

**TOWN OF WESTWOOD  
COMMONWEALTH of MASSACHUSETTS**



**RULES AND REGULATIONS  
GOVERNING ALCOHOLIC BEVERAGES**

Promulgated: March 15, 2004

As Amended: March 29, 2004, August 1, 2005, May 1, 2006, and February 12, 2007  
September 8, 2008, January 12, 2009, February 17, 2009 and August 23, 2010

It is understood that the Rules and Regulations contained herein are in compliance with and subject to the Rules and Regulations of the Alcoholic Beverages Control Commission.

Local Licensing Authority: Board of Selectmen

**BOARD OF SELECTMEN  
TOWN OF WESTWOOD**



**RULES AND REGULATIONS  
GOVERNING THE SALE OF ALCOHOLIC BEVERAGES**

**POLICY STATEMENT**

The issuance and use of a C.V. All-Alcoholic Beverages License, a C.V. Wine & Malt Beverages License or an Off-Premises Wine & Malt Beverages License is an accommodating and incidental part of a Licensee's primary and principal business purpose of serving food to the public in a restaurant environment or retail food sales to the public in a food store environment.

It is intended that the issuance of a C.V. All-Alcoholic Beverages License or a C.V. Wine & Malt Beverages License allow for the economic viability of a quality restaurant to succeed in creating an attractive environment for patrons to gather together in a socially responsible and hospitable setting to eat, converse, exchange ideas, and otherwise promote individual welfare and town unity, pride and spirit. It is further intended that the issuance of an Off-Premises Wine & Malt Beverages License allow for the public benefits articulated by the Town as evidenced by action taken under Article 18 of the Warrant for the Annual Town Meeting held on May 5, 2008 and Article 1 of the Warrant for the Special Town Meeting held on October 21, 2008.

This policy is further defined as the intention to enhance the dining and retail shopping experience of individuals patronizing Westwood restaurants and food stores, to foster economic development of appropriate business areas in the Town, to strengthen the commercial tax base by encouraging and promoting foot traffic, and to support the development of collateral businesses in those areas where restaurants and food stores are located.

When determining whether to approve an application for a Liquor License, the Board shall consider the foregoing factors and any other matters thought appropriate including, by way of description but not limitation: proximity to residential neighborhoods, proximity to schools, playgrounds, and other locales where children gather, proximity to other licensed establishments (except in the case of a planned, high density development allowed or approved pursuant to the Zoning Bylaws), traffic, parking, noise factors, night lighting factors, appropriateness of menu, and other aesthetic considerations, including but not limited to the physical layout of the interior of the proposed Licensed Premises.

## **I. DEFINITIONS**

1. “ABCC”: The Massachusetts Alcoholic Beverages Control Commission.
2. “Abutter”: For the purpose of these Regulations, an abutter shall be considered as one whose property is located within a 300-foot radius of the farthest points of the Premises.
3. “C.V. All-Alcoholic Beverages License”: A license granted pursuant to M.G.L. c. 138, §12 by the Board of Selectmen to a Common Victualler duly licensed to operate a restaurant, for the sale of all types of alcoholic beverages (as defined in M.G.L. C 138, §1) to be served and consumed on the Licensed Premises.
4. “Assistant Manager”: Any and all persons charged by the Licensee to operate, manage and control the Licensed Premises in the absence of the Manager.
5. “Board” or “Board of Selectmen”: The Board of Selectmen for the Town of Westwood as the Licensing Authority pursuant to law and defined in M.G.L. c. 138, §1.
6. “Club”: An organization which is duly chartered and in good standing with the Commonwealth of Massachusetts and the Town of Westwood as of May 5, 2003.
7. “Common Victualler”: An individual or entity licensed by the Board to sell food to the public and operate a restaurant pursuant to a Common Victualler License granted under the provisions of M.G.L. c.140.
8. “Common Victualler’s License”: A license granted to an applicant, if at the time of the application, the applicant has upon the Premises the necessary implements and facilities for cooking, preparing, and serving food to the general public including strangers and travelers.
9. “Food Store”: A grocery store or supermarket, which sells at retail, food for consumption on or off the gross premises, either alone, or in combination with grocery items or other non-durable items typically found in a grocery store and sold to individuals for personal, family or household use. Such food store shall carry fresh and processed meats, poultry, dairy products, eggs, fresh fruits and produce, baked goods and baking ingredients, canned goods and dessert items. Notwithstanding the foregoing, a food store shall not be a convenience store, specialty store, or any store that sells gasoline and any approved sales of malt and wine beverages shall be incidental to the sale of food or other approved non-alcoholic products. The retail space used to display wine or malt beverages shall not exceed thirty percent (30%) of the total retail space in the Premises. The Board shall determine whether an applicant is a food store as set out herein and in compliance with any and all requirements including, but not limited to the zoning and gross floor area restrictions set out in the Town Warrants.
10. “Gross Floor Area”: The gross square footage leased or owned or otherwise occupied by the applicant for the proposed business operation including but not limited to storage and office space.

