A.16.) Hours of Operation

The hours of operation shall be restricted to those set by the Board. No patrons shall be on the premises except during the hours permitted by the licensee's liquor license, or by the licensee's common victualler, innholder, club or food vendor license, if different.

A.17.) Manager and Alternate Managers; Responsibilities

No corporation or other legal entity shall be approved for a license unless the entity, by vote of its board of directors, has appointed a Manager for the licensed premises whom the Board deems capable of fulfilling his or her managerial responsibilities as set forth herein and who is a United States citizen, at least 21 years of age, and of character satisfactory to the Board, and who has been vested with full authority and control of the premises and the business to be licensed as demonstrated by a copy of a vote certified by the clerk or secretary of the entity. With the approval of the Board or the Board's designee, a corporation or other legal entity may appoint an employee (who must be at least 21 years of age) to be in charge in the absence of the Manager. For on-premises liquor licensees, the Manager must be on the premises the lesser of either fifty (50) percent of the time the premises are open, or forty (40) hours per week during operational hours. For off-premises liquor licensees, the Manager must be on the premises at least (20) hours per week during operational hours. A written record shall be kept which identifies the employee in charge for each shift.

The Manager shall have total responsibility for the proper operation of the licensed premises and shall maintain order and decorum within the premises, whether present or not, and shall cooperate in all ways with Town officials in ensuring safe and orderly facilities. The Manager shall not permit any illegality, disorder, indecency, prostitution, lewdness or illegal gambling in or on the premises.

(See 204 C.M.R. Part 2.01(6))

A.18.) Employees on Premises after Closing Hours

A licensee or manager shall not be prohibited from being on the licensed premises at any time. Employees, contractors, and subcontractors of the licensee shall not be prohibited from being on the licensed premises for the purpose of cleaning, making emergency repairs, providing security for such premises, preparing food or opening or closing the business in an orderly manner.

(See M.G.L. c. 138, § 12)

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A.19.) Employee Roster and Employee Minimum Age for Service of Alcohol

An up-to-date list of all employees, including their ages, shall be available on the premises at all times for review by the Board and its authorized agents. A licensee may not permit an employee under the age of 18 years to handle, sell, mix or serve alcohol.

(See M.G.L. c. 138, § 34)

A.20.) Employee Consumption Prohibited

No Manager, Alternate Manager or employee of the licensee shall consume any alcoholic beverages while on duty at the licensed premises, with the exception of minor alcoholic consumption for staff training and product selection purposes under the supervision of the manager on duty.

A.21.) No Disorder, Disturbance, or Illegality on Licensed Premises

No licensee shall permit any disorder, disturbance, or illegality of any kind on the licensed premises.

(See 204 C.M.R. Part 2.05(2))

A.22.) Service Prohibited To Underage and Intoxicated Individuals

No alcoholic beverages shall be sold to anyone who is under twenty-one (21) years of age or intoxicated.

(See M.G.L. c. 138, §§ 34, 69; 204 C.M.R. Part 2.05(2))

A.23.) Identification Cards

Licensees may accept as proof of age only those original documents specified in the most current regulations of the A.B.C.C. and the M.G.L.

(See M.G.L. c. 138, § 34B; 204 C.M.R. Part 2.10)

A.24.) Required Posting

All licensees shall post conspicuously a copy of the explanation of the prohibition, and penalties for violation of the prohibition, applicable to persons under the age of 21 years for purchasing or attempting to purchase alcohol, misrepresentation of one's age, and altering, defacing or falsifying identification with the intent to purchase alcohol, in the form that such posting is distributed by the Alcoholic Beverages Control Commission.

(See M.G.L. c. 138, § 34A)

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A.25.) Safe Service of Alcohol Policy

The licensee shall establish and maintain a written policy applicable to the Manager, any Alternate Manager(s) and all employees stating the licensee's prohibition on the sale or service of alcohol to any person who is under 21 years of age or who shows signs of intoxication, the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated, and the disciplinary measures that will be taken for violating such policy. The licensee shall provide such written policy to all managerial personnel and employees. Each Manager, Alternate Manager and employee shall sign a certification acknowledging the person's receipt, review, and understanding of the written policy and of the disciplinary action that will be taken against him or her for a violation, which certifications shall be maintained on the licensed premises at all times. A copy of the written policy and of all such certifications shall be available to the Board and its authorized agents upon demand.

A.26.) Server Training

All management personnel and employees whose duties may include the sale or service of alcoholic beverages shall receive or show proof of certification of safe service of alcohol training (TIPS, SERVESAFE, or the equivalent) within 30 days of employment. All such management personnel and employees shall be recertified every three years. A copy of all certification showing that each such person has received such training within the prior three years shall be maintained on the licensed premises and be available for inspection on the licensed premises at all times. On-line training will satisfy the requirements of this Section A.26.

A.27.) Charge for Alcoholic Beverages

No alcoholic beverages shall be sold for a fee less than the actual cost of the beverage to the licensee except as specified in M.G.L. c. 138, § 25C (g (3)). 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 or day(s) of the week. No minimum charge shall be made for alcoholic beverages except as allowed under the most current state regulations.

(See 204 C.M.R. Parts 2.04, 4.03)

A.28.) Drinking Games / Donations of Alcoholic Beverages Prohibited

No licensee shall encourage or permit on the licensed premises any game or contest which involves drinking or the awarding of drinks as prizes.

Donations of alcoholic beverages by licensees for the purpose of having the same used as prizes in a game of chance are prohibited. Notwithstanding the foregoing, this Section A.28, does not prohibit donations of alcoholic beverages to the extent permitted by Section E.4(a)-(c) below.

(See 204 CMR Parts 2.04(2), 4.03(h); 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, and 2007 Mass. Acts ch. 229)

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A.29.) Cleanliness / Refuse Removal

All licensed premises shall be maintained in a clean and sanitary condition.

All licensees that prepare food for sale or service to the public shall provide and maintain a sufficient number of closed receptacles, such as dumpsters, for the storage of all refuse on the premises, and shall maintain them in accordance with the regulations and conditions of the Wakefield Health Department, Department of Public Works, and Board of Selectmen. All refuse generated by such licensees on the licensed premises shall be stored in such covered receptacles. The covered receptacles shall be constructed and maintained so that refuse is kept within the receptacle and is not blown or otherwise removed from it by wind, animals or other cause, other than for removal by authorized persons.

All restaurants and commercial establishments that prepare food for consumption on or off the premises shall provide for the removal of all refuse from the premises during each day of operation, and shall not permit refuse to remain on the premises for more than twenty-four hours. All other licensees shall remove refuse a minimum of twice each week, and more often if necessary to prevent any nuisance conditions.

(See 204 C.M.R. Part 2.05(8))

A.30.) Noise

All licensees shall limit the noise generated by their business, including, but not limited to, with respect to entertainment, outdoor seating areas, exterior fans, vents and equipment, and delivery and loading areas and activity, in order to avoid creating a nuisance.

(A.31.) Interior Lighting

All licensees shall keep the licensed premises lighted in a manner sufficient for the safety of the patrons and in a manner sufficient for the Board or its agents to make observations at the premises without the need to identify themselves or seek assistance.

(See 204 C.M.R. Part 2.05(10))

A.32.) Discrimination Prohibited

No licensee shall engage in unlawful discrimination on the basis of race, color, national origin, creed, disability, sex, sexual orientation, or ancestry.

(See M.G.L. c. 272, §§ 92A, 98; 204 C.M.R. Part 10.01)

A.33.) Sanctions

The Chief of Police and/or Health Director may initiate alcohol compliance checks at any establishment at any time using ABCC's compliance check guidelines. Refusal to cooperate

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with a police officer designated by the Chief of Police, or a Health Department employee designated by the Health Director, to perform compliance checks will be considered a violation of this policy. In the event that the Board finds, after hearing or reasonable opportunity therefor, that a licensee has failed to comply with any federal, state or local law, regulation or by-law, or with any condition imposed on the license, the Board shall take such action as it deems appropriate. The following penalties represent guidelines for action to be taken by the Board for violations by on-premises or off-premises licensees of the Board's rules and regulations or the General Laws:

- 1st offense: warning to two consecutive day suspension of license
- 2nd offense (occurring within two years of previous violation): three to seven consecutive day suspension of license
- 3rd and subsequent offenses (occurring within two years of any previous violations): seven or more consecutive day suspension or revocation of license

In determining the appropriate sanction to be imposed on the licensee, the Board shall consider all factors it deems relevant, which may include, but are not limited to: the past history of findings of violation(s); the severity of the offense and egregiousness of the facts found; the culpability of the licensee and/or its manager(s), employee(s) and agent(s) (including the extent to which it had established and followed procedures to prevent such violations); the extent of any threat to public safety and to the public good; any steps by the licensee to remedy the violation and to prevent any reoccurrence; and any other additional factors deemed relevant by the Board.

In addition to the foregoing, where the Board finds that a common victualler, innholder or club liquor licensee sold alcohol to an under-aged or intoxicated person, the Board may, in its discretion, require as a condition precedent to any modification, reinstatement, or renewal of such license, that if the licensee is required to obtain insurance under M.G.L. c. 138, § 12, the limits of such insurance may be increased.

(See M.G.L. c. 138, §§ 2, 12, 16A, 23, 30H, 64, 64A, 65; 204 C.M.R. Parts 2.01(8), 7.06)

Section B. ON-PREMISES LIQUOR LICENSE: COMMON VICTUALLER AND INNHOLDER

(M.G.L. c. 138, § 12)

B.1.) Applicability of Town Liquor Regulations

All licenses issued by the Board under this Section B are subject to and conditioned on compliance with the regulations contained in this Section B and in Section A.

B.2.) Qualified Applicants

No license shall be issued to any applicant who has been convicted of a violation of a federal or state narcotics law. No license shall be issued to any applicant who is not qualified to receive one pursuant to Section A.3 of these regulations.