11. "License": Generally refers to a permit granted by an appropriate governmental body, generally for a consideration, to a person, firm or corporation to pursue some occupation or to carry on some business subject to regulation under the police power.
12. "Licensee": The holder of a Liquor License issued by the Licensing Authority.
13. "Licensing Authority": The Board of Selectmen for the Town of Westwood pursuant to law and as defined in M.G.L. c.138, §1.
14. "Licensed Premises": In the case of a Section 12 License, that specific area located in the Premises on which the Licensee is licensed to sell alcoholic beverages for service and consumption on the Premises and no sale, service and consumption of alcoholic beverages is permitted outside of the Licensed Premises. In the case of a Section 15 License, that specific area located in the Premises on which the Licensee is licensed to sell, display and store alcoholic beverages for consumption off-premises.
15. "Liquor License": Generally the collective reference to or description of a C.V. All-Alcoholic Beverages License, C.V. Wine & Malt Beverages License and/or an Off-Premise Wine & Malt Beverages License.
16. "Manager" or "Manager of Record": The person charged by the Licensee to operate, manage and control the Licensed Premises. This term shall include by reference the term Assistant Manager except where the context requires otherwise.
17. "Off-Premises Wine & Malt Beverages License": A license granted by the Board of Selectmen to a Food Store, for the sale of only those types of alcoholic beverages known as wines and malt beverages (as defined in M.G.L. C. 138, §1) to be consumed off-premises.
18. "Premises": The property owned, leased or otherwise controlled by the Licensee of which the Licensed Premises are a part.
19. "Regulations": These Rules and Regulations governing the service, sale and consumption of alcoholic beverages in the Town of Westwood, as amended from time to time by the Board as the Licensing Authority.
20. "Retail Space": The Gross Floor Area less the square footage not directly utilized by the public for display and sale of product, including but not limited to office space, storage areas, restrooms, trash and delivery areas.
21. "Section 12 License": A license granted by the Board pursuant to M.G.L. c.138, §12 and in accordance with any and all applicable rules and regulations, for the sale of all-alcoholic beverages or wine & malt beverages for consumption on the Licensed Premises.
22. "Section 15 License": A license granted by the Board pursuant to M.G.L. c.138, §15 and in accordance with any and all applicable rules and regulations for the sale of wine & malt beverages only for consumption off-premises.
23. "Substantial Menu": A Substantial Menu shall be a menu offering a variety of hot and cold food menu items and may include the full menu available in a restaurant's dining room.

24. "Town": The Town of Westwood having its principal Town Hall offices located at 580 High Street, Westwood, MA 02090.
25. "Town Warrants": Article 18 of the Warrant for the Annual Town Meeting held on May 5, 2008 and Article 1 of the Warrant for the Special Town Meeting held on October 21, 2008.
26. "Transfer": Any transfer or change in more than ten percent (10%) of the ownership of the Licensee in the case of a privately held entity and more than fifty percent (50%) in the case of a publicly held entity. Any such proposed transfer or change in ownership shall require full application to the Board, compliance with legal advertisement and public notice requirements, approval by the Board and the final approval of the ABCC. Any Transfer as defined herein shall be distinguished from a transfer or change in a minority interest, i.e. a transfer or change in ten percent (10%) or less of the ownership of the Licensee, as such a transfer of a minority interest shall require application to and approval by the Board but not legal advertisement or public notice shall be required therefore.
27. "War Veterans Organization": An organization which is incorporated by the Congress of the United States and in good standing with the Town of Westwood as of May 5, 2003.
28. "C.V. Wine & Malt Beverages License": A license granted by the Board of Selectmen to a Common Victualler duly licensed to operate a restaurant, for the sale of only those types of alcoholic beverages known as wines and malt beverages (as defined in M.G.L. c.138, §1) to be served and consumed on the Licensed Premises.

## **II. GENERAL RULES & REGULATIONS PERTAINING TO LIQUOR LICENSES**

### **A. CLUBS AND WAR VETERANS ORGANIZATIONS**

1. Clubs and War Veteran's Organizations which are duly chartered and are in good standing with the Commonwealth of Massachusetts and the Town of Westwood as of May 5, 2003 may apply to the Town of Westwood for a Liquor License pursuant to Massachusetts General Laws, Chapter 138, Section 12 for service to members and guests.
2. Clubs and War Veteran's Organizations shall be subject to these Regulations except as follows: Section III.C, Section III.E.1, 2, Section III.B, Section III.F.3, and Section III. J.1-5.
3. Clubs and War Veteran's Organizations shall comply with Massachusetts General Laws, Chapter 138 and 204 Code of Massachusetts Regulations as they relate to the organizations license.
4. Clubs and War Veteran's Organizations shall comply with the following additional rules and regulations concerning guests:
  - a) No guest may be on the premises unless introduced by a member prior to arrival at the Licenses Premises;
  - b) The Manager shall maintain a daily log of guests which shall be available for inspection by Licensing Authorities; and
  - c) All functions must be sponsored by a member. A list of guests for any function must be submitted to the Manager prior to the commencement of the event. No admission shall be allowed to any person unless their name has been submitted by the member sponsoring the function prior to the event, except in the case of fundraisers being conducted by charitable organizations as defined by the IRS. There shall be no admission to the general public or door sales of admission to any member-sponsored event.

### **B. PREMISES NEAR SCHOOLS OR PLACES OF WORSHIP**

The Board of Selectmen shall not approve an application for a Liquor License unless and until it determines in writing that the proposed Licensed Premises if located within 500 feet of a school or place of worship is not a detriment to the educational and spiritual activities of the school or church, pursuant to M.G.L. c.138 §16C.

### **C. MANAGEMENT AND CONTROL**

1. When a corporation is seeking approval to become a Licensee, no such application shall be approved unless the Licensee, as evidenced by appropriate authorizations, has appointed a Manager of Record who is a United States citizen, a Massachusetts resident, and who has been vested with full authority, management and control of the Licensed Premises.
2. The Manager shall have complete responsibility for the proper operation, management and control of the Licensed Premises. The full name, residential address, business and home telephone numbers of the Manager must be current and on file with the Board of Selectmen. Any and all changes in the Manager's contact information must be immediately submitted in writing to the Board of Selectmen.