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(See G.L. c. 138, § 12)

B.3.) Required Insurance

No license shall be issued or renewed until the applicant provides proof of coverage, under a liquor legal liability insurance policy for bodily injury or death, for the minimum amount of coverage prescribed by the most current state law or, if none is prescribed, then as ordered by the Board. Proof shall be made by filing a certificate of insurance in a form acceptable to the Board.

(See M.G.L. c. 138, § 12)

B.4.) Service and Consumption Limited To Approved Areas / Outdoor Seating

The service and consumption of alcoholic beverages shall be limited to those dining rooms, patios, sidewalks or other public areas pertaining to the premises that are approved by the Board.

The Board may, upon written application and after notice and hearing, grant, upon such terms and conditions as it determines to be necessary and desirable, the right to use the outdoor portion of the licensed premises (such as patios and other outdoor areas), and/or a portion of a town sidewalk, that is contiguous to the licensed premises for outside seating for patrons. In considering requests for outdoor service areas, the Board shall evaluate whether or not the proposed outdoor dining is safe and sanitary and whether or not it would create a public nuisance. In these regards, the Board may consider factors including, but not limited to, the type of neighborhood at issue, the potential for noise in the environs, any impact on the flow of pedestrian traffic on the public sidewalk, and the handling of waste and spills. Prior to issuing such a grant, the Board shall seek advisory reports from the Planning Department, Building Commissioner, Police Department, Health Department, Fire Department, and Commissioner of Public Works, as appropriate. No such grant shall be for more than six months in any license year. No such grant shall extend beyond the term of the license. The Board may revoke any such grant if the exercise of the grant interferes with the public safety and convenience. In the event of a request to extend the licensed premises to a portion of a town sidewalk, the applicant must also apply for and receive a permit for such extension from the Town's Department of Public Works.

Town-licensed establishments that have outdoor seating must comply with all Town by-laws, regulations, rules and conditions. Establishments that are considering offering outdoor seating must so inform the Board in writing.

An application to extend the licensed premises outside of the licensed establishment shall describe the area in detail, including the dimensions, the number of tables and chairs, any bar(s), cooking and food preparation and/or storage area, and the occupancy figures for inside and outside service areas. Approval for such outdoor areas will be given only upon proof supplied by the applicant that the licensee has sufficient control of the area to prevent service or delivery of alcoholic beverages to under-aged or intoxicated persons and other violations. Such outdoor areas must be enclosed by a fence, rope or other means to prevent patrons or members of the public from wandering in or out. Adequate exits to the public way from the outdoor area must be

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maintained at all times; in no case shall patrons be required to re-enter the building in order to exit in an emergency situation. The licensee should have a view of the outside premises from inside the premises. Egress from the inside to the outside must be clearly established to assure safe, uninterrupted service of alcoholic beverages. The outdoor area must not impede egress from the facility. Existing restroom facilities must be adequate to not only service the existing facility but the additional patrons in the outside seating area as well. Outdoor service may occur only to patrons who are seated at tables where food is also available.

No alcoholic beverages shall be served or consumed in any areas of the premises that are not included in the approved description of the licensed premises.

(See M.G.L. c. 138, § 12; ABCC's "Guidelines for Extension of Premises to Patio and Outdoor Areas")

B.5.) Food Service Required / Examination of Premises

Licenses issued under this Section B may be issued only to duly-licensed common victuallers and innholders that 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 Chapter 140 of the Massachusetts General Laws. All establishments must also obtain applicable permits from the Health Department. The Board shall not grant any license under this Section B until after it or its authorized agent has conducted an examination of the premises and determined that the business satisfies the requirements for a restaurant or innholder. No license shall be renewed unless the licensee has satisfied the Board that it is in good faith operating a restaurant and has the proper equipment for the service of food.

Food service shall be available and offered in all areas and seats where alcoholic beverages are served except in an approved waiting area. Alcoholic beverages may be served to individuals in approved waiting areas.

The manager on duty shall bear ultimate responsibility for the strict enforcement of food and beverage service regulations, including, without limitation, assuring that no patron is over-served alcohol and that no alcohol is served to or consumed by underage persons.

For the purposes of these regulations, the term "food service" shall be defined by state regulation 105 CMR 590.000.

(See M.G.L. c. 138, §§ 12, 12A)

B.6.) Service of Alcoholic Beverages Limited

No licensee may offer to sell or deliver alcoholic beverages by the pitcher or carafe, with the exception of pitchers or carafes of malt or wine beverages served to two or more persons at one time. With the exception of malt and wine beverages, no alcoholic beverages shall be served in any container or glass the capacity of which is in excess of sixteen fluid ounces. No more than

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one alcoholic beverage drink shall be served to a patron at one time for his or her own consumption.

(See 204 C.M.R. Part 4.04)

B.7.) Service and Consumption of Alcoholic Beverages on Premises

All alcoholic beverages shall be served directly to the patron in open containers by employees of the licensed establishment who are qualified pursuant to Section A.26. No patron shall be allowed to bring alcoholic beverages on the licensed premises for the purpose of consumption on such licensed premises.

The licensee may permit a patron who purchases a bottle of wine with a meal to take from the licensed premises the unconsumed portion of one bottle of wine, provided that:

- a. The licensee securely reseals the bottle
- b. The bottle is placed in a one-time use tamper-proof transparent bag that insures that the patrons cannot gain access to the bottle while in transit after the bag is sealed
- c. The bag is securely sealed
- d. A receipt showing the purchase of the meal and the bottle of wine is provided to the patron and affixed to the bag

B.8.) Hours for Sale of Alcoholic Beverages and Operation

The Board shall set a licensee's opening and closing hours based on the public need and the common good consistent with the law. In no event shall the Board set an opening hour earlier than 10 a.m. on Sundays and 8 a.m. on all other days and a closing hour later than 1 a.m., unless otherwise approved by the Board. The hours for the sale and service of alcoholic beverages shall be further restricted to the hours during which food service is available, with the exception of the last hour before the closing hour that is stated on the liquor license.

"Last call" (a final opportunity to purchase alcoholic beverages) shall be at least one-half hour prior to the closing hour.

No alcohol shall be consumed on the premises after the closing hour stated on the license. No patrons shall be on the premises more than fifteen (15) minutes after the stated closing hour. All tables and bars must be cleared of all glasses, bottles and containers containing alcoholic beverages within one-half hour after the closing hour.

(See M.G.L. c. 138, §§ 12, 33, 33A)

B.9.) Bar Seats Limited

With respect to applications for a new liquor license or for a change to the premises, the ratio of bar seats to table seats is subject to the review and approval of the Board. In connection with such applications, the Building Commissioner shall bring to the Board's attention a proposal,

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description, illustration, and/or detailed plan of a premises submitted pursuant to Section A.6 that evidences a ratio of more than 1 bar seat per 10 table seats.

B.10.) Tastings

A licensee may provide on premises tastings of sample wine (up to 1 oz. serving), malt (up to 2oz. serving), or other alcohol (up to ¼ oz. serving) if served with food and the licensee does not solicit orders for off-premises consumption.

(See M.G.L. c. 138, § 12)

B.11.) Price Schedules

Licensees shall maintain a price schedule showing charges for all drinks and shall make sales at the prices stated.

(See 204 C.M.R. Parts 2.02(1), 4.02)

B.12.) Required Posting

All licensees shall post conspicuously a copy of the penalties set forth in M.G.L. c. 90, § 24(1) for operating a motor vehicle under the influence of alcohol in the form that such posting is distributed by the Alcoholic Beverages Control Commission.

Licensees shall maintain a written list of the telephone numbers of local taxicab companies next to the public telephone. If there is no public telephone, the list should be available for patrons when requested.

(See M.G.L. c. 138, § 34D)

B.13.) Clear View of Premises' Interior

No advertising matter, screen, curtain, or other obstruction which, in the opinion of the Board, prevents a clear view of the interior of the licensed premises from outside the premises shall be maintained in or on any window or door thereof after the Board has ordered the removal of such obstruction and has afforded the licensee a reasonable opportunity to comply.

(See M.G.L. c. 138, § 1)

B. 14.) Special Additional Rules or Common Victuallers Without a License to Serve Alcoholic Beverages

Patrons are not permitted to bring alcoholic beverages on the premises for their own consumption. Licensees are not permitted to keep alcoholic beverages on the premises except for a reasonably small quantity that is used in the preparation of certain specialty foods.

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Section C. OFF-PREMISES LIQUOR LICENSE: RETAIL PACKAGE STORES, SUPERMARKETS AND CONVENIENCE STORES

(M.G.L. c. 138, § 15)

C.1.) Applicability of Town Liquor Regulations

All licenses issued by the Board under this Section C are subject to and conditioned on compliance with the regulations contained in this Section C and in Section A.

C.2.) Qualified Applicants – Prior Convictions / Citizenship / Residency

The Board shall not grant any license under this Section C to an applicant who has been convicted of a felony. In addition to the qualification requirements set forth in Section A.3 of these regulations, an applicant for an off-premises liquor license under this Section C must be a resident of Massachusetts, or a partnership composed solely of citizens and residents, or a corporation organized under Massachusetts laws of which all directors are citizens and a majority are residents of Massachusetts, or a limited liability company organized under Massachusetts law.

(See M.G.L. c. 138, § 15)

C.3.) Limitation on Licensed Premises

No premises licensed under this Section C shall have direct, physical access to premises that are licensed as a common victualler, innholder, or club to sell alcoholic beverages.

C.4.) License Number Limitation

No person, firm, corporation, association, or other combination of persons, directly or indirectly, shall be granted more than one (1) off-premises liquor license in Wakefield, nor will they be allowed to exceed limits set by the most current state law.

(See M.G.L. c. 138, § 15)

C.5.) Hours and Days of Sales

The Board shall set a licensee's opening and closing hours based on public need and common good, and consistent with the most current state law.