3. The Manager shall at all times maintain order and decorum in the Licensed Premises and in the Premises generally, and shall cooperate in every respect with any and all Town officials (including, but not limited to, representatives of the Board of Selectmen, Fire Department, and Police Department) in ensuring public safety and convenience within the Licensed Premises, the Premises, and the surrounding areas.
4. An application for a change of Manager shall be filed with the Board prior to any proposed change in the Manager listed on the Liquor License. A public hearing and ABCC approval shall be required prior to any change in Manager in compliance with these Regulations and the laws of the Commonwealth of Massachusetts including but not limited to M.G.L. c.138.
5. The Licensee shall immediately provide written notice to the Board and the name and contact information for any interim Manager employed by the Licensee. Failure to notify the Board of any change in the Manager may result in the issuance of a violation notice. Notwithstanding the written notice required to the Board as set out herein, the Licensee shall diligently prepare and file complete application materials for the change in the Manager as required by this Section II.C.
6. The Premises must be kept clean, neat and sanitary at all times. Outside areas of the Premises shall likewise be kept in orderly and neat condition.
7. No Manager or employee of the Licensee shall consume any alcoholic beverages while on duty.
8. Any individual with a direct or indirect, financial or beneficial interest in the applicant for a Liquor License (including, but not limited to the Manager, officers, directors, and shareholders holding more than ten percent (10%) of the stock of the applicant entity) shall be required to furnish any and all information necessary to perform a criminal background history check as part of the application materials. Publicly held corporations shall not be required to furnish the foregoing information as it relates to its shareholders.
9. Any individual with a direct or indirect, beneficial or financial interest in the applicant for a Liquor License (including, but not limited to the Manager, officers, directors, and shareholders of the applicant entity) shall be required to notify the Board of any and all felony convictions as part of the application process.

#### **D. INSURANCE**

In addition to all other requirements established by law, applicants for both new and renewal licenses must provide proof of insurance coverage under a liquor legal liability insurance policy for bodily injury or death for a minimum amount of \$250,000 on account of injury to or death of 1 person and \$500,000 on account of any 1 accident resulting in injury to or death of more than 1 person as a condition to receive a license. The insurer shall notify the Town no less than ten (10) days prior to the cancellation or material change of such coverage. Prior to the issuance of the Liquor License, the Licensee shall provide to the Town (i) a Certificate of Insurance indicating the insurance carrier, type of coverage, policy limits, notification period and notification requirement, and (ii) an affidavit of Workmen's Compensation Insurance Coverage.

#### **E. EXERCISE OF LICENSE**

1. The applicant agrees that if granted a Liquor License hereunder, the Licensee shall commence the construction or alteration of the Licensed Premises within forty-five (45) days of the issuance of final approval by the ABCC, and that the applicant shall be in full operation within four (4)

months from the date of said final approval, unless a longer period is authorized by the Board of Selectmen and except in the case of a planned, high-density development allowed or approved pursuant to the Zoning Bylaws.

2. A Liquor License shall only be issued upon (i) receipt of full and final approval of the application including but not limited to review and all criminal record background checks pursuant to Section II.C.8., (ii.) submission of evidence satisfactory to the Board of the completion of any and all construction and alterations, (iii.) submission of the Certificate of Insurance and Affidavit of Workmen's Compensation Insurance as set out in Section II.D., (iv.) submission of certification of successful completion of an alcohol training program approved by the Board for all employees designated to sell and serve alcoholic beverages along with proof of age of each said employee pursuant to Section III.I.13., and (v.) evidence of compliance with these Regulations.

## **F. REFERRAL**

The Board of Selectmen shall refer notice of all applications to the Town Planner, Building Inspector, Board of Health Director, Police Chief, Fire Chief, the Alcohol Review Committee, and any other Town official, board or committee impacted or deemed appropriate by the Board. Said officials may make a recommendation to the Board of Selectmen on the application prior to the public hearing.

## **G. ALCOHOL REVIEW COMMITTEE**

Each application shall be reviewed by the Alcohol Review Committee, whose members shall be appointed as often as annually by the Board of Selectmen, to ensure the proper review of all such applications. The Alcohol Review Committee shall include but is not limited to, the Police Chief, Fire Chief, Board of Health Director, Town Counsel, Town Administrator and designated Town staff members. The Alcohol Review Committee findings shall be made in writing to the Board of Selectmen at the applicant's public hearing.

## **H. HOURS OF OPERATION**

The applicant shall set forth its proposed hours of operation in the application. The proposed hours encompassing the sale of alcoholic beverages may be varied by the Board of Selectmen (as applicable) if, after a public hearing, it shall be determined by the Board that the circumstances warrant alteration of the hours of operation in order to ensure the preservation of order, and that the Licensed Premises shall be operated responsibly in a manner that does not detract from the quality of life in Town as a whole and the neighborhood in which the Licensed Premises is located specifically.

## **I. INSPECTIONS**

The Licensed Premises shall be available, at all times, to inspection by members of the Board of Selectmen, the Town Administrator, Police Chief, Fire Chief, the Board of Health and members of their respective departments or any other department or official of the Town so directed by the Board of Selectmen.

## **J. RESTROOM FACILITIES**

No applicant shall be approved for a Liquor License unless the Premises provide toilet facilities in compliance with any and all local, state and federal building and health regulations and as amended from time to time.