(See M.G.L. c. 138, §§ 15, 33; G.L. c. 136, §§ 5 and 6(52))

C.6.) Prohibition on Exposing Alcoholic Beverages for Sale During Non-Licensed Hours

No business with an off-premises liquor license shall expose alcoholic beverages for sale during hours or days when it is not licensed to sell alcoholic beverages.

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C.7.) Consumption On Premises Prohibited Except Sample Tastings

No alcoholic beverages shall be sold to be consumed on the premises, except that licensees may provide without charge on their premises sample wine or malt beverage tasting of products available for sale on their premises. Each “taste” shall be limited to 1 ounce of wine or 2 ounces of malt beverage, and, if licensed for tastings of cordials and liqueurs and other alcoholic beverages, ¼ ounce of such other beverage.

(See M.G.L. c. 138, § 15)

C.8.) Posting of Prices / Original Packaging

All prices that can be seen by customers in the licensee’s store, whether on shelves, in circular form or otherwise, must correspond with the price charged to customers. Sales by licensees shall be made only in the original package of the manufacturer, wholesaler or importer.

(See M.G.L. c. 138, § 15)

C.9.) Posting of Penalties for Operating While Drinking From Open Container

Every licensee shall post conspicuously a copy of the penalties set forth in Massachusetts General Laws Chapter 90, Section 24(1), for operating a motor vehicle while drinking from an open container in the form that such posting is distributed by the Alcoholic Beverages Control Commission.

(See M.G.L. c. 138, § 34D)

C.10.) Deliveries Off Premises

A written record shall be maintained listing the name and address of every person to whom a delivery of alcoholic beverages is made outside of the premises. Such record shall include the amount of alcoholic 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 and its authorized agents at all times. All deliveries shall be made in vehicles permitted by the Alcoholic Beverages Control Commission and by persons at least 18 years of age who have received training and certification as required by Section A.26 above. The person in charge of such vehicle used for delivery shall carry an invoice or sales slip stating the name(s) and address(es) of the purchaser(s), the date and amount of the purchase, and an itemization of the number of containers of each kind, the quantities, and the brands of the alcoholic beverages purchased. Verification pursuant to Section A.23 above that the person receiving the delivery is at least 21 years of age must be made prior to delivery.

(See M.G.L. c. 138, § 22; 204 CMR 2.05(3))

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Section D. ON-PREMISES LIQUOR LICENSE: CLUBS

(M.G.L. c. 138, § 15)

D.1.) Applicability of Town Liquor Regulations

All licenses issued by the Board under this Section D are subject to and conditioned on compliance with the regulations contained in this Section D and in Section A, and, in addition, with the following regulations contained in Section B (“Common Victuallers and Innholders”): B.2 (“Qualified Applicants”), B.3 (“Required Insurance”), B.4 (“Service and Consumption Limited to Approved Areas / Outdoor Seating”), B.6 (“Service of Alcoholic Beverages Limited”), B.11 (“Price Schedules”), B. 12 (“Required Posting”), and B.13 (“Clear View of Premises’ Interior”).

D.2.) Qualified Applicants

No license shall issue to any applicant who has been convicted of a violation of a federal or state narcotics law. No license shall issue to any applicant who is not qualified to receive one pursuant to Section A.3 of these regulations.

(*See* M.G.L. c. 138, § 12)

D.3.) Hours for Sale of Alcoholic Beverages and Operation

The Board shall set a licensee’s opening and closing hours based on the public need and the common good consistent with the law. In no event shall the Board set an opening hour earlier than 10 a.m. on Sundays and 8 a.m. on all other days and a closing hour later than 1 a.m., unless otherwise approved by the Board.

“Last call” (a final opportunity to purchase alcoholic beverages) shall be at least one-half hour prior to the closing hour. All patrons must be off the premises by the closing hour. All tables and bars must be cleared of all glasses, bottles and containers containing alcoholic beverages within one-half hour after the closing hour.

Licensees shall maintain a written list of the telephone numbers of local taxicab companies next to the public telephone. If there is no public telephone, the list should be available for patrons when requested.

(*See* M.G.L. c. 138, §§ 12, 33, 33A)

D.4.) Service and Consumption of Alcoholic Beverages On Premises

All alcoholic beverages shall be served in open containers by wait or bartender staff of the licensed establishment directly to the patron. No alcoholic beverages served on the premises shall be allowed to be removed from the premises, except as permitted by 204 C.M.R. Part 2.18. No patron shall be allowed to bring alcoholic beverages on the licensed premises for the purpose of consumption on such licensed premises.

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(See M.G.L. c. 138, § 1)

D.5.) Only Members and Guests to Be Served

Only members and their properly-registered guests shall be served alcoholic beverages.