## **K. GENERAL OPERATING REQUIRMENTS**

1. No alcoholic beverages shall be sold to anyone under the age of twenty-one (21) years. Acceptable forms of identification and proof of age shall be limited to a valid Massachusetts drivers license, a valid Massachusetts Liquor Identification Card, a valid Passport issued by the U.S. or by the government, recognized by the United States government, of a foreign country, or a valid U.S. issued Military ID card (green active service card), unless otherwise approved by the Police Chief or his designee.
2. The Licensee shall ensure that the Police Department, and authorized agents of the Board, has immediate access to the Licensed Premises at all times and under all circumstances.
3. No Premises of which a Licensed Premises is a part shall contain any advertisement or sign on the outside façade of the Premises or on an area intended to be seen from the outside upon which appears any brand name of an alcoholic beverage product.
4. Each License shall be issued by the Board based on the specific design approved for the Licensed Premises, including interior partitions, lighting, seating arrangements and other criteria, which may be required by the Board of Selectmen. No subsequent physical changes to the Licensed Premises shall be made without first obtaining any and all necessary approvals.
5. An application for an amendment of the description of the Licensed Premises shall be filed with the Board prior to any proposed change in the physical layout of the Licensed Premises (including but not limited to additions, removals, relocations or reconfigurations), which application shall include an amended plan detailing the proposed changes. A public hearing and ABCC approval shall be required prior to any proposed change in the description of the Licensed Premises in compliance with these Regulations and the laws of the Commonwealth of Massachusetts including but not limited to M.G.L. c. 138.

## **L. VIOLATION OF RULES AND REGULATIONS**

1. Any License issued pursuant to these Regulations may be suspended, modified or revoked by the Board of Selectmen for failure to comply with said Regulations, including any reasonable concern related to the public good and the Licensee's fitness to hold a Liquor License.
2. The Board shall provide written notice of any violation and shall hold a public hearing within (30) days of said written notice.
3. Upon such public hearing the Board may initiate suspension, modification, revocation, or any other sanction impacting the Liquor License and operation of the Licensed Premises deemed appropriate by the Board by providing written notice of said sanction to the Licensee.

## **M. FEES**

1. A non-refundable application fee of Five Hundred Dollars and 00/Cents (\$500.00) shall accompany all applications for a Transfer related to any Liquor License.
2. A non-refundable application fee of Two Hundred Dollars and 00/Cents (\$200.00) shall accompany all other applications filed with the Board of Selectmen related to any Liquor transaction.
3. The annual fee for a Common Victualler License is Fifty Dollars and 00/Cents (\$50.00).
4. The annual fee for a C.V. All-Alcoholic Beverages License is Five Thousand Dollars and 00/Cents (\$5000.00).

5. The annual fee for a C.V. Wine & Malt Beverages License is Two Thousand Five Hundred Dollars and 00/Cents (\$2500.00).
6. The annual fee for an Off-Premises Wine & Malt Beverages License is Two Thousand Five Hundred Dollars and 00/Cents (\$2500.00).
7. The annual license fee shall be refunded in the event that an original or renewal application is not approved.
8. The annual license fee shall not be pro-rated.
9. All Section 12 Licenses shall be issued in conjunction with a Common Victualler license.
10. All Section 15 licenses shall be issued in conjunction with the appropriate Board of Health permits.
11. Any and all payment of fees to the Town shall be in the form of a bank check payable to the Town of Westwood and submitted at the time the application or renewal is filed.
12. The Board reserves the right to adjust the application fees or annual license fees from time to time as it deems necessary or appropriate.

## **N. DURATION AND RENEWAL OF LICENSE**

1. All Liquor Licenses once issued are valid through December 31<sup>st</sup> of each year and a complete application to renew the Liquor License must be duly executed and submitted to the Board by November 30<sup>th</sup> of the then current year. It is the sole responsibility of the Licensee to ensure that a complete renewal application is filed in a timely manner.
2. At the time of filing, renewal applications must include any and all annual license renewal fees for both the Liquor License and the Common Victualler License as set out in Section II.M, and all Board of Health permits must be up to date.
3. All renewal applications shall include any revisions and updates to all previously filed statements and plans where appropriate.
4. Failure to file a timely renewal by November 30<sup>th</sup> of the then current year shall result in the automatic revocation of the Liquor License by operation of law. Any subsequent request or application for a Liquor License shall be deemed a new application and subject to the consideration of the Board pursuant to these Regulations and processed as such.
5. If a license granted under these Regulations is cancelled, revoked, or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the Board which may grant the license to a new applicant at the same or other appropriate location and under the same conditions as specified in these Regulations.

## **O. TRANSFERS**

1. All applications for a Transfer related to a Liquor License shall be deemed an original application and subject to consideration by the Board pursuant to these Regulations and processed as such.
2. Approval of a Transfer may be conditioned upon the proof of payment of any and all outstanding local, state and federal taxes including, without limitation the following: the remission to the proper taxing authorities of sales taxes, excise taxes and federal and state withholding income taxes.
3. The transfer of any ownership interest to trustees in bankruptcy, court appointed receivers or assignees for the benefit of the creditors and those taking title or possession of the Licensed Premises by, through or under them, without notice to the Board, shall not be deemed to transfer or convey any rights to the Liquor License including but not limited to the renewal or subsequent transfer of such Liquor License.

4. Bona fide mortgagees in possession who are listed in the application as holding such interest shall be treated in the same manner as the original majority ownership license.