Section E. TEMPORARY LICENSES FOR THE SALE OF ALCOHOL AND PERMITS TO SERVE ALCOHOL

E.1.) Applicability of Town Liquor Regulations

Unless otherwise specified, all licenses and permits issued by the Board under this Section E are subject to and conditioned on compliance with the regulations contained in this Section E, and, in addition, with the following regulations contained in Section A (“General”) and Section B (“Common Victualler and Innholder Licenses”): A.2 (“Legislative Authority / Compliance with Laws, Regulations, By-Laws and Conditions”), A.3 (“Qualified Applicants”) (except that U.S. citizenship requirements are applicable to applicants for Section 14 temporary licenses and farmer-winery licenses only), A.13 (“Access to Premises, Inspections, Required Documentation on Premises, and Requests for Information By the Board and its Agents”), A.14 (“Display of Licenses and Permits”), A.15 (“Occupancy”), A.20 (“Employee Consumption Prohibited”), A.21 (“No Disorder, Disturbance, or Illegality on Licensed Premises”), A.22 (“Service Prohibited to Certain Individuals”), A.23 (“Identification Cards”), A.27 (“Charge for Alcoholic Beverages”), A.31 (“Interior Lighting”), A.32 (“Discrimination Prohibited”), and B.6 (“Service of Alcoholic Beverages Limited”).

E.2.) Section 14 Temporary Licenses to Sell Alcohol

Pursuant to M.G.L. c. 138, § 14, the Board may grant a temporary license a) to the responsible manager of any non-profit organization conducting any indoor or outdoor activity or enterprise, for the sale of all alcoholic beverages or of wine and malt beverages only, or either of them, b) to the responsible manager of any indoor or outdoor activity or enterprise, for the sale of wine and malt beverages only, or either of them, or c) for the sale of wine and malt beverages in the dining halls maintained by private educational institutions (hereinafter, licenses issued pursuant to this Section E.2 are referred to as “Section 14 temporary licenses”).

A Section 14 temporary license may not be granted to a person who has a pending application for a liquor license as a common victualler, innholder, or club under Section B or D, or for any premises that already has a liquor license under Section B or D in effect for the time period for which the Section 14 temporary license is sought.

No Section 14 temporary license shall permit sales on more than 30 days, nor may any person or organization be granted Section 14 temporary licenses permitting sales on an aggregate of more than 30 days in any calendar year.

The Board shall fix and shall specify on the license the hours during which a Section 14 temporary licensee may sell or furnish alcohol, but in no event shall a Section 14 temporary

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licensee sell or deliver alcoholic beverages between the hours of 1 a.m. and 8a.m. or the hours specified on the temporary license.

(See M.G.L. c. 138, §§ 14, 26; 204 C.M.R. Parts 7.02, 7.03, 7.04)

E.3.) Section 15F Farmer-Winery Temporary Licenses

Pursuant to M.G.L. c. 138, § 15F, the Board may issue to an applicant authorized to operate a farmer-winery under M.G.L. c. 138, § 19B, or in any other state, a temporary license for the sale of wine produced by or for the licensee in sealed containers for off-premises consumption at an indoor or outdoor agricultural event (“farmer-winery license”). A farmer-winery license may be granted for an indoor or outdoor agricultural event that takes place on multiple dates and/or times during a single calendar year, but no such license shall be granted for an agricultural event that will not take place within 1 calendar year. Such licenses shall be non-transferable and shall clearly be marked non-transferable on the face.

(See M.G.L. c. 138, § 15F)

E.4.) Licenses for the Sale of Wine for Charitable Purposes and / or at Auction

To the extent permitted by 1997 Mass. Acts ch. 153 as amended, the Board may issue the following temporary licenses for the sale of alcoholic beverages:

- a. Sales by Charities of Donated Wine to be Consumed on Premises: For the sale of wine to be consumed on the premises, to applicants which are nonprofit charitable corporations organized under chapter 180 of the Massachusetts General laws and registered with the public charities division of the office of the attorney general. Any wine sold under this Section E.4(a) shall be donated at no charge to the licensee, and all proceeds shall be used for the licensee’s charitable purposes. Any wine so donated may be dispensed by the employees or agents of the donor(s) of the wine, without compensation for the dispensing services provided. The licensed premises must be either the principal place of business or headquarters of the applicant which is legally zoned to allow such sales, or the premises of a common victualler, innholder or club liquor licensee licensed pursuant to Sections B or D above. No such temporary license shall be for a duration of more than 10 consecutive calendar days and no holder shall be granted more than 2 such licenses in a calendar year. The fee charged shall not exceed the minimum fee established for holders of licenses to sell wine. The hours shall be as set by the Board, but in any event shall be limited to those permitted by Section B.7.

(See Section 3 of 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, 2007 Mass. Acts ch. 229)

- b. Joint Sales by a Charity Together With a Common Victualler, Innholder, and/or Club Primarily for Charitable Purposes of Wine to be Consumed on the Premises. For the sale of wine to be consumed on the premises, to joint applicants which consist of one or more nonprofit charitable corporations organized under chapter 180 of the Massachusetts

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General Laws and registered with the public charities division of the office of the attorney general together with a common victualler, innholder or club liquor licensee licensed pursuant to Section B or D above. Any wine sold under this section E.4(b) may be donated at no charge to the licensee. A majority of the proceeds from such sales shall be used for the nonprofit charitable corporation licensee's charitable purposes. Any wine sold under this Section E.4(b) may be dispensed by the employees or agents of the donor of the wine, without compensation for the dispensing services provided. The licensed premises must be the premises of the joint applicant that is a common victualler, innholder or club liquor licensee. No such temporary license shall be for a duration of more than 10 consecutive calendar days and no holder shall be granted more than 20 such licenses in a calendar year. The fee charged shall not exceed the minimum fee established for holders of licenses to sell wine. The hours shall be as set by the Board, but in any event shall be limited to those permitted by Section B.7.

(See Section 4 of 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, 2007 Mass. Acts ch. 229)

- c. Auctions by Charities of Donated Wine to Be Consumed Off Premises. For the sale at auction of wine not to be consumed on the premises, to applicants which are nonprofit charitable organizations organized under chapter 180 of the Massachusetts General Laws and registered with the public charities division of the office of the attorney general. Any wine sold under this Section E.4(c) shall be donated at no charge to the licensee and all proceeds shall be used for the licensee's charitable purposes. The licensed premises must be either the principal place of business or headquarters of the applicant that is legally zoned to allow such sales or a location owned or leased by the applicant from which the applicant regularly conducts business that is legally zoned to allow such sales, or the premises of a common victualler, innholder, club or retail package store liquor licensee licensed pursuant to Sections B, C or D above. No such temporary license shall be for a duration of more than 10 consecutive calendar days and no holder shall be granted more than 5 such licenses in a calendar year. The fee charged shall not exceed the minimum fee established for holders of licenses to sell wine. The hours shall be as set by the Board but in any event shall be limited to those permitted by Section B.7.

(See Section 1 of 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, 2007 Mass. Acts ch. 229)

- d. Auctions by Retail Package Stores of Wine to be Consumed Off Premises. For the sale at auction of wine not to be consumed on the premises, to applicants which are off-premise liquor licensees licensed pursuant to Section C above. The licensed premises must be either the principal place of business or headquarters of the applicant that is legally zoned to allow such sales, or the premises of a common victualler, innholder, club or retail package store liquor licensee licensed pursuant to Sections B, C or D above. No such temporary license shall be for a duration of more than 10 consecutive calendar days and no holder shall be granted more than 2 such licenses in a calendar year. The fee charged shall not exceed the minimum fee established for holders of licenses to sell wine. The

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hours shall be as set by the Board but in any event shall be limited to those permitted by Section C.5.

(*See* Section 2 of 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, 2007 Mass. Acts ch. 229 (containing sunset date of January 1, 2013), and as may be further amended)

E.5) Hours and Days of Sales or Delivery

The hours and days of sales or delivery of alcoholic beverages under any license or permit issued pursuant to this Section E are subject to Board approval based on the public need and common good. *See* Sections E.2-E.4 and E.12 for further limitations applicable to specific types of licenses and permits.

(*See* M.G.L. c. 138, § 23)

E.6.) On-Site Responsible Manager / Responsible Individual

A responsible manager who is at least 21 years of age shall be physically present on the premises at all times during the day(s) and hours for which a license, or permit is sought and granted pursuant to this Section E. He or she shall be responsible for ensuring compliance with all applicable federal, state and local laws, regulations, by-laws and conditions of the license, including, but not limited to, compliance with the prohibition against sale or delivery of alcoholic beverages to persons who are under the age of 21 years old or intoxicated. In addition, the responsible manager shall be responsible for maintaining order and decorum upon the licensed premises. In the alternative, a licensee may designate any individual who is at least 21 years of age to fulfill the responsibilities of the responsible manager (hereinafter, such designee is referred to as the “responsible individual”).

(*See* M.G.L. c. 138, § 14)

E.7.) Minimum Age for Service of Alcohol / Service to Intoxicated Persons

No licensee under this Section E shall permit sales or service of alcoholic beverages to persons under the age of 21 years old or who is intoxicated.

(*See* M.G.L. c. 138, §§ 2, 30H, 34, 69)

E.8.) Applications / Fees

All applications for licenses and permits under this Section E must contain complete and truthful information. Submission of an application containing false information shall be cause for refusing the application or for suspending, canceling or revoking a license or permit already granted. No application will be accepted for filing by the Board until it is fully complete. Fees shall be payable immediately upon approval of the license or permit by the Board.

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Applications for licenses and permits under this Section E shall be in writing stating, as for each person who will be selling or serving alcohol, the person's age and whether or not the person has received training on the safe service of alcohol, with a description of the training received and the date of training. Applications shall be accompanied by documentation of the training of each person(s) selling or serving alcohol. Applications shall also be accompanied by a description of the portion(s) of the premises where the sale, storage and/or furnishing of alcoholic beverages will take place, including a specification and description of all indoor and any outdoor portion(s) of the premises (e.g., in the case of a function, table areas, bars, dance floors, tented areas, etc.; in the case of an agricultural event, the specific premises).