#### **P. PUBLIC HEARING**

1. A public hearing shall be conducted within thirty (30) days of acceptance of receipt by the Board of a complete application.
2. The public hearing shall be advertised in the local newspaper and said notification shall be the sole responsibility of the applicant.
3. The Board of Selectmen shall prepare the ABCC Form 43 to include the date of the advertisement and the name of the publication.
4. The applicant shall comply with the appropriate provisions of M.G.L. c.138 including but not limited to Section 15A and 16C relative to the notification of abutters, churches, schools and hospitals within the distance prescribed by law. Notification shall be served via certified mail with return receipts requested. The applicant shall also comply with the provisions of these Regulations and notify all abutters as defined in Section I. of these Regulations. A list of abutter's addresses may be obtained by the Town Assessor's Office.
5. Prior to the public hearing, the applicant shall present to the Board evidence of compliance with the notification requirements, by furnishing an attested copy of the newspaper notice and the green return receipt cards. The newspaper in which the notice is published must have general circulation within the Town of Westwood.

#### **Q. COMPLETED APPLICATION**

1. An application shall be considered "complete" and therefore accepted by the Town when it has been filed in accordance with any and all procedural instructions, all forms required have been fully completed and executed under such conditions and rules determined by the Board of Selectmen, including these Regulations, and any and all filing fees have been submitted simultaneously with and as part of the application to the Board.
2. All applications shall be made under the penalties of perjury, and any false statement contained in any application shall be grounds for refusing to grant the license or for suspending, canceling or revoking of a license already granted.

### **III. SPECIAL ADDITIONAL RULES FOR SECTION 12 LICENSES**

#### **A. COMMON VICTUALLER LICENSE REQUIREMENT**

Any applicant for a Section 12 License (whether for an original application or for a Transfer application) must also be a Common Victualler licensed by the Board having a minimum seating capacity of thirty-five (35) seats and a maximum seating capacity of no more than three hundred (300) seats (excluding temporary or private event and seasonal outdoor seating to the extent the same has received all necessary approvals), except as otherwise agreed to by the Board of Selectmen in its sole discretion, prior to the issuance of any such Liquor License. In any event, and notwithstanding the foregoing, the maximum seating capacity (including any temporary or private event and seasonal outdoor seating) shall not exceed the legal licensed limit set out in the approved Certificate of Occupancy.

#### **B. EXERCISE OF LICENSE**

The closing of the Licensed Premises to the public for any reason whatsoever, for a period of five (5) consecutive days or more, or for any period totaling ten (10) days during the calendar year without the prior approval of the Board of Selectmen shall be deemed to be an abandonment of the Liquor License and sufficient ground for revocation of said Liquor License. The only organizations exempt from this requirement are Clubs and War Service Organizations as defined in Section I.

#### **C. SEATING CAPACITY**

The Licensed Premises shall have a minimum seating capacity of thirty-five (35) seats and a maximum seating capacity of three hundred (300) seats of which no more than ten percent (10%) of the total number of seats shall be dedicated to bar seats or stools at a counter, except as otherwise approved by the Board. The minimum and maximum seating capacity shall exclude temporary or private event and seasonal outdoor seating to the extent the same has received all necessary approvals. In any event, and notwithstanding the foregoing, the maximum seating capacity (including any temporary or private event and seasonal outdoor seating) shall not exceed the legal licensed limit set out in the approved Certificate of Occupancy. In determining whether a facility meets the minimum seating capacity as set forth in the M.G.L. c. 138, §11, Sub-Division E, the Board of Selectmen shall apply the standards set forth in the regulations of the Department of Public Safety, State Building Code as amended from time to time.

#### **D. SERVICE BARS**

1. All applications for a Section 12 License shall include in its proposed description of the Licensed Premises, the location of any and all service bars, counters or similar locations from which employees of the Licensee would be permitted to receive alcoholic beverages for service to patrons.
2. An application for an amendment of the description of the Licensed Premises shall be filed with the Board prior to any proposed change in the service bar (including but not limited to the addition, removal, relocation or reconfiguration of the same), which application shall include an amended plan detailing the proposed change. A public hearing and ABCC approval shall be required prior to any proposed change in the description of the Licensed Premises in compliance with these Regulations and the laws of the Commonwealth of Massachusetts including but not limited to M.G.L. c 138.

3. Any and all service bars shall be limited to service of alcoholic beverages to employees for the purpose of service to patrons in compliance with these Regulations.

## **E. COUNTER SERVICE**

1. Alcoholic beverages may be served at a counter or similar location in the Licensed Premises subject to approval of the Board of Selectmen. The Board shall vote on each application submitted pursuant to this Section III., and any such authorization shall be granted at the Board's discretion and based on the merits of each individual application request. The Board of Selectmen shall weigh any and all factors related to the request in determining whether counter service is appropriate at the Premises including but not limited to the proposed use and the compatibility of that use with the surrounding area, the applicant's history of operation at this or a similar establishment, the location of the premises and its historical uses, the potential impact on residents, neighbors and abutters, evidence that food service represents the majority of the applicant's business, assurances from the applicant that the primary focus on the food service will continue throughout the course of the operation at the Licensed Premises, and whether the application is in line with the Policy Statement set out herein, these Regulations, and any and all other rules and regulations governing the operation of the Premises licensed to sell alcoholic beverages in the Town. Based on the application submitted and the various factors considered by the Board, the Board may grant, deny or condition its approval of the application.
2. Any and all Licenses approved for counter service of alcoholic beverages shall make food service in the form of a Substantial Menu available to all patrons (subject to the provisions of Section III.F.3.) in dining areas and at counters during the hours of operation approved by the Board.
3. The number of seats at a counter or similar location within the Licensed Premises shall be regulated by the State Building Code as interpreted by the Fire Chief and Building Commissioner and subject to final approval by the Board of Selectmen.

## **F. HOURS OF OPERATION**

1. Subject to further conditions or limitations fixed or from time to time modified by the Board with respect to a particular Liquor License, these Regulations and the laws of the Commonwealth of Massachusetts, including but not limited to M.G.L. c.138, the hours during which sales of alcoholic beverages may be made by any approved Licensee shall be from 11:00 a.m. to 11:00 p.m. on secular days and 12:00 noon to 11:00 p.m. on Sundays. Licensees under a Section 12 License shall be permitted to sell alcoholic beverages on Christmas Day (or the day following when Christmas is on a Sunday), or on the last Monday in May (Memorial Day) in accordance with the hours specified for Sundays.
2. The Board of Selectmen may in its' sole discretion extend closing hours for the sale of alcoholic beverages up to 12:00 midnight on secular days and/or on Sundays upon application by the Licensee and subject to a public hearing and approval of the same.
3. Food service in the form of the Substantial Menu approve by the Board shall continue until at least one (1) hour prior to the approved closing hour. The primary hours during which sales of alcoholic beverages may be made in the Licensed Premises are further limited to those times when food service is available at the Licensed Premises, except that alcoholic beverages may continue to be sold to patrons of the restaurant remaining in the Licensed Premises after food service has ceased (in compliance herewith) and up to the closing hour approved by the Board as stated on the Liquor License.
4. Applications for a Licensed Premises located in Zoning District Local Business A or Local Business B may be subject to more restrictive closing hours than 11:00 p.m.

5. No patron shall be served alcoholic beverages within the Licensed Premises before or after the hours of operation approved by the Board as stated on the Liquor License.
6. Final orders for alcoholic beverages must be placed no later than fifteen (15) minutes prior to and the service of alcoholic beverages must cease by the approved closing hour stated on the Liquor License.
7. The Licensed Premises shall be free and clear of any and all patrons no later than thirty (30) minutes following the approved closing hour stated on the Liquor License.
8. The Manager and all employees of the Licensee must vacate the Licensed Premises no later than sixty (60) minutes after the approved closing hour stated on the Liquor License, provided that upon advance notice to the Police Chief (which notice may be stated to be effective until further notice) this regulation shall not be applicable to persons who are within the Licensed Premises for the exclusive purpose of cleaning, making emergency repairs, or providing security, or preparing food for the next day's business or opening or closing the business in an orderly manner.
9. Any Licensee seeking authorization to sell alcoholic beverages between the hours of 11:00 a.m. and 12:00 noon on Sundays, the last Monday in May and on Christmas Day or on the day following when said day occurs on a Sunday, shall make application to the Board detailing its request. Said application shall be subject to a public hearing and approval of the same.
10. The Board shall vote on each application submitted pursuant to this Section F., and any such authorization shall be granted at the Board's discretion and based on the merits of each individual application request. The Board of Selectmen shall weigh any and all factors related to the request in determining the hours of operation appropriate at the Premises including but not limited to the proposed use and the compatibility of that use with the surrounding area, the applicant's history of operation at this or a similar establishment, the location of the Premises and its historical uses, potential impact on residents, neighbors and abutters, evidence that food service represents the majority of the applicant's business, assurances from the applicant that the primary focus on food service will continue throughout the course of the operation at the Licensed Premises, and whether the application is in line with the Policy Statement set out herein, these Regulations, and any and all other rules and regulations governing the operation of the Premises licensed to sell alcoholic beverages in the Town. Based on the application submitted and the various factors considered by the Board, the Board may grant, deny or condition its approval of the application.

## **G. PURCHASE AND CONSUMPTION ON PREMISES**

No patron shall be permitted to bring into the Licensed Premises any alcoholic beverage for consumption on the Premises; so called "brown bagging". All beverages held for sale by the Licensee shall be consumed on the Premises. Alcoholic beverages may be served at tables outside of the confines of the inside of the Licensed Premises, provided such outdoor seating was included in the application for the Liquor License as part of the Licensed Premises, having received any and all necessary approvals. As set out in M.G.L. c.138, §12 nothing contained in these Regulations shall be deemed to preclude the restaurant from allowing a patron to retain and take off the premises so much as my remain of a bottle of wine purchased by the patron in conjunction with a meal and not totally consumed by the patron during such meal; provided further, that the bottle shall be resealed in accordance with regulations promulgated by the ABCC which are incorporated herein by reference.

## **H. PRIVATE FUNCTIONS**

Private functions seeking the service of alcoholic beverages shall take place only in those areas of the Premises duly licensed for the service of alcoholic beverages and shall be closed to the general public.