An application shall identify 1) the name of the responsible manager of the requesting organization or enterprise, and, if different, the responsible individual, 2) the responsible manager's and any responsible individual's 24-hour contact information, and 3) the date of birth of the responsible manager and any responsible individual. The Board may, at its discretion, require the filing of references as part of the application. The United States citizenship of an applicant for a Section 14 temporary license or farmer-winery license shall be proven by a birth or naturalization certificate or by proof of registered voter status.

In the event that the application is for a license or permit to sell or furnish alcoholic beverages on Town property, the application shall be accompanied by proof that the applicant has the permission of any municipal board, agency or department that has jurisdiction over the Town property to use the Town property for such purpose. In addition, the application shall be accompanied by proof of the existence of a general liability policy in effect during all days and times for which a license or permit is sought, naming the Town as an additional insured (and, if any general liability policy in effect exempts alcohol-related incidents or occurrences, a liquor liability policy naming the Town as an additional insured), in a form and for an amount approved by the Town. In addition, the applicant must sign an agreement absolving the Town, its officials, officers, and employees from all liability in connection with the proposed use, agreeing to indemnify the Town for any damage to the Town's personal and real property resulting from the use, and agreeing to indemnify the Town for any expenses the Town incurs in restoring the property to its condition prior to the use (in excess of any routine cleaning and maintenance service the Town would ordinarily have performed irrespective of the use).

Applications for farmer-winery licenses under Section E.3 above shall be accompanied by proof of certification from the Massachusetts Department of Agricultural Resources that the event is an agricultural event.

All applications shall be accompanied by a fee in an amount determined by the Board.

The Board reserves the right to decline to consider any application filed later than 21 days before the proposed sale or delivery of alcoholic beverages.

(See M.G.L. c. 138, §§ 14, 15F, 70; 204 C.M.R. Part 2.01(1))

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E.9.) Premises Description

No licensee under this Section E shall keep for sale, sell, store or furnish alcoholic beverages in any part of the premises not specified on the license or permit. The Board shall specify on the license or permit the specific premises covered by the license or permit.

(See M.G.L. c. 138, §§ 2, 15F, 30H)

E.10.) Tastings

Tastings offered by farmer-winery licensees shall be offered free of charge, may be delivered only to persons at least 21 years of age by persons at least 18 years of age, and shall be consumed in the presence of the licensee's employee, agent, representative or solicitor. Tastings offered by farmer-winery licensees shall not exceed one (1) ounce of wine and no more than 5 samples shall be served to an individual prospective customer. All other licensees under this Section E are prohibited from offering tastings.

(See 204 C.M.R. Part 4.03(1); M.G.L. c. 138, §§ 12, 15, 15F (restricting tastings))

E.11.) Section 14 Temporary Licenses – Authorized Suppliers

No Section 14 temporary licensee may sell alcoholic beverages other than those purchased from an ABCC-licensed wholesaler or importer under Mass. Gen. Laws ch. 138, § 18, an ABCC-licensed manufacturer under Mass. Gen. Laws ch. 138, § 19, an ABCC-licensed farmer-winery under Mass. Gen. Laws ch. 138, § 19B, an ABCC-licensed farmer-brewery under Mass. Gen. Laws ch. 138, § 19C, or such other person or entity who has received from the ABCC a permit to sell alcohol under Mass. Gen. Laws ch. 138, § 22A.

(See 204 C.M.R. Part 7.05)

E.12.) Compliance with By-Laws, Policies, Procedures and Guidelines Applicable to Town Property

All licensees under this Section E who are using Town property shall abide by all applicable Town by-laws, policies, procedures, guidelines and conditions of any municipal board, commission, agency or department with jurisdiction over the property, including any applicable Department of Public Works policies and Police Department guidelines pertaining to the application process, applicable fees, use of the property and conduct of licensees and their customers or guests.

(See Town of Wakefield By-Laws)

E.13.) Board Discretion to Deny Application to Use Town Property

The granting or denial of a license or permit under this Section E is within the sole discretion of the Board. Without limiting the generality of the foregoing, the Board may deny a request for a license or permit under this Section E if, in its opinion and after proper investigation, it appears

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that a public disturbance or annoyance may be created thereby, or that the public welfare, convenience or necessity will not be served thereby, or if it is not satisfied that the applicant will comply with applicable state and local laws, regulations, by-laws, or conditions on the license or permission, or applicable Town policies, procedures or guidelines.

(See Town of Wakefield By-Laws)

E.14.) Sanctions

Whenever the Board determines that a licensee under this Section E has failed to comply with applicable federal, state or local laws, regulations or by-laws or conditions on the license or permit, the Board may refuse to issue or reissue to any applicant a license or permit and it may modify, suspend, cancel or revoke a license or permit already granted (in the case of farmer-winery and Section 14 temporary licenses, only after a hearing or the opportunity therefor), and shall mail notice of such modification, suspension, cancellation or revocation to the licensee.

(See M.G.L. c. 138, §§ 2, 23, 30H, 64; 204 C.M.R. Part 7.06)