## I. ADDITIONAL OPERATING REQUIREMENTS FOR SECTION 12 LICENSES

1. In a mixed-use, high-density planned development approved or allowed under the Zoning Bylaws, entrance doors and windows may be open as the weather permits to encourage activation of the streetscape and connect the interior of the Licensed Premises to seasonal outdoor dining areas. Notwithstanding the foregoing, the ability to open doors and windows shall be subject to the Licensee obtaining a variance and any and all approvals from the Board of Health, and any restrictions imposed by the Board as it relates to the hours during which the same is permitted.
2. Any and all Licensees granted a Liquor License hereunder shall make food service, in the form of a Substantial Menu available to all patrons during the hours of operation approved by the Board. Food service in the form of the Substantial Menu approved by the Board shall continue until at least one (1) hour prior to the approved closing hour. The Board of Selectmen reserves the right to determine whether the menu meets the definition of a Substantial Menu as required hereunder.
3. Alcoholic beverages shall be sold and served in open containers. No alcoholic beverages may be removed from the Licensed Premises. As set out in M.G.L. c.132, §12 nothing contained in these Regulations shall be deemed to preclude the restaurant from allowing a patron to retain and take off the premises so much as may remain of a bottle of wine purchased by the patron in conjunction with a meal and not totally consumed by the patron during such meal; provided further, that the bottle shall be resealed in accordance with regulations promulgated by the ABCC which are incorporated herein by reference.
4. No alcoholic beverages, with the exception of wine, shall be served in any container, the capacity of which is in excess of sixteen (16) fluid ounces.
5. The Licensee is prohibited from charging a cover charge or other entrance fee to allow patrons to gain entry to the Licensed Premises.
6. Any and all alcoholic beverages must be consumed only from glasses or bottles.
7. No alcoholic beverages shall be sold for a fee less than the actual cost of the beverage to the Licensee. The price charged by the Licensee for the sale of alcoholic beverages shall not be discounted by any particular hour(s) of the day(s) of the week.
8. Cocktail lounges are prohibited, except as part of an approved licensed restaurant.
9. The sale or service of alcoholic beverages is prohibited in any area not licensed by the Board of Selectmen and no Liquor License shall be granted to an applicant whose principal business activity is fast food, take-out or has any drive-through aspect.
10. No Liquor License shall be granted to an applicant whose principal operation is that of a cafeteria style restaurant which shall be defined as any restaurant wherein the patron places an order and/or picks-up said order at a counter and regardless of whether the patron consumes said order on the Premises.
11. If applying for a C.V. Wine & Malt Beverages License, cordials and liqueurs may not be served unless and until Chapter 481 of the Acts of 1993 is accepted by the Town and written approval for the same is granted by the Board consistent with said law.
12. Upon approval by the Board, the Licensed Premises may include patio and outdoor areas subject to these Regulations and any provisos or conditions imposed by the Board for the operation of such patio or outdoor area. All Licensees are also required to comply with the ABCC Guidelines for Extension of Premises to Patio and Outdoor Areas dated March 26, 2008 as the same may be amended from time to time, and hereby incorporated by reference. Said guidelines provide in part that:

- (1) Alcoholic beverages cannot be served outside a licensed establishment unless and until an application to extend the Licensed Premises has been approved.

- (2) An application to extend the Licensed Premises must describe the area in detail including dimensions, number of tables and chairs, occupancy figures for inside area and outside area, and bars, if any.
  - (3) It is essential that the Licensee have control of the area in order to preclude service to underage persons, to intoxicated persons, etc. The Licensed Premises must be enclosed by a fence, rope or other means to prevent patrons or members of the public from wandering in and out.
  - (4) The outdoor area must be contiguous to the Licensed Premises and the Licensee should have a view of the outside premises from the inside. Egress from the inside to the outside must be clearly established. This will assure safe, uninterrupted service of alcoholic beverages.
  - (5) The outdoor area must have adequate exists in case of emergency.
  - (6) The licensing authorities should consider the type of neighborhood and the potential for noise in the environs.
  - (7) Preferred are outdoor areas where alcohol is served to patrons who are seated at tables where food is also available.
13. Employees at the Licensed Premises on which a Section 12 License is exercised must be eighteen (18) years of age except that such Licensees may employ a person under the age of eighteen, who does not directly handle, sell, mix or serve alcohol or alcoholic beverages.
14. All employees designated to serve alcoholic beverages shall successfully complete a Board approved alcoholic beverage server training program prior to their employment at the Licensed Premises. Certification of the successful completion of the server training program shall be filed with the Board of Selectmen along with proof of age of each said employee prior to the issuance of a Liquor License.

## **J. APPLICATIONS FOR ENTERTAINMENT**

1. No Licensee shall be permitted to exercise any non-live entertainment at the Licensed Premises (including but not limited to radio, stereo, television and compact disc players) without making application to and receiving the express approval from the Board of Selectmen in the form of a non-live entertainment license detailing the parameters of any approved non-live entertainment including, but not limited to, the allowed hours of operation and permitted mediums.
2. No Licensee shall be permitted to exercise any live entertainment at the Licensed Premises including but not limited to trivia games, disc jockeys, instrumentalists, vocalists and floor shows) without making application to and receiving the express approval from the Board of Selectmen in the form of a live entertainment license detailing the parameters of any approved live entertainment including, but not limited to, the allowed hours of operation and permitted mediums.
3. The Licensee must submit as a part of its application for live entertainment evidence of receipt of any and all necessary permits and approvals from the various departments and agencies of the Town, including but not limited to any and all zoning permits and or approvals from the Planning Board and Zoning Board.
4. Upon acceptance by the Board of an application for entertainment at the Premises, a public hearing shall be scheduled.
5. The Board shall vote on each application submitted pursuant to this Section III.J and any such authorization shall be granted at the Board's discretion and based on the merit's of each individual application request. The Board of Selectmen shall weigh any and all factors related to the request

in determining whether entertainment is appropriate at the Premises including but not limited to the proposed use and the compatibility of that use with the surrounding area, the applicant's history of operation at this or a similar establishment, the location of the Premises and its historical uses, and potential impact on residents, neighbors, and abutters, evidence that food service represents the majority of the applicant's business, assurances from the applicant that the primary focus on food service will continue throughout the course of the operation at the Licensed Premised, and whether the application is in line with the Policy Statement set out herein, these Regulations, and any and all other rules and regulations governing the operation of the Premises licensed to sell alcoholic beverages in the Town. Based on the application submitted and the various factors considered by the Board, the Board may grant, deny, or condition its approval of the application.

## **IV. SPECIAL RULES & REGULATIONS FOR SECTION 15 LICENSES**

### **A. FOOD STORE ALCOHOL LICENSE REQUIREMENTS**

1. Any applicant for a Section 15 License (whether for an original application or for a Transfer at the same location) must also be properly licensed by the Board of Health prior to the issuance of any such Liquor License.
2. In making a determination as to whether a Food Store meets the definition set out in these regulations, the Board of Selectmen shall consider such factors as the volume of sales, actual or proposed, and the extent and range of merchandise offered for sale.
3. The holder of a Section 15 License may sell wine and malt beverages alone or in combination with any other items offered for sale.
4. A Food Store for purposes of these regulations must be in compliance with the gross floor area and zoning requirements set out in the Town Warrants.
5. No more than thirty percent (30%) of the gross retail floor area of the Premises shall be dedicated to the sale, storage or display of wine and malt beverages, which area shall be separate and distinct from the remainder of the Premises. Any area dedicated to the sale, storage or display of wine and malt beverages shall be properly secured to prevent public access to the same during those times when the sale of said wine and malt beverages is prohibited as set out in Section IV.C.
6. Any applicant for a Section 15 License (whether for an original application or for a Transfer at the same location) must provide simultaneously with the application materials, a floor plan evidencing the gross floor area of the Premises and those portions of the Premises dedicated to the sale, storage or display of wine and malt beverages, and a proposal on the procedure for securing the area dedicated to the sale, storage or display of wine and malt beverages to prevent public access to said area during times when sales of wine and malt beverages are prohibited.

### **B. EXERCISE OF LICENSE**

Because the licensing of the premises for the sale of alcoholic beverages is for the convenience of the public, the closing of the Licensed Premises to the public for any reason whatsoever, for a period of five (5) consecutive days or more, or for any period totaling ten (10) days during the calendar year without the prior approval of the Board of Selectmen shall be deemed to be an abandonment of the Liquor License and sufficient grounds for revocation of said Liquor License. The only organization exempt from this requirement are Clubs and War Service Organizations as defined in Section I.

### **C. HOURS OF OPERATION**

1. Subject to further conditions or limitations fixed or from time to time modified by the Board with respect to a particular Liquor License, these Regulations and the laws of the Commonwealth of Massachusetts, including but not limited to M.G.L. c.138, the hours during which sales of wine and malt beverages may be made by any approved Licensee shall be from 8:00a.m. to 11:00p.m. on secular days and between 8:00a.m. and 11:30p.m. on any secular day immediately preceding a legal holiday.

2. No sales of wine and malt beverages shall be permitted prior to noon on Sunday.
3. No sales or deliveries are permitted on Thanksgiving Day or the last Monday in May (Memorial Day).
4. All transactions for the sale of wine and malt beverages must be completed on or before the closing hour set out in this Section.
5. Regular sales and operation of the Food Store must continue during all times when the sales of wine and malt beverages are permitted.
6. That portion of the Premises dedicated to the sale, storage and/or display of wine and malt beverages as described in Section IV.A. shall be properly secured to prevent public access to the wine and malt beverages at any and all time when the Food Store is open to the public but the sale of said beverages is prohibited as set out herein.

#### **D. CONSUMPTION FOR OFF-PREMISES ONLY**

No licensee under this section shall make or permit the sale of alcoholic beverages except such as are to be consumed off the Licensed Premises.

#### **E. LIMITATIONS ON TRANSFERABILITY OF OFF-PREMISES WINE & MALT BEVERAGES LICENSE**

1. Notwithstanding anything to the contrary set out in these Regulations, the Board shall not approve the transfer of an existing Off-Premises Wine & Malt Beverages License to any other location.
2. An application for a Transfer at the same location may be granted by the Board in compliance with these Regulations.

#### **F. ADDITIONAL OPERATING REQUIREMENTS FOR SECTION 15 LICENSES**

1. A Food Store which holds a Section 15 License shall keep a price list of beverages conspicuously posted in each room where beverages are sold in the Licensed Premises. All prices that can be seen by customers in the Premises – whether on shelves, in printed or posted flyers or circulars, or in any other form of display – must correspond with the current price list posted at the Licensed Premises.
2. Any and all sales of single bottles or cans of malt beverages are expressly prohibited.
3. Any and all sales of keg beer in excess of one quarter barrel of volume are expressly prohibited.
4. Employees at the Licensed Premises on which a Section 15 License is exercised must be twenty-one (21) years of age except that such Licensees may employ a person under the age of twenty-one who does not directly handle, sell, store, or prepare for display any wine and malt beverages.
5. Any employees engaged in the sale and handling of wine and malt beverage must complete a Board approved course in alcohol safety training and have on file with the Town a copy of current certification and proof of age.

## **APPLICABILITY OF GENERAL LAWS, SPECIAL LAW AND AMENDMENTS**

These Regulations are promulgated by the Licensing Authority and the Town of Westwood to be supplementary to, and not in substitution of, all General Laws of the Commonwealth of Massachusetts governing the sale, service and consumption of any and all alcoholic beverages, including but not necessarily limited to those General Laws set forth in Chapter 138 of the Massachusetts General Laws and those provisions set forth in Chapter 8 of the Acts of 2004, entitled AN ACT AUTHORIZING THE TOWN OF WESTWOOD TO GRANT LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES AND WINE & MALT BEVERAGES TO BE DRUNK ON THE PREMISES. The Licensing Authority reserves the right to amend these Regulations and unless an emergency situation requires immediate promulgation of further rules, regulations or amendments thereto, the Licensing Authority presently intends to give appropriate public notice of any such intent to amend.

Promulgated on the day and year first above written by the Board of Selectmen, of the Town of Westwood, Licensing Authority pursuant to the law.